



Leeds
CITY COUNCIL

Originator: C. Briggs

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Report of the Chief Planning Officer

CITY PLANS PANEL

Date: 12 DECEMBER 2013

Subject: PLANNING APPLICATION 13/01198/OT OUTLINE APPLICATION FOR DEMOLITION OF THE EXISTING BUILDING AND CONSTRUCTION OF MIXED USE DEVELOPMENT CONSISTING OF OFFICE, HOTEL AND USE CLASSES A1, A2 & A3 FLOORSPACE AND BASEMENT CAR PARKING AT MAXIS RESTAURANT, 6 BINGLEY STREET, LEEDS LS3 1LX

APPLICANT

Maxis (Yorkshire) Ltd

DATE VALID

14 May 2013

TARGET DATE

17 December 2013

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: Defer and delegate to the Chief Planning Officer for approval, subject to the specified conditions (and any others which he might consider appropriate), and following the completion of a Section 106 Agreement to cover the following matters:

- Public transport contribution prior to occupation £80, 073
- Off-site highways works contribution prior to commencement of development £50, 000
- Car club trial provision prior to occupation of any office development £4000
- Public access around the site
- Travel plan implementation and monitoring fee prior to occupation £3735
- Employment and training opportunities for local people in City and Hunslet or any adjoining Ward.
- Management fee payable within one month of commencement of development £2250

In the circumstances where the Section 106 Agreement has not been completed within 3 months of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer.

Conditions for 13/01198/OT

The full wording of conditions is set out in full in Appendix 1 at the end of this report.

1.0 INTRODUCTION:

1.1 This application is brought to Panel as it is a major full planning application for a new office, hotel, retail, and restaurant development on the western side of Leeds City Centre. Plans Panel (City Centre) Members considered a pre-application presentation about the scheme on 12 May 2011 and were generally supportive of the principle of the proposal at that stage.

2.0 PROPOSAL:

3.1 The proposal is for outline approval with indicative layout, scale and means of access. It shows how the floorspace may stack up in three-dimensional form. It does not include details of appearance or landscaping, but the application is supported by a Design Code that would inform future reserved matters applications.

3.2 The application proposal consists of the following maximum gross internal floorspaces:

- 7330 square metres B1 office or C1 hotel and;
- 875 square metres A3 restaurant and;
- 200 square metres A1 retail or A2 financial and professional services.

3.3 A maximum of 61 car parking spaces is proposed, and in the indicative scheme this is accessed from the service road off Bingley Street.

3.4 The indicative proposal consists of a part 5, part 8 storey block, with ground floor retail unit, restaurant, two floors of parking, and offices and or hotel above. The layout of the building volume remains 'L-shaped'. The wing parallel to Cavendish Street would be 5 storeys in front of The Highland pub, up to 8 storeys in front of the BT building (approximately 18m and 29m high respectively when measured on Cavendish Street). The taller 29m high element would be overlap with the eastern end of the pub by approximately 2.5m at a distance of 12m The 18m high element would be approximately 19.5m from the Highland Pub. The indicative scheme would give an active frontage to the corner of Cavendish Street, along Bingley Street, and along the south face of the building, with the provision of the A1 retail and A3 restaurant. A route through the building from Cavendish Street is proposed to a new area of public open space at the south eastern corner of the site. This space could be added to if neighbouring sites were to come forward for redevelopment at any time in the future.

3.6 The proposal is in outline only. The application reserves layout, scale, elevational treatment and exact details of landscaping for future approval. Conditions are recommended to control the maximum building heights, footprints and floorspace, and level of car parking up to that shown on the indicative scheme proposals.

3.7 A number of documents have been submitted in support of this proposal:

- Scaled Plans
- Design and Access Statement
- Design Code
- Daylight and sunlight assessment
- Statement of Community Involvement

- Wind report
- Transport Assessment
- Flood Risk Assessment
- Flood Risk Sequential Test
- Noise Statement
- Land Contamination Desk Top Study
- Travel Plan
- Sustainability Statement
- Coal Recovery Assessment

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site currently consists of the three storey pitched roof brick and render Maxi's restaurant, with surface car parking to the south and east. The southern and western edges of the site feature mature planting and a tree to the corner of the access road. The restaurant is some 3-4 metres lower than Bingley Street at its junction with Cavendish Street at the north western corner of the site. At the rear of the restaurant is a single storey lean-to up against the retaining wall, this appears to be in use as additional storage and kitchens. To the north is a two storey red-brick public house The Highland, which has residential use at its upper floor, and features 5 south facing windows, approximately 15 metres from the northern boundary of the application site.
- 3.2 The section of Cavendish Street at this point is part tarmac and part cobble, and is blocked by the gates of the BT depot which closes off this part of the street. The BT building is a part 5/part 6 storey brick building which sits above and behind a retaining wall some 3 metres above the car park of the Maxi's restaurant. A fence runs along the site boundary behind an overgrown area above the retaining wall.
- 3.3 To the west lies the former RSPCA site, now a cleared site. This site has full planning permission for a part 6/7/8/9 storey student housing block, which Plans Panel agreed in September 2008 (ref. 08/02061/FU). This site was previously the subject of an appeal against a larger proposal for student housing, which was dismissed by a Planning Inspector on the grounds of its overdominant bulk and height (appeal ref. APP/N4720/A/07/2040528/NWF dismissed August 2007). To the south of this lies a flooring warehouse at 84 Kirkstall Road, which has outline planning permission for a part 8/9/10/11 storey mixed use office/hotel/residential/bar/ restaurant scheme (ref. 06/02359/OT agreed at Plans Panel April 2007, and subsequently extended in 2011 under ref. 11/01850/EXT)
- 3.4 To the south of the site lies the part one/part two storey Napoleons Casino building in beige brick with mansard roof.
- 3.5 To the east lies the Graham's bathroom warehouse and associated car park. This consists of a two storey brick and metal clad warehouse and showroom. It is served from the same access road as Maxis, and is separated by a metal fence along the boundary with the restaurant car park.
- 3.6 The surrounding area is characterised by student housing, offices, and leisure uses. The area was mainly commercial and industrial in character; however recent developments have increased the mix of uses and facilities in the area, which lies unallocated within the designated City Centre and for car parking standards purposes the Fringe Commuter Parking Control Area. The site also lies within the area covered by informal supplementary planning guidance, the Kirkstall Road Renaissance Area Planning Framework 2007. The site lies in flood risk zone 3(a)(i).

