

MID SUSSEX DISTRICT COUNCIL

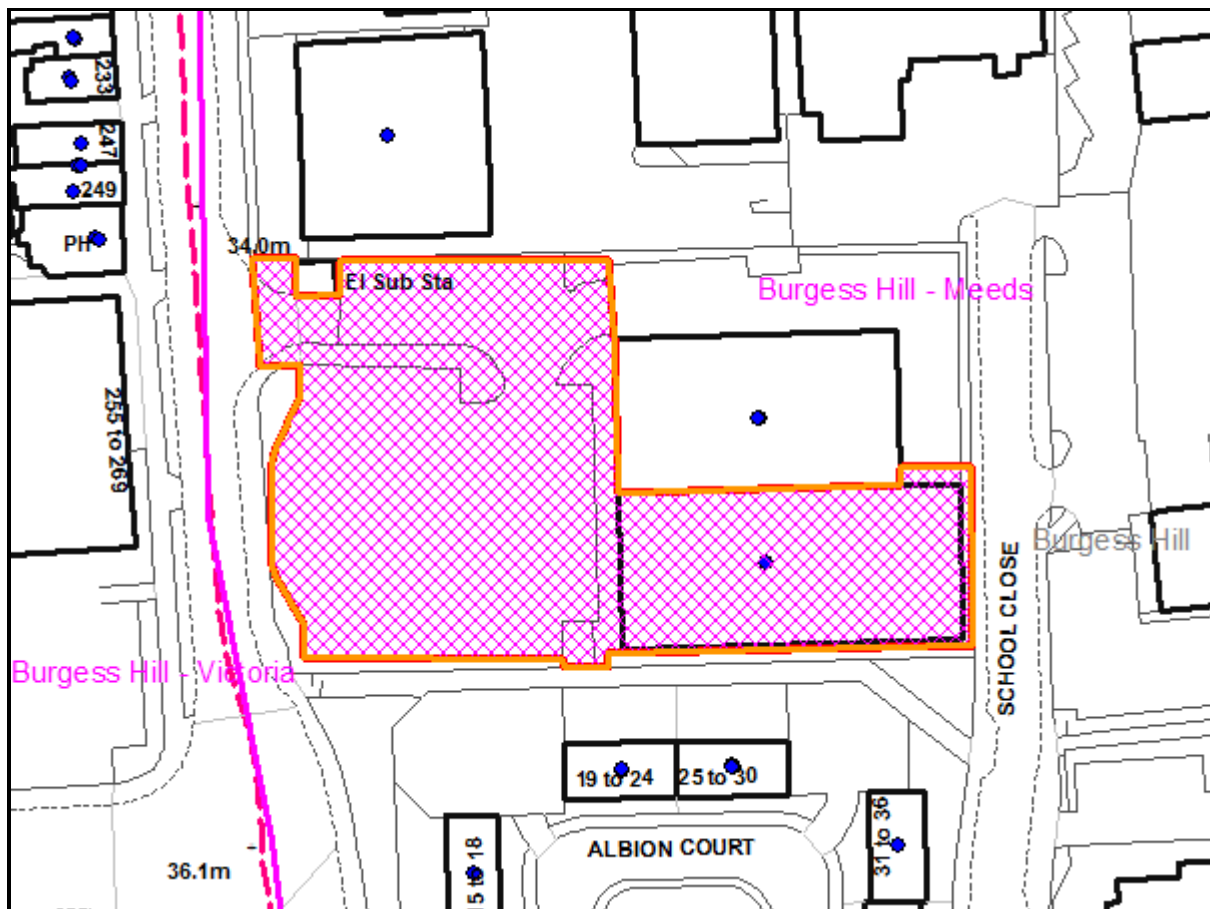
Planning Committee

25 JUL 2019

RECOMMENDED FOR PERMISSION

Burgess Hill

DM/19/1807



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**UNIT B 208 - 216 LONDON ROAD BURGESS HILL WEST SUSSEX
CHANGE OF USE FROM CLASS A1 (RETAIL) TO CLASS D2
(GYMNASIUM) TOGETHER WITH MINOR EXTERNAL ALTERATIONS.
MR BRETT PICKFORD**

