



**Leeds**  
CITY COUNCIL

Originator: Paul Kendall

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**Report of the Chief Planning Officer**

**PLANS PANEL CITY CENTRE**

**Date: 1<sup>st</sup> APRIL 2010**

**Subject: APPLICATION 09/05069/FU – TEMPORARY USE (5 YEARS) OF VACANT SITE FOR 5no. 5-A-SIDE FOOTBALL PITCHES AND 1no. 7-A-SIDE FOOTBALL PITCH WITH CAR PARKING AREA AND CHANGING FACILITIES.**

**APPLICANT**

I.D.Planning

**DATE VALID**

2<sup>ND</sup> December 2009

**TARGET DATE**

27<sup>th</sup> January 2010

**Electoral Wards Affected:**

**City and Hunslet**

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION:**

**DEFER and DELEGATE approval to the Chief Planning officer subject to the conditions specified ( and any others which he might consider appropriate )and the completion of a legal agreement within 3 months from the date of resolution unless otherwise agreed in writing by the Chief Planning Officer, to include the following obligations;**

- Public transport contribution of £9,000 to be paid in 3 instalments at the end of each of the first 3 years.
- £600 monitoring fee for the public transport contribution.
- Travel Plan with monitoring fee of £2,500.

**Conditions**

1. 5 year period of permission
2. Reference to plans being approved
3. Full details of both hard and soft landscaping
4. Specification of landscape management plan
5. Area to be used by vehicles to be laid out prior to site use

6. Provision of cycle parking to be in accordance with the approved Travel Plan.
7. Restrictions on lighting fitment so as not to cause hazard
8. Works to be carried out in accordance with the flood risk assessment
9. Phase II contamination report is required
10. Unexpected contamination to be reported
11. Remediation to be carried out in accordance with remediation statement
12. Works for dealing with surface water to be submitted
13. No piped discharges until works in con 12 above have taken place
14. Flows to be at Greenfield' rates of run-off.
15. Separate system of drainage for foul and surface water
16. Means of foul water discharge to be agreed
17. Foul drainage works to be carried out prior to use
18. Method of closing the proposed access to be submitted
19. Motor cycle parking to be provided
20. Signage to indicate where the off-site parking is located.

Conditions 8, 12, 14, 18 and 20 are non-standard conditions, a further explanatory note regarding these conditions can be found in the Appendix A

**Reasons for approval:** The application is considered to comply with policies CC31 and GP5 of the UDP Review, as well as guidance contained within Public Transport Improvements and Developer Contributions 2008 and having regard to all other material considerations including those set out by The Health and Safety Executive (HSE), a statutory consultee in this application, who advise of the presence of a historic but never the less still existing Hazardous Substances Consent , on balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

### **1.0 INTRODUCTION:**

This application is being brought before Members solely for the reason that the site falls partly within the HSE Consultation Distance which remains in place as part of the Hazardous Substances Consent which exists in connection with the former Yorkshire Chemical works. This was located on the adjoining site (which also crossed to the southern side of the River Aire) and has now been demolished with all storage of those chemicals which required the license now having ceased (evidence suggests that the most recent storage was 5 years ago). Under the terms of the process prescribed in Central Government legislation the HSE has advised that:

‘due to the presence of the Major Hazard site at Yorkshire Chemicals on Kirkstall Rd there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case’

In line with the process, Officers then reconsulted the HSE advising them of the intent to approve the application. However, as the Hazardous Substances Consent remains in place the HSE are unable to amend their advice and responded to this reconsultation by stating that if Local Planning Authority is minded to approve the application then:

“..... we consider our statutory role to be discharged when we are satisfied that the LPA is acting in full understanding of the advice received and the consequences that could follow. The offered opportunity to have the application called in, has been considered by the HSE. HSE would not wish to pursue the matter further. *(That is to say, they would not advise the Secretary of State to call in the application).*

In this case where it is clear that the hazard has been removed for some considerable period of time and that this would blight, what would otherwise be, a perfectly acceptable temporary

use of the site, officers consider that an approval of this application against the advice which the HSE has been required to make, because of the system in place, is an entirely reasonable course of action.

The delegation agreement sets out that applications may not be delegated to the Chief Planning Officer where the recommendation 'conflicts with an objection raised by a statutory consultee'. In this case it is considered that, to remove all possible challenge to the decision or the possibility that the Local Planning Authority has acted in a manner which is not in strict accordance with the terms of the delegation agreement or any other legislation, it is considered appropriate that this matter be brought before Members for determination.