4.0 RELEVANT PLANNING HISTORY:

4.1 Planning application 09/02339/OT was refused under delegated powers on design and highways grounds. The refused scheme in 2009 was a part 8, part 9 storey office building with a proposed height of approximately 28 metres above Cavendish Street facing the pub at a distance of 15m. It included ground floor retail and restaurant, with two levels of car parking above the restaurant use, accessed from the corner of Cavendish Street. The layout of the building was 'L-shaped', with the higher part of the block parallel to Cavendish Street at 9 storeys, and a sloping projecting wing along Bingley Street, which would reach a height of 8 storeys. The submission of an acceptable indicative parking and vehicle circulation within the site, transport assessment, travel plan and section 106 agreement in line with adopted policy would resolve the highways concerns. The reason for refusal on urban design grounds was as follows:

“The application proposal, by reason of its proposed level of floorspace and its indicative layout and siting, scale and massing, and resultant density and bulk, is considered to be an overdevelopment of the site detrimental to the character and visual amenity of the streetscene and the surrounding area. The overdominant height and massing would result in inadequate levels of daylight and sunlight, privacy, outlook, and spatial standards, detrimental to the amenities of nearby residents and the pedestrian environment. The proposal is therefore contrary to advice in Planning Policy Statement 1: Delivering Sustainable Development, Policies GP5, BD2, BD5, CC3, N12 and N13 of the Unitary Development Plan Review 2006, and adopted Supplementary Planning Guidance in the form of the Leeds City Centre Urban Design Strategy (September 2000).”

5.0 HISTORY OF NEGOTIATIONS:

5.1 Loroc Architects presented an amended scheme design to overcome the above reason for refusal to Plans Panel (City Centre) on 12 May 2011 at pre-application stage. Members were generally supportive of the principle of the scheme, and made the following detailed comments:

- The principle of the scheme was generally welcomed
- Concern regarding the impact of the proposal on the “human scale” of the Highland Pub and the pedestrian environment around it
- Concern regarding the vehicular access from the north from Cavendish Street and its impact on the pub – public space should be created here instead
- Overall building height should be reduced by around 2 storeys inclusive of any rooftop plant

The scheme has been revised since the presentation, and it is considered that the above Member comments have been broadly addressed by the current proposal.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 No comments received. Application publicity consisted of:

- Site Notice of Proposed Major Development posted 21.06.2013, expired 12.07.2013
- Press Notice of Proposed Major Development published 24.06.2013, expired 18.07.2013
- City and Hunslet Ward Members consulted 12.06.2013 and 03.07.2013
- Leeds Civic Trust consulted 17.05.2013
- Occupiers of the Highland Pub consulted 17.05.2013

7.0 CONSULTATIONS RESPONSES:

7.1 Statutory:

7.1.1 Leeds City Council Transport Development Services:

The proposal is considered acceptable in terms of traffic impact, transportation provision (including walking and cycling provision) and road safety. A Travel Plan has been agreed and this would be subject to on-going monitoring and review. The following conditions are recommended:

- a) Details of car park access control and management, electric vehicle charging points, showers and lockers for staff, details of Bingley Street retaining structure, and cycle and motorcycle parking shall be provided by condition
- b) Local off-site highways works are necessary to serve the development. These would be provided by Section 278 agreement and consist of:
 - Provision of dropped kerbs and tactile paving on local junctions.
 - Provision of 2m wide footway to Bingley Street and Cavendish Street.
 - Provision of Traffic Regulation Order measures around the site and local vicinity streets.
 - Carriageway improvements including resurfacing of part of Cavendish Street.
 - Taxi drop-off/pick-up bay including signage and markings as appropriate
- c) A Section 106 agreement is required to secure the strategic off-site highways works contribution, public transport contribution, car club trial provision for office development staff, and travel plan monitoring and fee.

7.1.2 Highways Agency:

No objection

7.1.3 Environment Agency:

No objection subject to a condition requiring the recommendations of the submitted Flood Risk Assessment to be implemented.

7.1.4 Yorkshire Water:

No objection

7.1.5 Coal Authority:

No objection

7.2 Non-statutory:

7.2.1 Leeds City Council Environmental Protection:

No objection subject to conditions regarding details of construction management, bin storage, sound insulation scheme to the building, sound insulation to plant and machinery, any air conditioning and extract ventilation including odour and fumes filters.

7.2.2 Leeds City Council Flood Risk Management:

No objection subject to conditions regarding surface water drainage and the implementation of the scheme in accordance with the submitted FRA.

7.2.3 Leeds City Council Licensing:

No objection

7.2.4 West Yorkshire Metro:

No objection in principle, subject to the provision of the public transport contribution in accordance with SPD5, and the provision of an acceptable Travel Plan in accordance with the Travel Plans SPD.

8.0 PLANNING POLICIES:

8.1 Development Plan

Leeds Unitary Development Plan Review 2006 (UDPR)

The UDPR includes policies require that matters such as good urban design principles, sustainability, flood risk, highways and transportation issues, public realm, landscaping, biodiversity and access for all are addressed through the planning application process. The site lies unallocated within the designated City Centre in the Development Plan.

