



**Report of the Chief Planning Officer**

**PLANS PANEL EAST**

**Date: 16 June 2011**

**Subject: APPLICATION 11/01235/FU VARIATION OF CONDITION 3  
(RESTRICTION OF GOODS FOR SALE) OF APPLICATION NO.07/05843/FU TO  
ALLOW SALE OF GOLF GOODS FROM 942 SQ.M FLOORSPACE AT UNITS 2- 11  
CITY SOUTH RETAIL PARK, TULIP STREET, HUNSLET**

**APPLICANT**

BBC Pension Trust Ltd

**DATE VALID**

25 March 2011

**TARGET DATE**

24 June 2011

**Electoral Wards Affected:**

**City & Hunslet**



Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION:**

**REFUSE** for the following reason;

The Local Planning Authority also considers that the proposal to relax condition 3 of planning approval 07/05843/FU by allowing the sale of golf goods to be unsustainable and contrary to local and national planning policy which seeks to direct this type of retailing to Town Centre locations. This proposal has failed to demonstrate through a sequential approach to site selection that there are no suitable Town Centre locations for the development, and as such the proposal is contrary to Policy S9 of Leeds Unitary Development Plan Review 2006 and to Government guidance set out in PPS4 'Planning for Sustainable and economic growth.

**1.0 INTRODUCTION:**

- 1.1 This application is brought to Plans Panel at the request of Councillor Nash as there has been a previous officer refusal which is now subject of an appeal and therefore it is requested that the application is brought to Plans Panel for determination.
- 1.2 Members should be aware that there are three refused applications relating to this retail park for which appeals have been lodged and which are due to be considered at a Public Inquiry scheduled for 9<sup>th</sup> – 11<sup>th</sup> August 2011.
- 1.3 Should a decision not be reached on the current application at today's Plans Panel meeting, the applicant would have the right to appeal against non determination on 25 June 2011.

## 2.0 PROPOSAL:

2.1 This application seeks to vary condition 3 of approval 07/05843/FU to allow the sale of golfing goods from any of the units 2 – 11 up to a floorspace of 942 sq.m.

2.2 Condition 3 states that: -

*Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any provision in any statutory instrument revoking or re-enacting that Order, the premises (other than Units 1 and 2) shall only be used for the sale of goods which comprise items of furniture, carpets, electrical goods, hardware, DIY, vehicle accessories and cycles, or office equipment.*

2.3 A previous application 10/01025/FU also sought to vary the condition to allow the sale of golfing goods at Unit 9 and this application was refused on the following grounds;

*1. The Local Planning Authority consider that the proposal will have a small but unacceptable impact on Leeds' city and town centres in terms of trade diversion and put at risk future investment in in-centre retail floorspace and the ability to fill vacant floorspace. The impact will be worsened in combination with further similar out-of-centre proposals which would be more difficult to resist if this proposal were permitted. As such, the proposal would be contrary to UDPR Policies SP7 and S9, to the Yorkshire & Humber Plan Policy E2 and to Government guidance set out in PPS4 'Planning for Sustainable and Economic Growth'.*

*2. The Local Planning Authority also considers that the proposal to relax condition 3 of planning approval 07/05843/FU by allowing the sale of golf goods to be unsustainable and contrary to local and national planning policy which seeks to direct this type of retailing to Town Centre locations. This proposal has failed to demonstrate through a sequential approach to site selection that there are no suitable Town Centre locations for the development, and as such the proposal is contrary to Policy S9 and T2 of Leeds Unitary Development Plan Review 2006 and to Government guidance set out in PPS4 'Planning for Sustainable and economic growth and PPG 13 - Transport.*

- 2.4 The golfing retailer identified in connection with the application relating to Unit 9 (Nevada Bob's) has located at an in centre location in Meanwood town centre since the earlier application was refused. Therefore it is understood that the latest application is submitted to seek flexibility to give a golf retailer the ability to occupy any of Units 2 – 11 up to a floorspace of 942 sq.m which in the case of Unit 4 – would not be the full floorspace provided in this unit.

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The City South Retail Park (formerly the Tulip Retail Park) is an out of town retail park adjacent to Junction 5 of the M621 motorway. The site lies approximately 564m (walking distance) from the entrance to Penny Hill Shopping Centre to the north-east and 550 metres to the east of the defined town centre boundary of Dewsbury Road.
- 3.2 The retail park originally provided 13,100 sq.m of total retail floorspace across 8 retail units. The 8 units provided a range of floorspaces between 884m<sup>2</sup> and 4685m<sup>2</sup> arranged in an L shape with a large central car park. In 2007, consent was given to subdivide units 3, 6 and 7 creating 3 additional units. No additional retail floorspace was created as a result of this reconfiguration work. There are now 11 units ranging from 590m<sup>2</sup> to 4685m<sup>2</sup> with 5 of these units being currently empty. Those units which are trading are occupied by The Range (household goods, not permitted to sell clothes or shoes) Bensons Beds, Carpet Right, Magnet Trade and Tile Giant.