POLICY: Built Up Areas / Classified Roads - 20m buffer / Planning Agreement
/ Planning Obligation / Aerodrome Safeguarding (CAA) / Sewer Line
(Southern Water) /

ODPM CODE: Change of Use

8 WEEK DATE: 30th July 2019

WARD MEMBERS: Cllr Robert Eggleston / Cllr Tofojjul Hussain /

CASE OFFICER: Deborah Lynn

Purpose of Report

To consider the recommendation of the Divisional Lead, Planning and Economy on the application for planning permission as detailed above.

Executive Summary

This application seeks planning permission to change the use of the existing unit, previously occupied by Carpetright, from an A1 retail use to an A2 gym use. The proposal also includes some minor external alterations together with the installation of associated plant. It is proposed that the gym will be available for use for 24 hours a day.

The application is being reported to planning committee as the land is owned by Mid Sussex District Council.

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

The principle of development is deemed acceptable under policies DP2 and DP24 of the Mid Sussex District Plan and policy LR3 of the Burgess Hill Neighbourhood Plan as the proposal would make use of an existing vacant A1 unit which lies in an accessible edge of centre location which is well connected to the town. The proposal would make a small contribution to job creation within the district in support of the economic development objectives of Policy DP1 of the Mid Sussex District Plan.

The proposed development is considered to benefit from sufficient parking provision taking into account its sustainable location where there is access to alternative means of transport. The proposal is not considered to have any adverse impacts on the local highway network.

The proposal is not considered to result in significant harm to neighbouring amenities in terms of resultant noise and disturbance. Whilst the 24 hour facility could result in additional noise and disturbance during the night time period, it is anticipated that visitor numbers will be relatively low during such periods and consequently it is not considered that any likely harm to adjoining residents would be significant.

The proposal is not considered to cause harm to the character of the area and would not be likely to have any significant effects, alone or in combination, on the Ashdown

Forest SPA and SAC from the proposed development.

It is considered that the application complies with policies DP1, DP2, DP17, DP21, DP24, DP26 and DP29 of the Mid Sussex District Plan 2014-2031 and policy LR3 of the Burgess Hill Neighbourhood Plan 2015-2031.

Recommendation

Recommend permission be granted subject to the conditions outlined at Appendix A.

Summary of Consultations

(Full responses from Consultees are included at the end of this report as Appendix B)

WSCC Highways Authority

There are no transport grounds to resist the proposal. Recommend a condition is imposed in respect of covered and secure cycle parking.

MSDC Environmental Protection

Potential disturbance to residents can be managed by conditions in respect of construction hours, plant and machinery and gym noise.

MSDC Corporate Estates

The Council is in favour of this proposal from a landowner's perspective.

MSDC Planning Policy

The Sequential Assessment submitted shows that there are no suitable sites in sequentially preferable locations, which seems to be an appropriate conclusion.

Summary of Representations

One letter of support has been received raising the following points:

- Whilst there are a few fitness studios in Burgess Hill, they are prohibitively expensive
- PureGym are known for being affordable whilst offering a wide range of services which will benefit the health and well-being of the local population.

Town Council Observations

Recommend approval - cycle parking should be included.

Introduction

This application seeks planning permission to change the use of the existing A1 retail unit to a D2 gymnasium together with minor external alterations.

This application is being determined at committee as Mid Sussex District Council is the landowner.

Relevant Planning History

BH/131/96 - Demolition of existing buildings and redevelopment of site to provide two A1 non-food retail warehouses, parking and landscaping. Permission granted 19.05.1997.

BH/204/97 - Use of part of unit 2 for a coffee shop and shoe sales for the benefit of customers to the jaeger factory outlet store. Permission granted 10.10.1997.

12/00602/FUL - Installation of 2 No. new display windows to existing front elevation of retail unit. (Amended plans received 2nd March 2012 showing slight alteration to front elevation). Permission granted 10.04.2012.