Other relevant policies include:

GP3 existing land uses

GP5 all relevant planning considerations

GP7 planning obligations

GP11 sustainability

GP12 sustainability

BD2 new buildings

A1 improving access for all

A4 safety and security provision

S1 Shopping

N12 urban design

N13 design and new buildings

N25 boundary treatments

N29 archaeology

BD4 all mechanical plant

CC3 City Centre character

CC10 public space and level of provision

CC11 streets and pedestrian corridors

CC12 public space and connectivity

CC13 public spaces and design criteria

CC19 office development

CC30 proposals outside defined areas

E14 Office development

T2 Transport provision for development

T2C Travel plans

T2D public transport provision for development

T5 pedestrian and cycle provision

T6 provision for the disabled

T7A cycle parking

T7B motorcycle parking

T24 Car parking provision

LD1 landscaping

R5 employment and training for local residents associated with the construction and subsequent use of developments

N38A development and flood risk

N38B planning applications and flood risk assessments

N39A sustainable drainage systems

N51 Nature conservation

8.2 Relevant Supplementary Planning Guidance includes:

SPD Street Design Guide
SPD5 Public Transport Improvements and Developer Contributions
SPD Travel Plans
SPD Building for Tomorrow Today: Sustainable Design and Construction
SPG City Centre Urban Design Strategy
SPG Kirkstall Road Renaissance Area Planning Framework 2007

The informal Kirkstall Road Renaissance Area Planning Framework 2007 identifies this site for potential redevelopment for non-residential employment uses. It also identifies an indicative building height of 10-12 storeys (subject to normal design and amenity considerations).

8.3 Leeds Natural Resources and Waste DPD 2013

The Natural Resources and Waste Local Plan was adopted by Leeds City Council on 16th January 2013. The Natural Resources and Waste Development Plan Document (Local Plan) is part of the Local Development Framework. The plan sets out where land is needed to enable the City to manage resources, like minerals, energy, waste and water over the next 15 years, and identifies specific actions which will help use natural resources in a more efficient way. Policies regarding trees, land contamination, coal recovery, flood risk, drainage, and air quality are relevant to this proposal.

8.4 Leeds Core Strategy Publication Draft 2012

8.4.1 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 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State. The Inspector examined the Strategy during October 2013. The weight to be attached is limited where representations have been made.

8.4.2 Spatial Policy 3 Role of Leeds City Centre is particularly relevant to this scheme proposal. This policy seeks to maintain and enhance the role of the City Centre as an economic driver for the District and City Region, by promoting the City Centre's role as the regional capital of major new office development, making the City Centre the main focus for office development in the District, comprehensively planning the redevelopment and re-use of vacant and under-used sites for mixed use development and areas of public space, enhancing streets and creating a network of open and green spaces to make the City Centre more attractive improving connections between the City Centre and adjoining neighbourhoods. Core Strategy Policy CC1 outlines the planned growth within the City Centre, including office growth.

8.5 National Planning Policy Framework (NPPF)

The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. The NPPF advocates a presumption in favour of sustainable development, and a 'centres first' approach to main town centre uses such as offices. The location of prime office development within the City Centre meets this requirement to locate such uses in sustainable locations. The NPPF also promotes economic growth in order to create

jobs and prosperity. This new office/hotel/retail/restaurant building would help consolidate Leeds City Centre's role as the economic driver of the Yorkshire region, and the focus for investment in highly skilled and competitive businesses, as advocated by the emerging Core Strategy.

Section 7 states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important that design is inclusive and of high quality. Key principles include:

- Establishing a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- Optimising the potential of the site to accommodate development;
- Respond to local character and history;
- Reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- Create safe and accessible environments; and
- Development to be visually attractive as a result of good architecture and appropriate landscaping.

8.6 Relevant National Planning Policy Practice Guides

NPPF Practice Guide Flood Risk

9.0 MAIN ISSUES

1. Principle of use
2. Urban design and landscaping
3. Transportation
4. Flood risk
5. Sustainability
6. Wind
7. Amenity
8. Planning obligations

10.0 APPRAISAL

10.1 Principle of uses

10.1.1 The National Planning Policy Framework, Leeds Unitary Development Plan Review, Kirkstall Road Renaissance Area Planning Framework, and the Draft Leeds Core Strategy would support offices, hotel, restaurant and small scale retail uses in this City Centre location.

10.1.2 The principle of accommodating an A3 restaurant use on the site has already been established through the existing land use. Policy GP3 states that "existing land uses will remain the dominant land uses of an area, except where specific proposals are shown on the proposals map". Restaurant use is also an acceptable town centre use within the designated City Centre.

10.1.3 The location of new office development is governed by policy E14 in the UDPR, and this states that the City Centre will remain the principal location for new prime office development. Sites are identified in the City Centre to ensure that demand is not constrained, by providing a choice and range of available sites. Office development would normally be directed towards the Prime Office Quarter, as set out in policy CC19, however the Kirkstall Road Renaissance Area Planning Framework does identify the potential for sites in the City Centre boundary to deliver office and employment use.

- 10.1.4 A1 retail use is also an acceptable use for a City Centre site, however adopted and emerging policy would direct retail to the Prime Shopping Quarter or other designated centre, other than small scale to serve local needs (less than 200 square metres). It is considered that a retail sequential test would not be required due to the small level of floorspace proposed. It is considered that in the case of the proposed A1, A2, and A3 uses that this mix of uses is important to serve the local residents, workers, and hotel visitors in the area. It is considered that such uses would add activity, variety and vitality, and support the attractiveness of the area without prejudicing the function of other centres.
- 10.1.5 In acknowledging that visitor accommodation represents a vital component of the tourism industry, the hotel element of this proposal is supported in principle as it conforms with the NPPF and UDPR as a town centre use. There is also a cluster of hotel accommodation nearby with the Premier Inn, Holiday Inn and Ibis hotels all located in the Kirkstall Road/West Street area. This is encouraged by Objective 1 of the Core Strategy which sets out the intended spatial vision for the city to 2028, and directs new hotel and leisure development towards the City Centre.