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

10/05334/FU: To vary condition 3 attached to planning permission ref – P/07/05843/FU in relation to Unit 4, Tulip Retail Park, Tulip Street – Refused 2 February 2011.

10/05333/FU: To vary condition 3 attached to planning permission ref – P/07/05843/FU in relation to Unit 2 - 11, Tulip Retail Park, Tulip Street – Refused 19 January 2011.

10/01025/FU Variation of condition 3 of approval 07/05843/FU to allow the sale of golf goods at Unit 9 Tulip Retail Park. Refused 30 April 2010

08/04632/FU: Erection of 2 B1(C) and B8 units with car parking and access road at City South (Formerly Tulip Retail Park) Tulip Street. Approved 22.10.2008

07/05843/FU: Alterations including partial demolition and insertion of mezzanine floor to Unit 3, re-cladding and new entrance features, and variation of Condition 57 (subdivision) of application 99-20/227/94/OT to permit sub-division of Units 3, 6 and 7 at City South (formerly known as Tulip Retail Park), Tulip Street .

Approved: 29-NOV-07

21/42/05/FU - Removal of conditions 41 and 59 of permission 99-20/227/94 (delivery hours and sale of specific goods). Approved 22 March 2005.

21/254/04/FU –Addition of garden centre including alterations to access to units 1 and 2 – Approved 26.01.2005

21/253/04/FU: Variation of condition no 59 of application 99-20/227/94/OT (sale of goods) - Approved: 23-FEB-05 (excluding clothes and footwear).

21/119/04/FU: Tulip Retail Park Tulip Street Leeds 10  
Proposal: Variation of condition no.59 of application 99-20/227/94/OT (sale of goods) – Appeal against Non Determination 02-SEP-04 (Appeal withdrawn).

21/120/04/FU: Tulip Retail Park Tulip Street Leeds 10  
Addition of garden centre including alterations to access to units 1 and 2.  
Appeal against Non Determination 02 SEP 04. (Appeal Withdrawn)

21/298/98/FU - Tulip Street Leeds 10  
Variation of condition no 59 of application no 99-20/227/94 /OT (sale of non food convenience goods) - Withdrawn: 17-SEP-01

21/313/96/RM: Tulip Street and Beza Street Leeds 10  
Laying out of access and erection of retail units with car parking  
Approved: 18-JUL-97

21/314/96/OT: Tulip Street and Beza Street Leeds 10  
Proposal: Variation of condition no 3 of application no 99-20/237/94/OT (time limit)  
Approved: 22-NOV-96

99-20/227/94/OT: Tulip Street and Beza Street Leeds 10  
Proposal: Outline application to erect retail development  
Approved: 31-JUL-95

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Meetings have taken place with the applicant's agents regarding the future of the retail park and it has been suggested that alternative uses for the site should be considered if bulky goods retailing is not sustaining the retail park.

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

- 6.1 Site notices posted 28 April 2011 and publicity period expires 19 May 2011.
- 6.2 No representations have been received.

## **7.0 CONSULTATIONS RESPONSES:**

**Statutory:**  
**Highways** – No objections

## **8.0 PLANNING POLICIES:**

- 8.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development.

- 8.2 RSS Policy E2 Town Centres and major facilities, focuses on strengthening the role and performance of existing city and town centres.
- 8.3 UDPR  
 SP7 - Priority to be given to enhancement of the City Centre and town centres  
 S9 - Smaller retail development outside S1, S2 or defined local centres  
 T2 – Highway considerations
- PPS1 - Delivering Sustainable Development (2005)  
 PPS4 - Planning for Sustainable Economic Growth (2009)  
 PPG13 – Transport (2001)

***PPS4 - Planning for Sustainable Economic Growth***

- 8.4 In 2009, PPS4 was issued and provides the main national guidance to both planning authorities and developers about planning for sustainable economic development. PPS4 indicates that economic development includes main town centres uses which apply to retail development (including warehouse clubs and factory outlet centres).
- 8.5 The objectives set out in PPS4 seek to deliver more sustainable patterns of development, reduce the need to travel, especially by car and respond to climate change and promote the vitality and viability of town and other centres as important places for communities. The guidance indicates that new economic growth and development of main town centre uses should be focused in existing centres. PPS4 goes on to point out that to promote competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres, allows genuine choice to meet the needs of the community.
- 8.6 Policy **EC14** sets out the requirements for supporting evidence for planning applications for main town centre uses and includes applications to vary or remove conditions changing the range of goods sold.
- 8.7 A sequential assessment under policy **EC15** is requirements for planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date development plan.
- 8.8 Policy **EC15.1** sets out the sequential assessment requirements which are:
- a) Ensure that sites are assessed for their availability, suitability and viability.
  - b) Ensure that all in centre options have been thoroughly assessed before less central sites are considered.
  - c) Preference is given to well connected edge of centre locations where there are no town centre sites
  - d) Ensure that in considering sites on or in the edge of existing centres, developers and operators have demonstrated flexibility in terms of;
    - scale – reducing the floorspace of their development,
    - format – more innovative layouts and store configurations such as multi storey developments with smaller footprints
    - car parking provision
    - the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable sites. However Local Planning Authorities should not seek arbitrary sub division of proposals.