14/00990/LDP - To confirm that Unit B may be lawfully used for the unrestricted retail sale of goods within Class A1 (Shops), with the exception that any area used for shoe sales does not exceed 95 square metres and that any area used as a cafe does not exceed 95 square metres. This is an application to establish whether the development is lawful: this will be a legal decision where the planning merits of the proposed use cannot be taken into account. Refused 09.05.2014. Allowed on appeal 31.03.2015.

Site and Surroundings

Unit B is a large retail warehouse, formerly occupied by Carpetright, which forms part of a pair of large retail units situated on the eastern side of London Road in Burgess Hill. The units benefit from a shared access off from London Road with a large car park located to the front (west) of the site. The unit is currently vacant, having been vacated by Carpetright in late 2018; unit A to the north is occupied by Halfords.

A footpath immediately adjoins the site to the south with two and a half storey flats at Albion Court situated beyond. School Close and St. Wilfrids primary school lie to the east (rear) of the site, with commercial units / businesses situated to the north. Wickes lies opposite the site to the west of London Road.

Application Details

Plans show that the building will be converted from an existing A1 retail use to a D2 gymnasium use with internal alterations proposed such as a mezzanine deck at first floor level to be accessed via stairs and lift; this will accommodate male and female changing rooms.

External alterations are proposed to the front entrance doors which are proposed to be replaced with automated bi-fold doors which will be finished in black. The existing roller shutter door on the north elevation is proposed to be sealed with a new single door opening proposed. Existing curtain walling to the front of the building is proposed to be painted grey; existing external doors will be repainted. An external plant compound is proposed to the rear of the unit, with external condensing units to be installed to the north elevation, adjacent to Unit A.

The application has been accompanied with a Planning Statement which confirms that the building is to be occupied by PureGym, the UK's largest gym group. The gym would operate on a 24 hour basis, seven days a week and would employ 2 full time and 12 part time employees. The gym will comprise a main gym area, studio, free weights area, spin area and functional zone plus changing facilities, showers, staff facilities and a small seating area for members. Access to the gym will be controlled at all times via secure entry pods, which can only be operated by the use of an 8 digit PIN code that is individual to each member.

The gym will occupy 836.5 square metres of ground floor area with an additional 280.9 square metres to be added by the mezzanine creating a total floor area of 1117.4 square metres.

List of POLICIES

Mid Sussex District Plan 2014-2031

The District Plan was formally adopted on the 28th March 2018.

DP1	sustainable economic development
DP2	town centre development
DP17	Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
DP21	transport
DP24	leisure and cultural facilities and activities
DP26	character and design
DP29	noise, air and light pollution

Burgess Hill Neighbourhood Plan 2015-2031

The Burgess Hill Neighbourhood was made on the 28th January 2016.

LR3 protect and improve existing leisure and recreational facilities

National Planning Policy Framework (February 2019)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives: economic, social and environmental. This means ensuring sufficient land of the right types is available in the right places and at the right time to support growth; supporting strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided; fostering a

well-designed and safe built environment; contributing to protecting and enhancing the natural, built and historic environment; and using natural resources prudently.

Paragraphs 10 and 11 apply a presumption in favour of sustainable development. However, paragraph 12 makes clear that:

"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."

Paragraph 15 states:

"The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings."

With specific reference to decision-taking, the document provides the following advice:

Paragraph 38 states that: "Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible."

Paragraph 47 states: "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise."

National Planning Practice Guidance

Assessment

The main issues for consideration in determining the application are as follows:

- The principle of development
- Impact upon residential amenity
- Highways and parking issues
- Design and impact on character of area
- Impact upon the Ashdown Forest Special Area of Conservation

Principle of Development

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70(2) of the Town and Country Planning Act 1990 states:

"In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application,*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations."*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point, the development plan in this part of Mid Sussex consists of the Mid Sussex District Plan and the Burgess Hill Neighbourhood Plan.

District Plan policy DP24 relates to leisure and cultural facilities and activities and states in part that:

'Development that provides new and/or enhanced leisure and cultural activities and facilities, including allotments, in accordance with the strategic aims of the Leisure and Cultural Strategy for Mid Sussex will be supported.'