10.2 **Urban design and landscaping**

- 10.2.1 The scale of existing and adjacent proposed buildings in the area varies between generally lower scale units such as Napoleon's casino and 6-8 storeys or more across the nearby 84 Kirkstall Road, former RSPCA site, BT building, Holiday Inn, Sentinel Towers, Tannery, and Opal One and Two sites. The proposed building would step down to take account of the more sensitive residential use closest to the pub, and steps up where the spaces between the existing buildings widen in front of the BT building. It is therefore considered that the layout, height and massing of the revised indicative proposal would be appropriate in the context of the character of the surrounding area.
- 10.2.2 It is considered that the proposed indicative layout, including the location of the servicing and vehicular accesses would result in an acceptable proximity and scale to the neighbouring existing and permitted buildings. The relocation of servicing and car park access from Cavendish Street in the refused scheme, to the existing service road allows the proposal to present a new active frontage towards the space to the south of the pub, with an enlarged area of public space, which would create an opportunity to enhance the setting of Cavendish Street.
- 10.2.3 The proposal would support the policy aspirations within the Kirkstall Road Renaissance Area Planning Framework 2007 for an enhanced north-south pedestrian route between Burley Street, Kirkstall Road and the Riverside beyond. This may help to realise the potential of this area to be a node in north-south connection by linking the riverside to Little Woodhouse, via Bingley Street and the steps leading to Burley Street. Both the approved proposal for the former RSPCA site, and the proposal for this site, would provide widened footways in order to provide a better pedestrian environment.
- 10.2.4 Subsequent to any reserved matters applications for the appearance of the building, the quality of the external materials would be controlled through the provision of working drawing details and large on-site material samples panels by condition attached to this application. 1:50 and 1:20 typical bays and sections have been submitted to establish the detailing of the elevations, and this would be reinforced at working drawing stage by conditions. Full details of mechanical plant would be required by condition in order to control its potential amenity and visual impact.

10.2.5 This scheme is in outline only, and any future reserved matters application for landscaping would need to demonstrate appropriate mitigation for the loss of the mature landscaping and trees. The Council's Landscape/Tree officers do not consider the existing planting to be worthy of retention, but a high quality landscape scheme around the site would be required to mitigate their loss in terms of biodiversity and landscape amenity value. Exact details of hard and soft landscaping, including details of tree pits and soil depths, planting plans, boundary treatments, bollards, raised planters, lighting, CCTV, landscape management and maintenance plans, and samples of surfacing materials, would be controlled by condition prior to commencement of development to ensure continuity of high quality materials and planting across the site.

10.3 **Transportation**

10.3.1 The site lies within the City Centre fringe parking area. Indicative car parking provision of 61 spaces would be below the potential maximum permitted by UDPR parking standards for a development of this type and size. However, there is spare capacity at the nearby Burley Road and West Street public car parks. There are also widespread on-street parking restrictions, which would be improved by measures that would be implemented as part of this proposal on Cavendish Street and Bingley Street. The site is readily accessible by bus from Kirkstall Road and Burley Road, and in a sustainable City Centre location, walking distance to the core and its facilities. It is therefore considered that the proposal would not cause highways safety or amenity problems, subject to the recommended conditions and Section 106 provisions specified at paragraph 7.1.1 above.

10.3.2 To further reduce reliance on the private car the submitted Travel Plan includes the following measures:

- provision of shower and locker facilities to encourage cycle use for staff.
- provision of car club free trial provision for office occupiers
- appropriate secure storage for cyclists and motorcyclists.
- provision of public transport information.
- Arrangements for the monitoring and take-up of the Travel Plan measures, and revising the Travel Plan as necessary.
- Provision of a budget for the promotion of sustainable travel incentives in the event that travel plan targets are not met.

10.4 **Flood Risk**

10.4.1 The application site lies in Flood Risk Zone 3a (i). The proposed uses are classed as 'less vulnerable' in the case of office, retail and restaurant uses, and as 'more vulnerable' for the hotel use according to the flood risk vulnerability classification table set out in the NPPF technical guidance on flood risk. Therefore in accordance with the requirements set out in the NPPF (para 100) a flood risk sequential and exception tests have been submitted on behalf of the applicant and are considered acceptable. This demonstrates that no sequentially preferable sites within a lower flood risk are available to deliver this project on a site that is both within the Kirkstall Road Renaissance Area and the designated City Centre as defined by the UDPR (and therefore able to deliver a mix of non-residential town centre and employment uses). The exceptions test has been applied for the hotel element, and the site is considered sustainable given its location within an identified regeneration area, accessible to pedestrians and cyclists and close to public transport links, the site is previously developed land, and through the submission of an acceptable flood risk assessment, the proposal would adequately safeguard against potential flooding impact. The proposal is an appropriate use for the City Centre as identified in the

NPPF, and the site is within the specific Kirkstall Road Renaissance Area which identifies the potential to deliver the regeneration of the area through new development.

10.5 **Sustainability**

- 10.5.1 The scheme would achieve the standards set out in the adopted sustainable design and construction SPD Building for Tomorrow Today. The proposal would meet at least a BREEAM Excellent standard, and a planning condition to provide details of the verification of this will be applied. A minimum of 10% energy generation would be developed through on site low carbon energy sources. The scheme would also deliver at least a 20% reduction in carbon emissions over building regulations standards. As this scheme is in outline only, further details will follow regarding how this might be achieved.

10.6 **Wind**

- 10.6.1 The applicant has submitted a qualitative wind assessment in support of the proposal which states that the wind environment would be acceptable for all users in the vicinity of the building and that the building is unlikely to generate wind conditions that would cause distress to pedestrians, or result in a danger to high-sided or other road vehicles. The Council instructed an independent wind expert to review the report, and they have confirmed that the findings of the report are reasonable.

10.7 **Amenity**

- 10.7.1 The submitted drawings indicate that the Highland Pub is approximately 10m high to its ridge. At the eastern end of the application site the indicative application proposal would be sited 12m south from the Highland Pub, at a height of 29m. Approximately 2.5m from the eastern flank of the pub, the proposal would step back to 19.5m from the pub, and reduce in height to 18m so that the impact of the proposal on south facing windows of the pub is minimised. It is considered that this would be a significant improvement from the previous refused scheme, and that informally presented to Members in 2011. It is noted that there may be some loss of sunlight and outlook to the pub and its upper floor residential accommodation. However, on balance, this is considered acceptable when taking account of the regeneration and economic benefits of the proposal, and in the context of this particular City Centre location, where the spaces between buildings are generally more limited due to the historic former back-to-back housing street pattern and a number of large multi-storey buildings
- 10.7.2 The application building would be sited approximately 15m from the nearest part of the approved student housing scheme at the former RSPCA site, and in a City Centre environment this relationship is considered acceptable. The approved building at this adjoining site is L shaped, with longer building frontages to Abbey Street and Cavendish Street. The approved eastern building frontage to Bingley Street is approximately 14m long from its corner with Cavendish Street, at a height of 26.5m, with an increased total footpath width of 3m. The remainder of the Bingley Street frontage consists of a 1.2m retaining wall and ramp with a terrace garden above. In the context of the dense City Centre character that exists in this immediate area, this is considered on balance acceptable.
- 10.7.3 The proposal would include the continuation of a restaurant use at the site. The Council's Environmental Projection and Licensing teams have not highlighted any adverse amenity concerns from the current restaurant use. The following opening times are on balance considered appropriate in the context of the local City Centre character, and would be controlled by condition: 0700 hours to 0000 hours Monday

to Thursday, 0700 to 0100 Friday and Saturday, and 0800 to 2330 Sundays and Bank Holidays. Delivery times would be restricted to 0800-2200 Monday to Saturday with no deliveries on Sundays and Bank Holidays.