- 8.9 **EC15.2** states that in considering whether flexibility has been demonstrated under policy **EC15.1.d**, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site.

## 9.0 MAIN ISSUES

1. Site History, location and appeal proposals
2. Golfing goods; General comparison goods
3. Sequential Test
4. Impact
5. Encouraging growth agenda
6. Conclusion

## 10.0 APPRAISAL

- 10.1 Retail planning policy set out in PPS4 seeks to direct main town centre uses, which includes most forms of retail, into town centres. For this reason, PPS4 includes the requirement for a sequential test to be carried out to demonstrate that proposals for main town centre uses cannot be accommodated within an existing town centre location, or following that an edge of centre location before planning permission is granted for main town centre uses in out of centre locations. The issues which need to be taken into consideration relating to this application therefore relate to the history of the site and the retail park, the nature of the goods proposed to be sold and the guidance set out within PPS4 as set out in the appraisal below.

### 1. Site History, location and appeal proposals

- 10.2 City South/Tulip Retail Park is an out of centre site as it is located more than 300 metres from the primary shopping area of Hunslet town centre which comprises of the designated primary and secondary frontages and Morrisons' supermarket. The retail park is within 300 metres of the Hunslet town centre boundary itself however the site is not considered to be well connected to the town centre. There is no direct pedestrian linkage between Tulip retail park and the Penny Hill Centre. Pedestrians are required to walk along the busy road of Beza Street/ Church Street and negotiate a crossing over Church Street. There is no intervisibility between City South/Tulip Retail Park and the Penny Hill Centre and it is considered that this makes it less likely that shoppers would walk between the two.

- 10.3 The retail park was granted outline planning permission in 1995 by way of application 99-20/227/94/OT. Condition 59 of this permission restricts the sale of goods to those specified in the condition, as follows;

*Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any provision in any statutory instrument revoking or re-enacting that Order, the premises shall only be used for the sale of goods which comprise items of furniture, carpets, electrical goods, hardware, DIY, vehicle accessories and cycles, or office equipment.*

- 10.4 A S106 agreement was entered into by the applicant as part of the application and also restricts the sale of goods in the fourth schedule. A condition was also

attached for the restriction of goods and both were considered to be an important restrictions in order to maintain the vitality and viability of existing town centres.

- 10.5 In 1996 an extension of time was granted – 21/314/96/OT and was accompanied by a deed of variation to the S106 agreement which related to the layout, approved drawings and public transport contribution.
- 10.6 The permission for a retail park in this location was based on a commitment regarding the restriction of goods for sale and this was fundamental to the grant of planning permission. It is considered that without the restriction to the sale of certain goods through the condition and the S106 agreement, permission would not have been granted.
- 10.7 A later application 21/253/04/FU applied to vary condition 59 of application 99-20/227/94/OT and this was approved by Plans Panel Members with a new condition which broadened the permitted sale of goods within units 1 and 2 to include; Items of furniture, furnishings, textiles, carpets, electrical goods, hardware, housewares, DIY, garden products, pet supplies, vehicle accessories and cycles, camping and leisure goods (excluding clothing and footwear), office equipment and supplies, arts and craft products and supplies and goods reasonably ancillary to those listed.
- 10.8 Application 21/253/04/FU was put forward by the applicant as being important to secure an occupier (at the time proposed to be either the Range or Dunelm Mill) to anchor the retail park and secure the regeneration of the retail park and 'kick start' its remarketing. It is considered that when this change was made serious consideration and concern regarding impact on town centres was taken into account, but Members in granting this permission acted reasonably and fairly based on the information put forward at the time of the application.
- 10.9 In 2007 an application 07/05843/FU applied for the insertion of a mezzanine floor to unit 3, and variation of condition 57 of application 99-20/227/94/OT to permit the subdivision of units 3, 6, and 7 and this application was approved on 29.11.07. It is considered that this is the principal planning permission that now relates to this retail park since this is the most recent permission, and that the conditions on this permission are now the relevant conditions covering the whole site. This application also sought to remove condition 59 of application 99-20/227/94/OT, however through the course of the application this part of the proposal was removed on the basis of Officer advice that this was considered unacceptable. This application was determined and Condition 3 of the new permission stated that;

Existing condition 3

*Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any provision in any statutory instrument revoking or re-enacting that Order, the premises (other than Units 1 and 2) shall only be used for the sale of goods which comprise items of furniture, carpets, electrical goods, hardware, DIY, vehicle accessories and cycles, or office equipment.  
In the interests of City-wide retail policy.*

- 10.10 Condition 4 of application 07/05843/FU restricts the sale of goods from units 1 and 2.