## **2.0 PROPOSAL:**

This is to lay the site out with 5no. 5-a-side pitches and 1no. 7-a-side pitch, freestanding changing room and site office and 2 disabled parking spaces accessed via a new road to be taken from the existing roundabout on the public highway at the Wellington Bridge St roundabout. There would also be landscaping to the perimeter of the site and a series of 5m high flood lighting poles throughout the site and surrounding 3m high catch netting. Parking would be on the adjacent retail unit site which is in the same ownership as the application site and will be signed accordingly for users of the proposed pitches. In addition there is public car parking available at West St. The applicant proposes a 5 year temporary period of permission.

## **3.0 SITE AND SURROUNDINGS:**

This is currently a vacant and cleared site with an earth bund along the northern edge. To the north is the access road and the car parks for the Gala casino and the Travel Inn hotel. To the east is the hotel overspill car park, to the south is the riverside walkway (dead end) and the River Aire itself and to the west is the site's matured landscaping scheme and the retail units car park. To the west of this is the former Yorkshire Chemicals site to which the Hazardous Substances Consent is attached.

## **4.0 RELEVANT PLANNING HISTORY:**

1. This site has no relevant planning history but is within the Consultation Distance set by the HSE from the former Yorkshire Chemicals site to the west. This plant has now been removed, however, the hazardous substances license remains in place and this is still taken into account by the HSE who have provided the response set out below.
2. Recent approval for the erection of 2no. 5 a side pitches at the Wellington Place site as part of the overall package of environmental improvements to this large city centre site during the period when development activity has declined (App. Ref. 09/00102/FU)
3. Current outline application for the redevelopment of the Yorkshire Chemicals site 06/04610/OT which is for a mixed use development including residential and offices. The applicant has already agreed that as part of any eventual permission they would be prepared to enter into a S 106 agreement to terminate the Hazardous Substances License if by that time it has not already been revoked by the Local Planning Authority.

## **5.0 HISTORY OF NEGOTIATIONS:**

The applicant entered into pre-application negotiations with officers to establish the range of supporting documentation which would be required.

## **6.0 PUBLIC LOCAL RESPONSE:**

None received

## **7.0 CONSULTATION RESPONSE:**

**Statutory:**

**HSE:** Originally stated that: 'due to the presence of the Major Hazard site at Yorkshire Chemicals on Kirkstall Rd there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case'.

In line with the standard procedure the LPA contacted the HSE to advise them that they were likely to recommend this application for approval. The HSE responded by stating: "..... we consider our statutory role to be discharged when we are satisfied that the LPA is acting in full understanding of the advice received and the consequences that could follow. The offered opportunity to have the application called in, has been considered by the HSE. HSE would not wish to pursue the matter further. (That is to say that they would not call in the application if the LPA were minded to grant Planning Permission).

**Environment Agency:** No objection as long as the recommendations of the Flood Risk Assessment proposals are carried out and that preventative measures with respect to ground contamination are undertaken.

**British Waterways:** No comment

**Yorkshire Water:** No objections subject to conditions (the spur of the existing drain within the site is redundant)

#### **Non Statutory:**

**Main Drainage:** No objections subject to conditions

**Environmental Protection:** No objection subject to conditions

**Highways:** Use of the adjacent retail parking area which is in the same ownership as the application site is acceptable given the parking survey indicated more than adequate space exists at all times in this area.

**Public transport:** Accept the phased payment of £9,000

**Travelwise:** The Travel Plan is acceptable and the applicant has agreed to provide the monitoring fee of £2,500.

**Street Cleansing:** No objection, very little waste will be produced

**Access Officer:** No objection

**Minerals Contaminated Land:** No objection subject to conditions

**Police Architectural Liaison Officer:** Recommends securing the cabin.

## **8.0 PLANNING POLICIES:**

### **Development Plan:**

Regional Spatial Strategy: The RSS for Yorkshire and Humber was adopted in May 2008. The vision of the RSS is to create a world-class region, where the economic, environmental and social well-being of all people is advancing more rapidly and more sustainably than its competitors. Particular emphasis is placed on the Leeds City Region.

### UDP Review

The site lies within the 'City Gate' Prestige Development Area within the City Centre as defined by UDPR Policy CC31. Leisure uses are supported in Prestige Development Areas and within the city centre and therefore the use is acceptable in principle according to the UDPR. General Policy GP5 also requires that potential danger to health or life be taken in to account when resolving the details of planning applications.