- 10.7.4 A condition would control the exact details of all external plant including kitchen odour and fume control and any necessary noise attenuation, in order to prevent noise and odour/fume nuisance during the day and at night from the use to nearby residential occupiers at the Highland Pub, The Tannery student flats, or at future as yet unbuilt residential uses at the cleared former RSPCA site and 84 Kirkstall Road. It is therefore considered that the proposal would not result significant adverse amenity issues, and the proposed use would be acceptable in the context of the mixed commercial and residential character of this part of the City Centre.

10.8 **Planning obligations**

- 10.8.1 A Section 106 Agreement would be signed in connection with the planning application, with the following obligations:

- Public transport contribution £80, 073
- Off-site highways works contribution £50, 000
- Car club trial provision £4000
- Travel plan monitoring fee in accordance with the Travel Plans SPD £3735
- Public access around the site
- Cooperation with local jobs and skills training initiatives. This would involve making reasonable endeavours to cooperate and work closely with Employment Leeds to develop an employment and training scheme to promote employment opportunities for local people in City and Hunslet and any adjoining Ward during the construction works, from the start of the tendering process and reasonable endeavours would also be made to agree a method statement with the future occupiers to identify employment and training opportunities, to provide every six months details of recruitment and retention of local people as employees and training of apprentices, and identify any vacancies on a monthly basis to Employment Leeds.
- Section 106 management fee £2250

- 10.8.2 As part of Central Government's move to streamlining the planning obligation process it has introduced the Community Infrastructure Levy Regulations 2010. This requires that all matters to be resolved by a Section 106 planning obligation have to pass 3 statutory tests. The relevant tests are set out in regulation 122 of the Regulations and are as follows:

'122(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.'

As listed above (and also in the 'recommendation' box at the beginning of this report), there are matters to be covered by a Section 106 agreement. These matters have been considered against the current tests and are considered necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.

11.0 **CONCLUSION**

11.1 It is considered that the proposal would help enable the City to meet the emerging Leeds Core Strategy (Draft 2012) spatial vision, that by 2028, Leeds will have maintained and strengthened its position at the heart of the City Region and grown a strong diverse and successful urban economy, with skilled people and competitive businesses, which are sustainable, innovative, creative and entrepreneurial. The proposal would also promote new visitor facilities in a sustainable location in the City Centre, and make more efficient use of City Centre land. It is considered that the proposal would meet the urban design, sustainability, and highways and transportation aspirations of the UDPR, supplementary guidance within the Kirkstall Road Renaissance Area Planning Framework, and the National Planning Policy Framework. The application proposal is therefore recommended for approval in principle subject to the conditions and an appropriate and proportionate Section 106 package.

Background Papers:

Application file 13/01198/OT

Appendix 1 Draft Conditions

Appendix 1 Draft Conditions

- 1) Approval of the following details (hereinafter referred to as the reserved matters) shall be obtained from the Local Planning Authority, in writing before the development is commenced.
 - a. Layout
 - b. Scale
 - c. Access
 - d. Appearance
 - e. Landscaping

Plans and particulars of the reserved matters shall be submitted utilising a planning application form and shall be carried out as approved.

Because the application is in outline only and as no details have been submitted of the reserved matters, they are reserved for subsequent approval by the Local Planning Authority.

- 2) Application for approval of all reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be agreed.

Imposed pursuant to the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3) The development hereby permitted shall be carried out in accordance with the principles contained in the illustrative drawings and documents listed in the Plans Schedule. Any reserved matters applications shall not exceed the height and footprint extents, number of car parking spaces, and the level of hotel and/or office, retail and restaurant floorspace indicated on Loroc Architects Drawing nos. 1176/101 Revision D dated 25 October 2013, 1176/102 Revision F dated 25 October 2013, 1176/103 Revision D dated 25 October 2013, 1176/104 dated 14 May 2013, and Design Code Revision B dated 11 November 2013. For the avoidance of doubt and subject to the extent of building height and footprint indicated on the above plans, the accommodation floorspace hereby approved shall not exceed:

- a. 7330 square metres gross B1 office or C1 hotel and;
- b. 875 square metres gross A3 restaurant and;
- c. 200 square metres gross A1 or A2 retail.

For the avoidance of doubt and in the interests of proper planning and sustainable development, in accordance with the NPPF and the Development Plan.

- 4) Prior to the commencement of development, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority.

In the interests of sustainable development and to enable the Local Planning Authority to acceptably discharge the conditions in a phased manner appropriate to the development and deliver the off-site highways works, in accordance with Leeds UDPR Policies GP5 and T2, and the NPPF.

- 5) No construction of external walling or roofing shall take place within a phase until details and samples of all external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority for that phase. Such materials shall be made available on site prior to the commencement of their use, for the inspection of the Local Planning Authority who shall be notified in writing of their availability. The building works shall be constructed from the materials thereby approved.

In the interests of visual amenity in order to accord with Leeds UDP Review Policies GP5, BD2 and N13, and the NPPF.

- 6) Construction of external cladding and glazing shall not be commenced within a phase until a sample panel of all external facing materials and glazing types to be used has been approved in writing by the Local Planning Authority for that phase. The external cladding and glazing materials shall be constructed in strict accordance with the sample panel(s) which shall not be demolished prior to the completion of the phase of the development.