- 10.11 A further application was approved on 22.10.08 (08/04632/FU) for the erection of 2 B1(C) and B8 light industrial and warehouse units with car parking and access road within the western corner of the car park to the retail park.
- 10.12 As set out in the planning history section, 3 applications to vary condition 3 of application 07/05843/FU to vary the types of goods which can be sold were refused under delegated powers at the end of last year and earlier this year. Appeals have been lodged on behalf of BBC Pension Trust against these refusals which are programmed for a 3 day public inquiry on 9 August 2011.
- 10.13 The 3 applications subject of the co joined appeal are;  
**APPEAL 1** - Application 10/01025/FU at Unit 9 to vary condition 3 of application 07/05743/FU to allow for the sale of golfing goods  
**APPEAL 2** - Application 10/05333/FU at Unit 4 to vary condition 3 of application 07/05743/FU by altering the wording of the condition to list goods which cannot be sold and which would therefore allow for the sale of additional goods as listed below. The application also proposed to allow for occupation by a 'discount' retailer.  
**APPEAL 3** - Application 10/05334/FU at Units 2 – 11 to vary condition 3 of application 07/05743/FU by altering the wording of the condition to list goods which cannot be sold, and which would allow for the sale of additional goods as set out below.
- 10.14 In relation to the appeal proposals at Units 4 and 2 - 11, the Local Planning Authority considers that the revised condition would allow the following goods to be sold, as well as golfing goods (including clothing and footwear) proposed at Unit 9 ;
- CD, DVDs and games
  - Toys
  - Sports goods (excluding clothing and footwear)
  - Travel goods and carriers
  - Baby supplies and equipment including prams, high chairs, carry cots
  - Beauty goods
  - Camping and leisure goods (excluding clothing and footwear)
  - Pets supplies and pet related products
  - Hobbies and craft items
  - Greeting cards
  - Textiles
  - Houseware excluding china, glassware and utensils
- 10.15 The existing retail park was established as an out of centre retail development restricted to selling bulky goods in order to protect the vitality and viability of town centres.
- 10.16 City South Retail Park is considered to be an out of centre location and the above items as well as golf goods are all items which it is considered could be sold from a town centre location in accordance with national guidance set out in Planning Policy Statement 4 and it is considered that there are sites which



would be suitable in the city centre, Dewsbury Road or potentially other centres within a ten minute driving catchment area.

- 10.17 The earlier applications to vary the range of goods sold have been refused in order to seek to ensure that the functioning of this retail park does not change in a way which would ultimately compete with town centres. It is considered that this approach is consistent with national and local planning guidance as set out in PPS4 and the UDP Review 2006.

## 2. Golfing Goods

- 10.18 The current application raises the same issues due to be considered at the inquiry for the pending appeals in respect of golfing goods.
- 10.19 The retail park was established as an out of centre retail park to cater for bulky goods sales which due to the nature of the items requires customers to visit by car. PPS4 includes a definition of Retail Warehouses as large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering mainly for car-borne customers.
- 10.20 PPS4 however defines comparison shopping as the provision of items not obtained on a frequent basis such as clothing, footwear, household and recreational goods.
- 10.21 Golfing goods are not considered to fall under the definition of retail warehouses which PPS4 accepts mainly cater for car borne customers. The sale of golfing goods is considered to be a comparison retail use.
- 10.22 These types of comparison goods are commonly sold from retail premises within city, town and district centres and are not considered to constitute 'bulky goods' which would require the use of a car. Shops selling comparison goods are sequentially preferred to be located in city, town and district centres for accessibility and convenience reasons as well as to ensure the improvement of range and diversity of activities in town centres.
- 10.23 Retail parks in out of centre locations are therefore proactively managed by LPA's through the use of conditions. These conditions look to restrict the sale of these types of comparison goods from retail parks by limiting certain types of development which could lead to unacceptable impacts on City, Town and District centres. The proposed sale of golfing goods is considered to be comparison goods and as such should be located within a town centre.
- 10.24 Golfing goods and other sporting goods are sold from town centre location in sports shops and department stores. Indeed the occupier identified in relation to Unit 9, Nevada Bob's, (refused application 10/01025/FU) has located in Meanwood Town Centre since the application at City South/ Tulip Retail Park was refused. This therefore demonstrates the case that by restricting the type of goods sold at this out of centre location, this will ensure that occupiers locate at sequentially preferable sites and therefore strengthen the vitality and viability of existing town centres.
- 10.25 The applicant argues that golf goods constitute 'bulky goods' and advises that specialist gold retailers requires a large format premises in order to provide facilities such as practice swing areas, room to assess the comfort of golf bags, as well as a wide range of goods. The applicant claims that due to the

space requirements the empty space necessary reduces the overall efficiency of the retailer in terms of sales density or turnover per sq.m and therefore the 'business model' cannot support expensive retail locations. Limited information is provided regarding this business model in terms of which specialist retailers it relates to who have adopted this format, the required size of such practice swing areas or circulation space.