This stance is also reflected under policy LR3 of the Burgess Hill Neighbourhood Plan which states that:

'existing formal leisure and recreational facilities within Burgess Hill are important resources for the local community and should be retained. Support will be given to allocating new facilities or improving existing ones.'

The provision of a new leisure facility such as a gym is therefore encouraged by both district and neighbourhood plan policies.

Policy DP2 of the District Plan relates to town centre development. The MSDC Retail Study updated in 2016 indicated that while the three towns of Mid Sussex are performing reasonably well as shopping destinations, they are not meeting their full potential, with a need to improve their attractiveness to minimise competition from other towns outside the District. As such, policy DP2 seeks to maintain the overall

objective of improving the services and attractiveness of the district's town centres by encouraging developments of mixed uses to meet the needs of the community.

Proposals for retail, leisure, office and other main town centre uses should therefore be in a town centre location. Where planning applications are for main town centre uses proposed on the edge of town, outside the town centre or out of town and are not in accordance with the District Plan or Neighbourhood Plan, the Council will apply a sequential test, in accordance with paragraph 86 of the NPPF. The sequential test will require:

- *'Applications for main town centre uses to be located in town centres; or, if suitable sites are not available*
- *In edge of centre locations where the site is accessible and well connected to the town centre; or, if suitable sites are not available*
- *At accessible out of centre sites that are well connected to the town centre*

Where an application fails to satisfy the sequential test, or fails to meet other requirements of this policy, it should be refused.'

Paragraph 87 of the NPPF states that:

'when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.'

In this case, the application site falls outside of Burgess Hill town centre, in what can be considered an edge of town centre location, approximately 300 metres to the west of Burgess Hill town centre as designated by the District and Neighbourhood Plans. A Sequential Assessment has been included with the Planning Statement submitted, focusing on potential sites within the town centre of Burgess Hill considering that the primary catchment area for the gym would be from within Burgess Hill.

The Assessment identified nine vacant properties within the town centre that were being marketed, with the largest properties being the first floor of 60-64 Church Walk (recently refurbished office suites) and the open plan offices at Jubilee House, 56-58 Cyprus Road. Both properties fall significantly short of the proposed floor space that Unit B would provide, with significant works required to the offices at Church Walk in order to provide suitable heights for the proposed gym use; the premises at Jubilee House would include a shared entrance with the occupied offices on the first floor. As such the sites were considered unsuitable for the proposed gym use.

The Assessment concludes that there are no suitable sites available in a sequentially preferable town centre location. This assessment is supported by your officers. The proposed use would be located in an edge of centre location, which is considered accessible and well connected to the town centre. In addition, the proposal would utilise a unit that is currently vacant and benefits from a main town centre use. As such the proposed use is considered acceptable in this edge of town location,

thereby complying with policies DP2 and DP24 of the Mid Sussex District Plan and policy LR3 of the Burgess Hill Neighbourhood Plan.

Impact on residential amenity

The proposed 24 hour gym has the potential to negatively impact the residential amenity of nearby residents, particularly those at Albion Court which lie in close proximity to the south of the unit.

Policy DP26 of the District Plan refers to amenity and states that development proposals should *'not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution.'*

Policy DP29 of the District Plan deal with noise pollution and seeks to protect the quality of people's life from unacceptable levels of noise by only permitting development where;

- *It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- *If it is likely to generate significant levels of noise it incorporates noise attenuation measures.*

A noise impact assessment has been submitted with the application providing details of potential noise levels from the gym unit and from plant and machinery and likely effect on the nearest residential properties; this concludes that both music and plant noise will fall within acceptable limits. In addition the Planning Statement provides details of likely visitor patterns at night based upon figures gathered from similar sites operated by the applicant; it is anticipated that the number of members using the gym at night will be low, averaging fewer than 10 visitors per hour between 10pm and 6am. No classes are held at night and only background music is played within the gym.