In the interests of visual amenity in order to accord with Leeds UDP Review Policies GP5, BD2 and N13, and the NPPF.

- 7) No building works shall be commenced within each phase until full 1 to 20 scale working drawing details of the following have been submitted to and approved in writing by the Local Planning Authority for that phase:
- a. soffit, roof line and eaves treatments
 - b. junctions between materials
 - c. each type of window bay proposed.
 - d. ground floor shopfronts and entrance points

The works shall be carried out in accordance with the details thereby approved.

In the interests of visual amenity and the character of the surrounding area, in order to accord with Leeds UDPR Policies GP5, BD2 and N13, and the NPPF.

- 8) No surfacing works shall take place within a phase until details and samples of all surfacing materials have been submitted to and approved in writing by the Local Planning Authority for that phase. Such materials shall be made available on site prior to the commencement of their use, for the inspection of the Local Planning Authority who shall be notified in writing of their availability. The surfacing works shall be constructed from the materials thereby approved and completed prior to the occupation of the building.

In the interests of visual amenity in accordance with Leeds UDP Review Policies GP5, CC3 and LD1, and the NPPF.

- 9) No landscaping works shall take place within a phase until full details of both hard and soft landscape works, including an implementation programme, have been submitted to and approved in writing by the Local Planning Authority for that phase. Hard landscape works shall include:
- (a) proposed finished levels
 - (b) boundary details and means of enclosure,
 - (c) vehicle and pedestrian access and circulation areas,

- (d) hard surfacing areas,
- (e) minor artefacts, structures and lighting

Soft landscape works shall include

- (f) planting plans
- (g) written specifications (including soil depths, cultivation and other operations associated with plant and grass establishment) and
- (h) schedules of plants noting species, planting sizes and proposed numbers/densities.
- (i) tree pits

All hard and soft landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS 4428:1989 Code of Practice for General Landscape Operations. The developer shall complete the approved landscaping works and confirm this in writing to the Local Planning Authority prior to the date agreed in the implementation programme.

To ensure the provision and establishment of acceptable landscape in accordance with adopted Leeds UDP Review (2006) policies GP5, N23, N25 and LD1, and the NPPF.

- 10) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of each phase of the development. The landscape management plan shall be carried out as approved.

To ensure successful aftercare of landscaping, in accordance with adopted Leeds UDP Review (2006) policies GP5 and LD1, and the NPPF.

- 11) If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season, unless otherwise agreed in writing by the Local Planning Authority.

To ensure maintenance of a healthy landscape scheme, in accordance with adopted Leeds UDP Review (2006) policies GP5 and LD1.

- 12) Prior to the occupation of each phase, a plan to identify bird nesting opportunities within that phase shall be submitted to and approved in writing by the Local Planning Authority. The agreed plan shall show the number and specification of the bird nesting features, where they will be located, and a timescale for implementation. The approved details shall be implemented within the timescales agreed and retained as such thereafter.

To enhance biodiversity in the area, in accordance with the NPPF.

- 13) Within each phase, the cafe/restaurant use hereby approved shall not commence until details of a sound insulation scheme designed to protect the amenity of nearby occupants from noise emitted from the premises has been submitted to and approved in writing by the Local Planning Authority. The use hereby approved shall

not commence until the works have been completed, and the noise insulation scheme as may be approved shall be retained thereafter.

In the interests of residential amenity, in accordance with Leeds UDPR Policy GP5 and the NPPF.

- 14) Prior to the installation of any extract ventilation system or air conditioning plant, details of such systems shall be submitted to and approved in writing by the Local Planning Authority. Any external extract ventilation system/air conditioning plant shall be installed and maintained in accordance with the approved details. The system shall limit noise to a level at least 5dBA below the existing background noise level (L90) when measured at the nearest noise sensitive premises with the measurements and assessment made in accordance with BS4142:1997.

In the interests of visual and residential amenity and in accordance with adopted Leeds UDP Review (2006) policy GP5 and the National Planning Policy Framework.

- 15) No A3 cafe/restaurant or C1 hotel use approved shall commence until details of measures to treat odour and fumes resulting from the use within that unit have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be installed prior to the first occupation of the unit, and shall be retained in accordance with the approved details.

In the interests of residential amenity and in accordance with adopted Leeds UDP Review (2006) policy GP5 and the National Planning Policy Framework.

- 16) Prior to the occupation of each phase a scheme detailing the method of storage and disposal of litter and waste materials, including recycling facilities, shall be submitted to and approved in writing by the Local Planning Authority for that phase. The details shall include a description of the facilities to be provided including, where appropriate, lockable containers and details of how the recyclable materials will be collected from the site with timescales for collection. The approved scheme shall be implemented before the phase of development hereby permitted is brought into use and no waste or litter shall be stored or disposed of other than in accordance with the approved scheme.

In the interests of amenity and to promote recycling, in accordance with the NPPF and Leeds UDPR Policies GP5 and T2.

- 17) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) planning permission shall be obtained before any change of use of any of A3 restaurant/café hereby approved, to any use within use class A1 retail as defined in the Town & Country Planning (Use Classes Amendment) Order 2005 (or any order revoking or re-enacting that order with or without modification).

In order that the Local Planning Authority can retain control over uses which it considers could be harmful to the character and the viability of the City Centre Prime Shopping Quarter, in accordance with the NPPF, and Leeds UDPR Policies S1, S2 and CC21.

- 18) The hours of opening of the A3 cafe/restaurant premises shall be restricted to 0700 hours to 0000 hours Monday to Thursday, 0700 to 0100 Friday and Saturday, and 0800 to 2330 Sundays and Bank Holidays.

In the interests of residential amenity, in accordance with Leeds UDP Review 2006 Policy GP5 and the NPPF.

- 19) The hours of delivery to and from the premises shall be restricted to 0800 hours to 2000 hours Monday to Saturday and with no deliveries on Sundays and Bank Holidays.

In the interests of residential amenity, in accordance with Leeds UDP Review 2006 Policy GP5 and the NPPF.