- 10.26 It is considered that the proposal to occupy any of the vacant units which range from 358 sq.m up to a proposed limit of 942 sq.m indicates that a future occupier has significant flexibility in its requirements. The applicant also refers to a need for car parking as a complete set of golf clubs is bulky and heavy however this is not considered to be justification for an out of centre location as it is considered that there are town centre sites available which have convenient access for car parking for customers who do not wish to travel by public transport.

### 3. Sequential Test

- 10.27 The applicant's case is that there are no sites within established/ conventional retail centres that are available and suitable and viable for the retail sale of golf goods and equipment.
- 10.28 The applicant states within the Planning and Retail statement that they have assessed all vacant units within Leeds City Centre, Hunslet District Centre and Dewsbury Road local centre for their availability, suitability and viability for the proposed development. However this assessment was carried out in relation to the earlier refused application and dates back to February 2011 and is therefore over 3 months out of date.
- 10.29 The applicant has not provided any specific site location requirement why the proposal should be connected to this part of Leeds and to further illustrate this point the applicant's supporting information (Appendix 3) lists 7 "Existing golfing Stores located in Leeds" shows how the location of golfing stores are spread across the whole of the Leeds district. Indeed the previous occupier Nevada Bob's who expressed interest to locate at the retail park, then went on to occupy a site within Meanwood town centre in the north east of the city.
- 10.30 The existing stores listed in Appendix 3 of the applicant's statement are;

<b>Store</b>	<b>Address</b>	<b>Location in Leeds District</b>
1. American Golf	Moortown	North East
2. Eagle Golf Centre	Harehills	East
3. Headingly Golf Club Shop	Headingley	North West
4. Nevada Bob	Meanwood	North East
5. A1 and Ken Findlater	Garforth	East
6. Complete Golf Solution	Woodlesford	South
7. Gary Wilkinson	Morley	South

- 10.31 It is considered that it would be appropriate to conclude a reasonable search area which is relevant to this application should be based on the city centre (Prime Shopping Quarter) and other centres within a 10 minute drive time. The 10 mins drive time zone would include the following centres - Rothwell, Morley, Middleton Park Circus, Hunslet, Dewsbury Rd, Beeston, Armley, Chapletown, Middleton Ring Road and the City Centre (primary shopping quarter)

- 10.32 Initially, the applicant's search of the 3 centres of Hunslet, Dewsbury Road and City Centre was on the basis of a unit of 300 sq.m to 600 sq.m which is a floorspace of less than the proposal of 942 sq.m. The applicant has therefore provided further search details of units upto 1,000sq.m as of February 2011. Again, all of this information is considered to be 3 months out of date and should be updated to provide a robust search. Nevertheless, of the sites included within the applicant's sequential search there are over 20 sites which it is not considered have been reasonably discounted.
- 10.33 Even though a number of city centre sites have been assessed the applicant has discounted all sites on the basis of parking requirements for example – lack of adjacent car parking, size – for example, some units are too small although the floor space requirements have been met, form – for example, an existing shop may be split over a number of floors and rental costs being too high.
- 10.34 The applicant's reasons for discounting the sites within the city centre are considered to be weak. In relation to the floorspace requirements to provide for the practice swing area, para 6.33 in the Companion Guide to PPS4 advises that "the decision by an individual retailer to promote a business model which cannot be accommodated in an existing centre will not justify discounting more central sites where they are available, suitable and viable". Although PPS4 removes the needs assessment as a test in its own right, needs assessments still underpins the sequential and impact tests. An operator claiming that they are unable to be flexible about their chosen 'business model' would be expected to demonstrate why a smaller store or stores could not meet a similar need.
- 10.35 As discussed above, the applicant's argument that golf goods constitute 'bulky goods' which therefore necessitate the need for direct access to parking facilities is not accepted. The goods referred to by the applicant as constituting bulky goods are golf bags; pitching, driving nets and golf clubs. It is considered that all of these items could be sold from a town centre location and indeed are sold by other operators.
- 10.36 Para 6.2 of PPS4 states that the policy objective of a sequential approach is to seek to accommodate main town centre uses in locations where customers are able to undertake linked trips in order to improve consumer choice and competition.
- 10.37 Leeds City centre primary shopping quarter offers the sale of general retail goods and the city centre provides a range of car parking facilities which are easily accessible.
- 10.38 Para 6.42 and 6.45 in the PPS4 Practice guide states 'applicant's should not reject sites based on self imposed requirements'. It is not considered appropriate in planning terms to discount a site because it does not have level access to car parking facilities as the applicant has done in their sequential assessment.
- 10.39 The applicant has provided general information on rental costs however no specific details were submitted for the assessed sites. However in response to the general information, this information clearly demonstrates that rental costs should be considered on a site by site basis.