### **Relevant Supplementary Planning Guidance:**

Public Transport Improvements and Developer Contributions 2008: Developments that have a significant local travel impact will be subject to a requirement for paying a contribution towards public transport improvements.

The site is located within the Kirkstall Road Renaissance Area Planning Framework (KRRAPF). This document concerns the general improvements which the City Council is looking for in the area which stretches to the north and west of the site.

## **National Planning Guidance**

### PPS1 General Policies and Principles

### PPG13 Transport

#### **9.0 MAIN ISSUES**

1. The acceptability of the use
2. Addressing the HSE's comments
3. The acceptability of the physical appearance.
4. Vehicle and transport related issues and Section 106 requirements.

#### **10.0 APPRAISAL**

1. This proposal is for a leisure use which is it appropriate to locate in the city centre. The site is unattractive in appearance having been disused for many years and is therefore contrary to the objective of producing a progressive city. The proposal would provide a community facility and enliven a vacant and prominent site which is in line with central and local government advice. The applicant is proposing a temporary use which means that it will not provide a long term obstacle to permanent development, however, there are currently no pre-application proposals under consideration by officers. The use for a 5 year period for the leisure related use proposed is therefore considered to be acceptable.

2. The hazardous substances license remains in place on the former Yorkshire Chemicals site and this has prompted the response of the HSE set out above. However, it is clear that there is no chemical storage currently taking place and it is almost 5 years since the last recorded storage event. Therefore, in this case, where the buildings have been removed and arguably the use of the site as a chemical works has lapsed, the threat would appear to have been totally removed, especially as the current site owner has already stated that they would be prepared to terminate the current license upon the grant of outline permission for the chemical works site. Officers therefore consider that it is entirely reasonable to allow this temporary external leisure use to take place despite the HSE advice.

3. The site is currently vacant and has been overgrown for much of it's recent history although clearance has been undertaken in the past few months in preparation for the use now proposed. The proposal would see the site made much more physically attractive through the laying of artificial grass and also receive a peripheral planting scheme using the earth bund along the road frontage, which was constructed when the site road was laid out. The whole area will be tidied up and generally become better managed. The flood-lights and catch-netting are of only modest height and the light sources highly directional and therefore the overall appearance of the site would be a well maintained vibrant use rather than a disused vacant one. This aspect of the proposal is therefore considered to be acceptable.

4. The site is to provide 2 disabled spaces and cycle/motorcycle spaces and this is acceptable.

The more efficient use of the neighbouring existing car park is welcomed. The fact that it is in the same ownership allows control of the provision of appropriate signage by planning condition. It is considered that these arrangements along with the fact that there are stringent on street parking restrictions will ensure that the proposals do not have an adverse impact on highways safety and use. In addition, the West Street public car park exists if there are any unexpected problems in accessing these facilities.

The scheme involves a new connection to the public highway and this must be constructed with the correct consents in place from the Highways Authority. The applicant will be advised of this by informatives attached to the decision.

It is expected that the proximity of the city centre and public transport routes will help to mitigate against excessive car usage. To support this the use of the Travel Plan and the provision of funding through the S106 will all help to reduce reliance on the private motor car in line with adopted policy.

A Section 106 agreement was close to being signed at the time of writing this report for the Travel Plan monitoring fee of £2,500 and the Public Transport contribution of 3 phased payments of £3,000 and therefore the applicant has shown their willingness to make the required contributions in line with policy. Appendix B explains how the requirement for the above obligation meets the new legal tests imposed by the Community Infrastructure Levy Regulations 2010

## **11.0 CONCLUSION**

This application will clearly assist in bringing a welcomed leisure use to this city centre location and help to maintain and enhance what is presently an uninspiring area of vacant land when a time scale for it's future redevelopment is far from certain. Given what has been set out above officers consider that this use of the site does not compromise the safety of the public and the HSE statement that they would not wish to pursue the matter further through the call in process underlines this fact. The applicant is to provide the necessary contributions to public transport infrastructure and travel plan monitoring and in all other respects this application is considered to be acceptable.

### **Background Papers:**

Current application 09/05069/FU

Yorks Chems Outline Planning app ref. no. 06/04610/OT

Wellington Place 5 a side pitches app. ref. no. 09/00102/FU

Certificate of Ownership: The site is owned by Evans Property Group and notice was served on them dated 20<sup>th</sup> November 2009

## **Appendix A – Special Conditions , City Gate Football Pitches – 09/05069/FU**

8. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated October 2009 and the following mitigation measures detailed within the FRA:

1. Flood-proofing measures detailed within the FRA are included in the proposed development.
2. Finished floor levels of the changing rooms are set no lower than 30.8m above Ordnance Datum (AOD).
3. Occupants must sign up to the Flood Warning System and prepare an evacuation plan
4. There shall be no raising of ground levels on site.