Your Environmental Protection Officer has been consulted on the scheme and is satisfied that conditions can be used to mitigate the impact of the proposal. Whilst the 24 hour facility could result in additional noise and disturbance during the night time period, it is anticipated that visitor numbers will be relatively low during such periods and consequently it is not considered that any likely harm to adjoining residents would be significant.

Your Environmental Protection Officer has advised that there is potential for structure-borne noise from the gym activities to affect the adjoining commercial unit and has recommended that an informative is placed in this respect. Whilst impact upon adjoining commercial properties is not considered to be a significant planning constraint, an informative can be placed accordingly.

Having regard to the potential alternative uses within the D2 Class Order, and the fact that the consent would grant a 24 hour use, it is suggested that a condition be applied to any planning permission limiting the use to that of a gym only, in order to protect neighbouring amenities.

Taking the above into account, it is not considered that the proposal would result in significant harm to neighbouring amenities in terms of generating noise and disturbance. The proposal therefore accords with policies DP26 and DP29 of the Mid Sussex District Plan.

Impact on Highway Safety

Policy DP21 of the District Plan deals with transport matters and sets out a number of criteria that development proposals should take account of, including;

- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of proposed mitigation;'*

The application site benefits from a shared access onto London Road (with Halfords) and a shared parking area to the front which has a total of 79 parking bays.

The Highways Authority at West Sussex County Council has been consulted on the proposal and has advised that parking standards recommend 1 space per 14 square metres for an A1 retail use, and 1 space per 22 square metres for a D2 gym use. Taking into account the additional floor space to be created by the mezzanine, this would generate a requirement of 51 parking spaces which can be accommodated within the site, albeit parking spaces are shared with Halfords. This requirement is still less than the requirement of 60 parking spaces for the existing A1 use.

The site is located within a highly sustainable location, being just a 12 minute walk from the train station and a 3 minute walk from local bus services. As such, it is anticipated that alternative means of transport would be taken by customers to the site. Parking restrictions on surrounding roads should prevent any on street parking in unsafe locations.

London Road is a predominantly straight road and good forward visibility can be achieved for road users. There have been two recorded injury accidents near the junction with the highway; these collisions have been attributed to driver error and there is no evidence to suggest that the junction is operating unsafely, or that the proposed change of use would exacerbate an existing safety concern.

As such the Local Highways Authority does not consider that the proposal would have a 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework, (para 109) and that there are no transport grounds to resist the proposal. It is recommended that a condition be imposed in respect of covered and secure cycle parking in order to promote alternative means of transport.

The proposed development is therefore considered to accord with policy DP21 of the Mid Sussex District Plan.

Design and impact on character of the area

Policy DP26 of the District Plan relates to character and design and states in part that:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;'*

Minor alterations are proposed to the building with bi-fold automated doors proposed to replace existing entrance doors on the front elevation. To the rear of the building a new door is proposed, with a number of external condensing units proposed to the north elevation and adjacent to the rear of Unit A. These are proposed to be installed at ground level and should be well screened within the locality by a 2 metre high fence.

The proposed alterations, being modest in nature, are considered to have limited impact upon the visual amenity of the area and therefore should not cause harm to the character of the area. The proposal therefore accords with policy DP26 of the Mid Sussex District Plan.

Impact on Ashdown Forest Special Protection Area and Special Area of Conservation

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment screening report has been undertaken for the proposed development.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in the District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

This planning application does not result in a net increase in dwellings within the 7km zone of influence and so **mitigation is not required**.

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in additional atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The potential effects of the proposed development are incorporated into the overall results of the transport model (Mid Sussex Transport Study (Updated Transport Analysis)), which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment screening report

The screening assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

Other matters

The proposal would generate 2 full time jobs and 12 part time jobs that would make a small contribution to the Council's economic development objectives in line with Policy DP1 of the Mid Sussex District Plan.

Planning balance and conclusions

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

The principle of development is deemed acceptable under policies DP2 and DP24 of the Mid Sussex District Plan and policy LR3 of the Burgess Hill Neighbourhood Plan as the proposal would make use of an existing vacant A1 unit which lies in an accessible edge of centre location which is well connected to the town. The proposal would make a small contribution to job creation within the district in support of the economic development objectives of Policy DP1 of the Mid Sussex District Plan.