- 10.40 Para 3.20 (Retail and Planning Statement) states “property costs of prime retail locations far exceed the costs of lesser locations such as golf courses and retail warehouse parks.” However in para 10.25, applicant states “the rents commanded in specialist golf retail shops are in the order of £215 per sq.m. At Appendix 20 of the applicant’s statement a schedule of rental levels is provided for various locations of American Golf stores and the rentals vary from £135 up to £360 per sq.m. Depending on the location of a rental unit, the city centre offers a range of different rental charges and freehold/lease arrangements.
- 10.41 PPS4, policy EC15.1 requires developers and operators to demonstrate flexibility in their business model when considering sites in, or on the edge, of existing centres as part of applying the sequential approach to town centres uses. The purpose behind this is to seek wherever appropriate to accommodate new retail and other main town centre uses within town centres.
- 10.42 The methodology for discounting sites would be based on;
- **Suitability** – Use class order, location, UDP allocations, and operator’s requirements accounting for reasonable flexibility.
  - **Availability** – The site is being actively marketed – this would demonstrate there is willingness for this site to come forward.
  - **Viability** – Market factors (attractiveness of location, adjacent uses), costs.
- 10.43 Taking into consideration PPS4 (Practice Guide) para 5.6 notes that “if more central opportunities are rejected, it is for sound reasons which are clearly explained and justified”, also para 6.27 “requires developers and operators to demonstrate flexibility in their business model” and para 6.45 – should not reject sites on self imposed requirement”. The applicant’s justification for discounting a number of available sites within the city centre is considered to be weak on the basis that the rental levels are too high, no or limited dedicated parking. These sites are;
- a) The Light Shopping Centre, vacant units (300 – 360 sq.m)
  - b) The Core Shopping Centre, vacant units (350 – 510, 650, 720 sq.m)
  - c) Albion Street (500 sq.m)
  - d) 2b and 11 Regent Street (edge of centre location (463 sq.m and 403 sq.m)
  - e) 16-17 Grand Arcade (418 sq.m)
  - f) 117-118 Kirkgate (484 sq.m)
  - g) Unit E Bond St (496 sq.m)
  - h) 24b Lands Lane (540 sq.m)
  - i) 88-91 Briggate (677 sq.m)
  - j) 42-44 Victoria St (305 sq.m)
  - k) 62 North St (320 sq.m)
  - l) 38 Boar Lane (324 sq.m)
  - m) Unit 17, St John’s Shopping Centre (334 sq.m)
  - n) 16-17 Kirkgate (340 sq.m)
  - o) Albion St (345 sq.m)
  - p) 133 Briggate (348 sq.m)
  - q) Briggate vacant outlet (890 sq.m)
- 10.44 There is parking within the shopping centres at St John’s, The Light and The Core. There are a number of easily accessible city centre car parks which serve the other sites particularly in the area of Bond Street and Albion Street where there is car parking immediately opposite or adjacent to the vacant units.

- 10.45 The applicant has also discounted the vacant Kwik Save site at 255 Dewsbury Road within Dewsbury Road town centre as it is considered to serve a local catchment area predominantly convenience goods and is not appropriate for a 'specialist golf retailer' in terms of scale and catchment. This site is within 500m of the application site and therefore must be considered to serve a similar catchment and has dedicated car parking with the site.
- 10.46 The sequential approach forms a key policy consideration and it is concluded that the application has failed to demonstrate compliance with the requirements of the sequential approach (PPS4, policy EC15).

#### 6. Impact

- 10.47 Policy **EC16** sets out the requirements of an impact assessment for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan. Policy **EC14.5** states that an assessment of impacts in policy **EC16.1** is necessary for planning applications for retail and leisure developments below 2, 500 sq.m which are not in an existing centre and not in accordance with an up to date development plan that would be likely to have a significant impact on other centres.
- 10.48 The applicant has provided an impact assessment which looks at trade draw effects on town centres which is forecast to be up to 0.05% and concludes that there will be no adverse impact from trade diversion to existing golf retailers in town centre locations and this conclusion is accepted.