Reason: In order to prevent flooding by ensuring that there is satisfactory storage/disposal of surface water from the site, to reduce the impact of flooding and to reduce the risk of flooding to the proposed development and future occupants, to ensure safe access and egress from and to the site and to prevent flood water being displaced elsewhere.

12. Before development commences details of works for dealing with surface water discharges from the proposed development, to include plans and summary of calculations, shall be submitted to and approved by the Council - this shall be in accordance with the FRA Ref DH/LW/LDS481/FRA, dated October 2009.

Reason: In compliance with PPS 25 and to ensure that the site can be properly drained without flooding.

14. Surface water from the site will be subject to balancing of flows to 'Greenfield' rates of run off (i.e. 5 l/s/ha) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure compliance with the council's sustainable development design guide

18. Details of the proposed methods of closing off and making good the access following expiry of this planning permission shall be submitted to and approved in writing by the Local Planning Authority prior to the expiry of the permission. The works of closure to the access so approved shall be carried out on expiry of the permission unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the free and safe use of the public highway.

20. Prior to the first use of the site a package of signage, to include locations, elevations and wording to be used to direct customers of the use hereby approved, to the car park which will be available on the adjoining site, shall be submitted to and approved in writing by the Local planning Authority. The signs shall then be erected in accordance with the approved details prior to the first use of the site and thereafter retained on site.

In the interests of free and safe use of the highway and to ensure that customers are directed appropriately.

## **Appendix B – Community Infrastructure Levy Regulations 2010 Statutory Tests**

As part of Central Government's move to streamlining the planning obligation process it is to introduce the Community Infrastructure Levy Regulations 2010. This comes in to force on April 6<sup>th</sup> and will require that all matters to be resolved by a Section 106 planning obligation will 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-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development

There are 2 matters to be considered in this way as part of this application, Public Transport Improvements and Travel Plan Monitoring.

### **Public Transport Improvements:**

This matter is considered in the Supplementary Planning Document 'Public Transport Improvements and Developer Contributions' (adopted Aug 08)

#### **Test (a) Need**

The provision of a financial contribution towards Public Transport Infrastructure is considered to fulfil the following needs:

- Ensures compliance with the objectives of PPG 13 to promote more sustainable travel choices, to promote accessibility by public transport and to reduce the need to travel, especially by car.
- Reflects the fact that the provision of public transport, from which the developer will gain a service, is outside the scope and control of the individual developer.
- Assists the Authority to finance and provide for the cumulative impact of individual new developments and therefore the contribution assists in addressing the individual travel impact of the development.

This is in compliance with UDPR Policies T2(ii), T2D

#### **Test (b) Directly Related**

The contributions will be spent on the provision of a public transport service from which the development will benefit directly. The site is within the city centre and lies close to a considerable number of bus services at Kirkstall Rd, Wellington St and the Inner Ring Rd. This makes the site more accessible to its users and therefore funding the improvement to the public transport system will make the site more attractive and therefore more likely to be successful.

#### **Test (c) Fairly related in scale and kind.**

In terms of scale, Leeds City Council has an adopted mechanism for calculating such contributions which is derived from that set out in the Practice Guidance on



Planning Obligations (DCLG 2006). This accounts for the size, scale and impact of the development and allows the amount of contribution to be varied to be proportionate to this. With respect to kind, the simplest and easiest method of contributing to public transport infrastructure is by making a financial payment to the appropriate authority and the adopted mechanism outlined above produces a financial figure which is then used as the basis for the eventual contribution.