- 20) Development shall not commence within a phase until a Phase I Desk Study has been submitted to, and approved in writing by, the Local Planning Authority for that phase and:

(a) Where the approved Phase I Desk Study indicates that intrusive investigation is necessary, development within a phase shall not commence until a Phase II Site Investigation Report has been submitted to, and approved in writing by, the Local Planning Authority for that phase,

(b) Where remediation measures are shown to be necessary in the Phase I/Phase II Reports and/or where soil or soil forming material is being imported to site, development shall not commence within that phase until a Remediation Statement demonstrating how the phase site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.

To ensure that the presence of contamination is identified, risks assessed and proposed remediation works are agreed in order to make the site suitable for use in accordance with national and Leeds City Council's planning guidance.

- 21) If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.

To ensure that any necessary remediation works are identified to make the site suitable for use in accordance with national and Leeds City Council's planning guidance.

- 22) Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.

To ensure that the remediation works are fully implemented as agreed and the site has been demonstrated to be suitable for use in accordance with national and Leeds City Council's planning guidance.

- 23) Development within a phase shall not commence until a scheme detailing foul and surface water drainage works for that phase has been submitted to and approved in writing by the Local Planning Authority. The phase shall be developed with separate

systems of foul and surface water drainage. The works shall be implemented in accordance with the approved scheme before the phase is brought into use.

To ensure sustainable drainage and flood prevention in accordance with Policies GP5 and N39A of the adopted Leeds UDPR, and the NPPF.

- 24) No piped discharge of surface water from any phase shall take place until works to provide a satisfactory outfall for surface water for that phase have been completed in accordance with details to be submitted to and approved by the local planning authority before development of that phase commences.

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading, in accordance with the NPPF and Leeds UDPR Policy GP5.

- 25) The development shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 07/06/13 and the following mitigation measures detailed within the FRA:

1. Surface water run off must be managed in accordance with the LCC 'Minimum Development Control Standards for Flood Risk' document.
2. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven in the form of an evacuation plan.
3. Finished ground floor levels are set no lower than 31.09m above Ordnance Datum (AOD).
4. The basement and lower ground floor level must have access & egress points no lower than 31.09mAOD.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

To ensure safe access and egress from and to the site, to ensure the satisfactory storage of/disposal of surface water from the site, and to reduce the risk of flooding to the proposed development and future occupants in accordance with the NPPF and Leeds UDPR Policy N38B.

- 26) No works shall commence on site until a scheme for protecting the existing water main from the impact of the proposed tree planting scheme has been submitted to and approved by the Local Planning Authority. Furthermore, prior to the planting of any trees the approved scheme for protection of the water main shall have been implemented.

In order to protect the public water supply, in accordance with Leeds UDPR Policy GP5.

- 27) Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage should not be passed through any interceptor.

In the interest of satisfactory drainage, in accordance with Leeds UDPR Policy GP5 and the NPPF.

- 28) Prior to the commencement of development, details of electric vehicle charging

points in the car park shall be submitted to and approved in writing by the Local Planning Authority. The charging points shall be provided in accordance with the approved details prior to first use of the car park, and retained as such thereafter.

In the interests of encouraging more sustainable forms of travel and to reduce the impact of development on air quality, in accordance with the NPPF, Leeds Natural Resources and Waste DPD 2013, and Leeds UDPR Policy GP5.

- 29) Prior to the occupation of any retail, office, cafe/restaurant or hotel within a phase hereby approved, details of shower facilities and lockers for staff for that phase shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details prior to occupation of that phase and retained as such thereafter.

In the interests of promoting walking, running and cycling as more sustainable means of travel to work, in accordance with the NPPF and Leeds UDPR Policies GP5, T2, and T2C.

- 30) Prior to the commencement of development of the first phase, full details of the highways works identified on approved Loroc Architects drawing no. 1176/111 dated 4 November 2013 shall be submitted to and approved in writing by the Local Planning Authority, including:

- a) Provision of dropped kerbs and tactile paving on local junctions.
- b) Provision of 2m wide footway to Bingley Street and Cavendish Street.
- c) Provision of Traffic Regulation Order measures around the site and local vicinity streets.
- d) Carriageway improvements including resurfacing of part of Cavendish Street.
- e) Taxi drop-off/pick-up bay including signage and markings as appropriate.

The above works should be implemented prior to first occupation of any part of the development.

In the interests of pedestrian and vehicular safety, in order to accord with the NPPF and Leeds UDPR Policy T2.

- 31) A car parking and servicing management scheme shall be submitted to and approved in writing by the Local Planning Authority before the occupation of each phase of the development hereby approved. Such scheme shall include for the layout, access control and management of the designated parking and servicing areas together with measures for controlling the parking of vehicles on any other parts of the site (other than the publicly adopted highway), which are not shown for vehicular parking in the approved plans. The development shall thereafter be operated in accordance with the approved scheme. Any variations from the agreed scheme which may occur from time to time shall be agreed in writing with the Local Planning Authority, and operated as such thereafter.

In the interests of sustainable development, and vehicular and pedestrian safety, in accordance with Leeds UDPR Policies GP5, T2, T24, T28 and Appendix 9A, and the NPPF.

- 32) Development shall not commence within a phase until details of car, cycle and

motorcycle parking, and associated facilities, have been submitted to and approved in writing by the Local Planning Authority for that phase. Details shall include the method of securing the cycles and their location, provision of showers and storage lockers. The approved car/cycle/motorcycle parking and facilities shall be provided prior to occupation of the relevant phase of development and thereafter be retained for the lifetime of the development.

In order to meet the aims of adopted Leeds UDP Review (2006) policy T2 and T7A and T7B.

- 33) No phase of the development shall be occupied until all areas shown on the approved plans to be used by vehicles in that phase have been fully laid out, surfaced and drained such that surface water does not discharge or transfer onto the highway. These areas shall not be used for any other purpose thereafter.

To ensure the free and safe use of the highway in accordance with the NPPF, adopted Leeds UDP Review (2006) policy T2 and the Street Design Guide SPD (2009).

- 34) Prior to commencement of development of the first phase, details of the retaining structure for the proposed adopted footway on Bingley Street and Cavendish Street shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details and retained as such thereafter.

In the interests of safety, in accordance with Leeds UDPR Policies GP5 and T2, and the NPPF.