#### 5. Growth agenda

- 10.49 It is accepted that the retail park is not trading to its full potential, given the vacancy rate. However it is not considered that because Tulip/City South Retail Park has a high vacancy rate that there should be a presumption in favour of this application as it is not the purpose of the UDP and PPS4 shopping policies to protect an out of centre location before existing designated centres. National Planning Policy does not protect edge/out of centre retailers, and indeed the retail park was only granted permission on the basis of the restricted range of goods and the legal agreement and condition attached to the original application.
- 10.50 The main thrust of the PPS4 requirements and the Council's UDP shopping policies is to channel new retail development into the City Centre and the main town centres in order to help sustain economic vitality and viability. In general, retail proposals for out of town locations are not afforded any protection by PPS4 and the Council's UDP shopping policies.

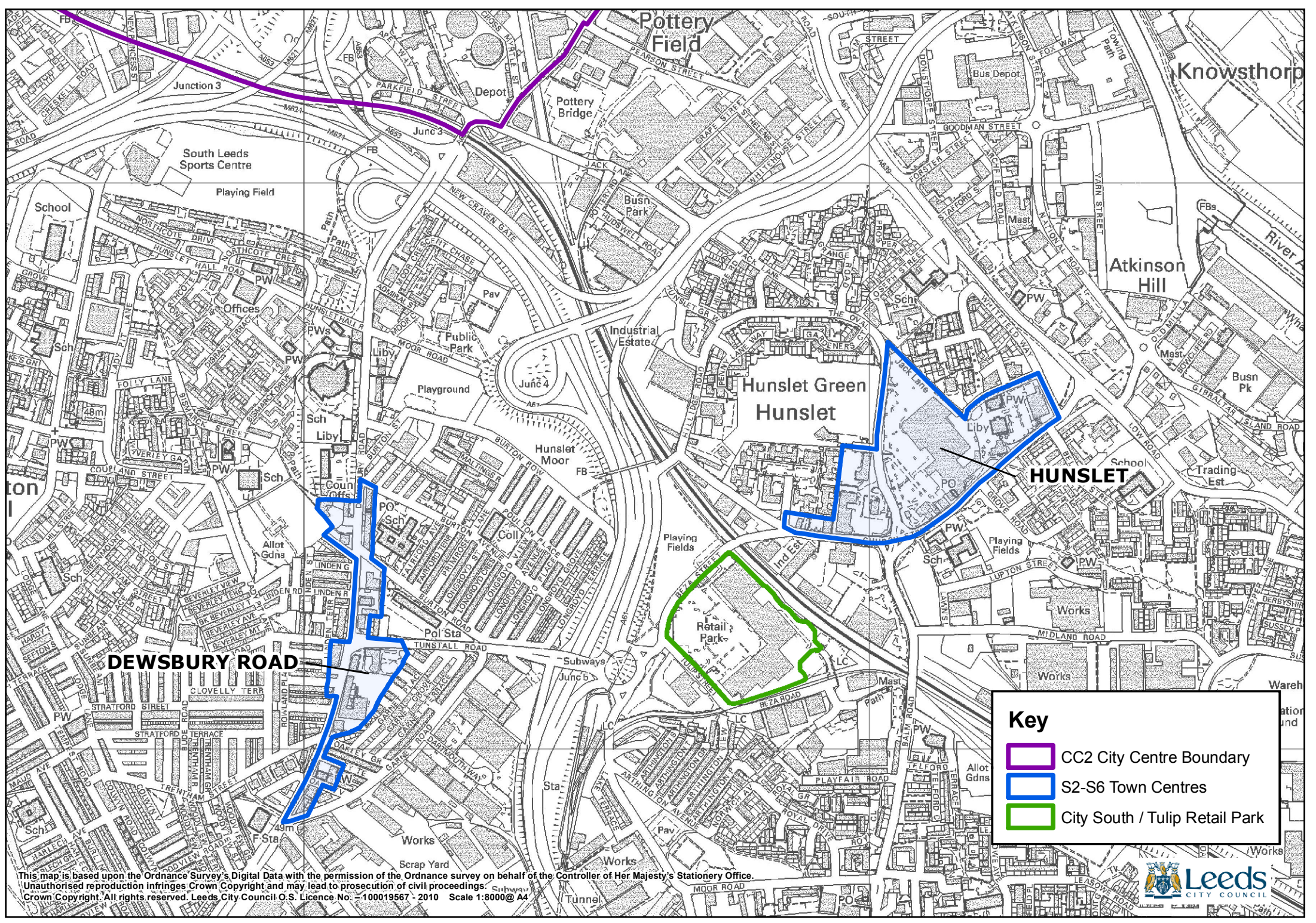
### **11.0 CONCLUSION**

- 11.1 Tulip/ City South Retail Park is generally restricted to trading bulky goods and it is accepted that the nature of these goods requires parking provision. However it is not accepted that the proposed golfing goods use constitutes 'bulky goods' and as such the proposal to broaden the range of goods sold at Units 2 - 11 to include golfing goods which are considered to be general retail/ comparison goods would be an unsustainable form of development contrary guidance within PPS4 and PPG13.
- 11.2 The proposal to allow the sale of golf goods at Units 2- 11 up to a floorspace of 942 sq.m is considered to be contrary to local and national planning policy which seeks to direct this type of retailing to town centre locations. It is

considered that the applicant has failed to demonstrate through a sequential approach to site selection that there are no suitable town centre locations for the development, and as such the proposal is contrary to policies SP7 and S9 of Leeds Unitary Development Plan Review 2006 together with guidance set out in PPS4 'Planning for Sustainable and Economic Growth'.