### **Travel Plan Monitoring:**

This matter is directly considered in the Draft Supplementary Planning Document 'Travel Plans' (May 07)

#### Test (a) Need

The provision of a Travel Plan monitoring fee is considered to fulfil the following needs:

- Ensures compliance with the objectives of PPG 13 to promote more sustainable travel choices, to promote accessibility by public transport and to reduce the need to travel, especially by car.
- Assists in ensuring that the objectives of the travel plan are adhered to by the developer

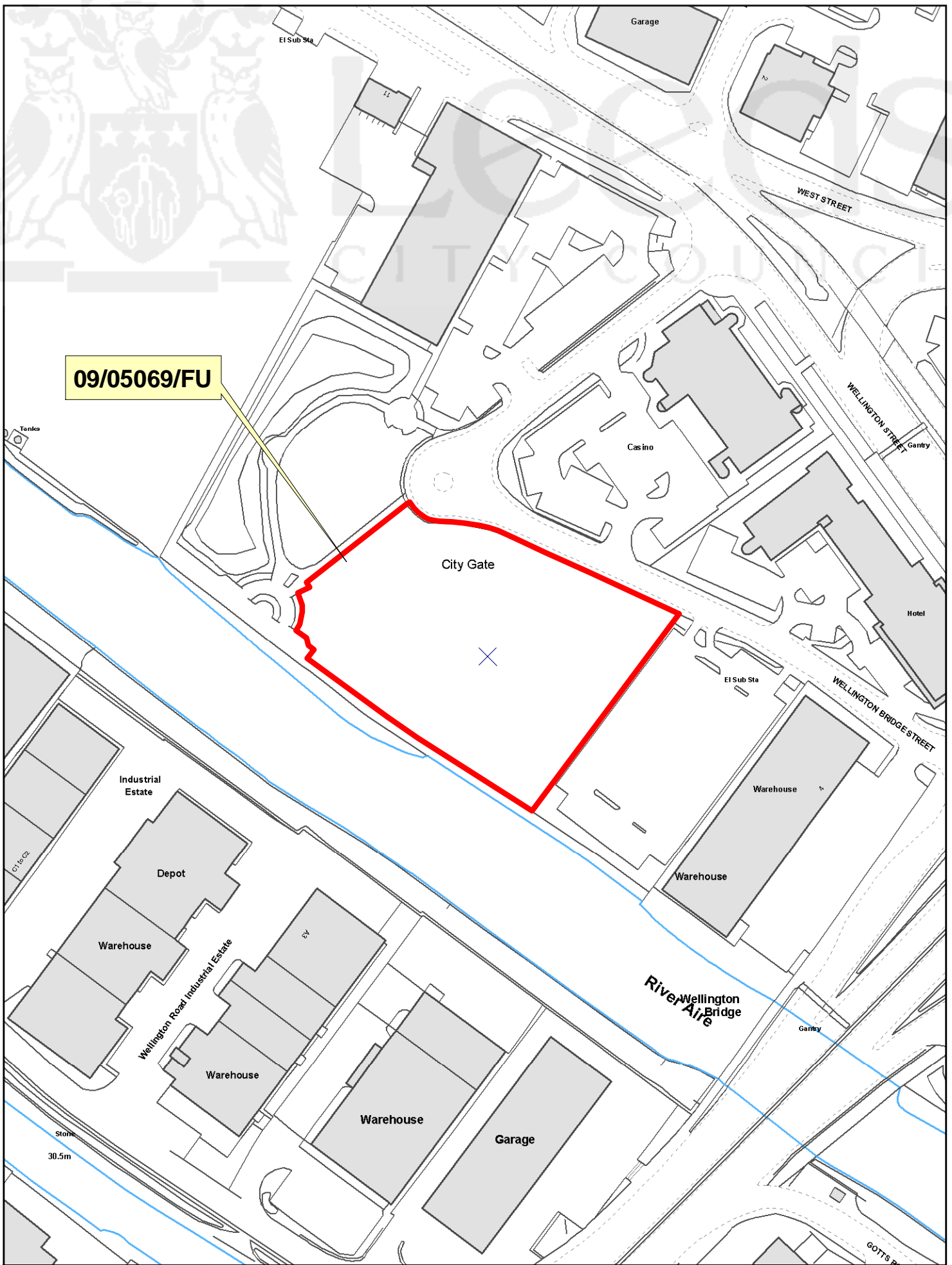
This is in compliance with UDPR Policies T1(i), T2C

#### Test (b) Directly Related

The contribution will be used to ensure that the objectives of the Travel Plan which has been formulated for this specific site use and the method by which the plan seeks to ensure it's objectives in respect of the likely travel modes of its customers, are actually achieved.

#### Test (c) Fairly related in scale and kind

In terms of scale, the level of contribution has been determined on the basis of the costs of administering this process against the number of employees/customers and scale of the use proposed. With respect to kind, due to the requirement to fund staff to monitor this process the contribution can only realistically be a financial one and therefore an agreed sum is considered to be the most appropriate method.



# CITY CENTRE PANEL

Scale 1/1500

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