- 35) Prior to the commencement of development of each phase an updated Sustainability Statement shall be submitted to and approved in writing by the Local Planning Authority for that phase, which shall include a detailed scheme comprising (i) a pre-assessment using the BREEAM assessment method to BRE 'Excellent' Standard or equivalent for the proposed buildings and to the correct category in line with their use(s) (ii) an energy plan showing the final percentage of on-site energy that will be produced by Low and Zero Carbon (LZC) technologies, that it will meet the at least a 10% minimum target. This shall specify a carbon reduction target and energy plan for the development to reduce carbon emissions by at least 20% below Building Regulations, (iii) details of any green roofs and (iv) final proposed standards, lighting and materials to be used for the car park. The development of each phase shall be carried out in accordance with the details as approved above; and

(a) Within 3 months of the occupation of each phase of the development a post-construction review statement for that phase shall be submitted by the applicant including a BRE certified BREEAM final assessment and energy plan and associated paper work and approved in writing by the Local Planning Authority

(b) The development and buildings comprised therein shall be maintained and any repairs shall be carried out all in accordance with the approved detailed scheme and post-completion review statement or statements.

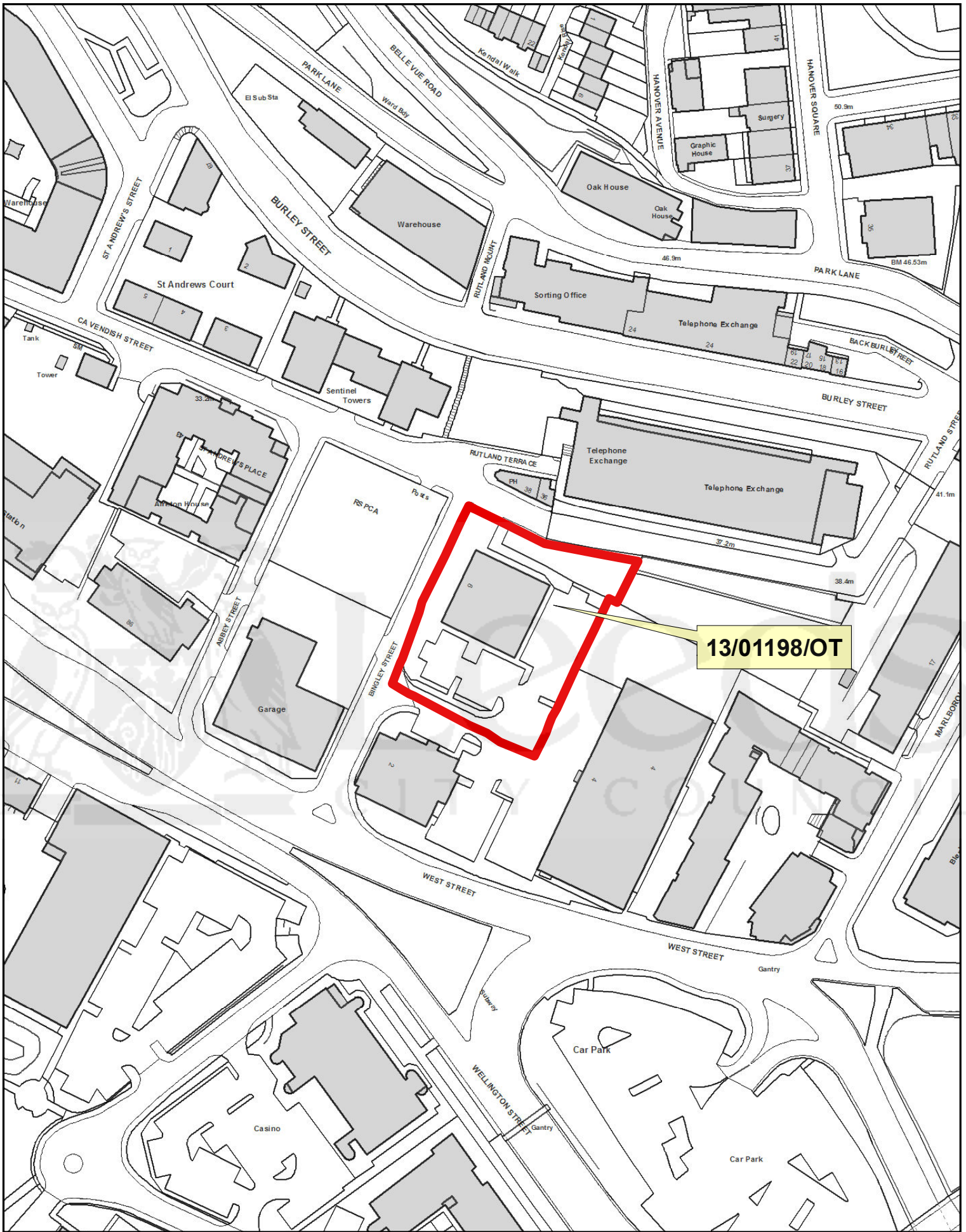
To ensure the adoption of appropriate sustainable design principles in accordance with Policies GP5, GP11 and GP12 of the Unitary Development Plan, the Leeds SPD Building for Tomorrow Today Sustainable Design and Construction, the draft Leeds Core Strategy, and the NPPF.

36) Prior to the commencement of works for a phase of development, a Statement of Construction Practice for that phase shall be submitted to and approved in writing by the Local Planning Authority. The Statement of Construction Practice shall include full details of:

- a) the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved;
- b) measures to control the emissions of dust and dirt during construction;
- c) location of site compound and plant equipment/storage;
- d) location of contractor and sub-contractor parking;
- e) how this Statement of Construction Practice will be made publicly available by the developer.

The approved details shall be implemented at the commencement of work on site, and shall thereafter be retained and employed until completion of works on site for that phase. The Statement of Construction Practice shall be made publicly available for the lifetime of the construction phase of the development in accordance with the approved method of publicity.

In the interests of residential amenity of occupants of nearby property in accordance with adopted Leeds UDP Review (2006) policy GP5 and the National Planning Policy Framework.



CITY PLANS PANEL

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

SCALE : 1/1500