**Background Papers:**

11/01235/FU, 10/05334/FU, 10/05333/FU, 10/01025/FU  
Certificate of Ownership signed by applicant

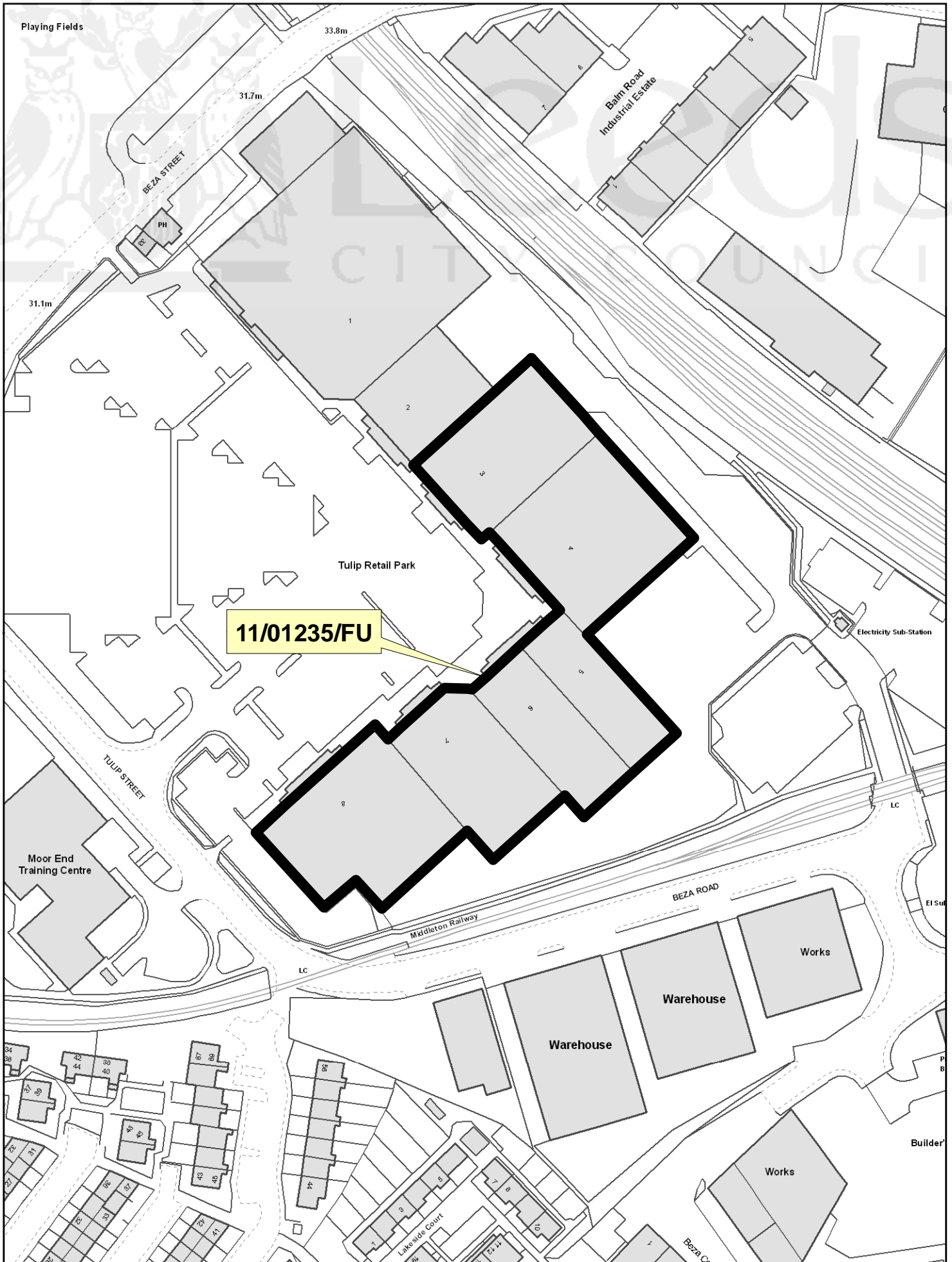


**Key**

- CC2 City Centre Boundary
- S2-S6 Town Centres
- City South / Tulp Retail Park

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# EAST PLANS PANEL