The proposed development is considered to benefit from sufficient parking provision taking into account its sustainable location where there is access to alternative means of transport. The proposal is not considered to have any adverse impacts on the local highway network.

The proposal is not considered to result in significant harm to neighbouring amenities in terms of resultant noise and disturbance. Whilst the 24 hour facility could result in additional noise and disturbance during the night time period, it is anticipated that visitor numbers will be relatively low during such periods and consequently it is not considered that any likely harm to adjoining residents would be significant.

The proposal is not considered to cause harm to the character of the area and would not be likely to have any significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

It is considered that the proposal complies with policies DP1, DP2, DP17, DP21, DP24, DP26 and DP29 of the Mid Sussex District Plan 2014-2031 and policy LR3 of the Burgess Hill Neighbourhood Plan 2015-2031.

APPENDIX A – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Approved Plans

2. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Applications".

Reason: For the avoidance of doubt and in the interest of proper planning.

Construction phase

3. Construction hours: Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday 08:00 - 18:00 Hours
Saturday 09:00 - 13:00 Hours
Sundays and Bank/Public Holidays no work permitted

Reason: To protect the amenity of local residents and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

Pre-occupation

4. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved in writing by the local planning authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to accord with policy DP21 of the Mid Sussex District Plan 2014-2031.

Post-occupation monitoring/management conditions

5. Plant & Machinery: Unless otherwise agreed in writing, the noise rating level of any operational plant or machinery (e.g. extract or intake fans, condenser units etc.) shall be no higher than 35 dBA during the daytime hours (07:00 - 23:00) and 30 dBA during night time (23:00 - 07:00) at the nearest residential facade. All measurements and calculations shall be defined and derived in accordance with BS4142: 2014. Details of post installation acoustic testing shall be submitted to and approved in writing by the Local Planning Authority upon request.

Reason: To protect the amenity of local residents and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

6. Gym Noise: Unless otherwise agreed in writing, the noise rating level of any noise breakout from the gym (e.g. music and gym activities) shall be no higher than 35 dBA during the daytime hours (07:00 - 23:00) and 30 dBA during night time (23:00 - 07:00) at the nearest residential facade. All measurements and calculations shall be defined and derived in accordance with BS4142: 2014. Details of post installation acoustic testing shall be submitted to and approved in writing by the Local Planning Authority upon request.

Reason: To protect the amenity of local residents and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

7. The premises shall be used as a gymnasium and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to protect the amenity of local residents and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.

INFORMATIVES

1. In accordance with Article 35 Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Please note that the granting of this planning permission does not exempt the operator from liability for any statutory nuisance (e.g. noise or artificial light) caused as a result of the use of the building.

3. It is strongly advised that the recommendations made by Red Acoustics in their supplementary report R1661-REP01-PC dated 10 May 2019 are implemented, with particular regard to the recommendations for floor systems, electronic noise limiters, carpeting, use of free weights and mezzanine construction.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Location and Block Plan	2250 105	A	20.05.2019
Existing Floor Plans	2250 101		14.05.2019
Proposed Floor Plans	2250 102		14.05.2019
Existing Elevations	2250 103		14.05.2019
Proposed Elevations	2250 104		14.05.2019

APPENDIX B – CONSULTATIONS

Parish Consultation

RECOMMEND APPROVAL - cycle parking should be included.

WSCC Highways

Comments received 11.07.2019

I have assessed the proposal on the basis of the floor space being 1117.4sqm, this would generate the requirement for 50.7 (rounded up to 51) parking spaces. This still falls within the provision that the site offers of 79 spaces, although this provision appears shared with the neighbouring A1 unit.

The site is located within a highly sustainable location and there is an anticipation that these alternative means of transport would be taken up by potential visitors to the site. Given the nature of the proposal a proportion of movements would potentially be made up on foot or by bicycle, but busses and rail services are also available within a short distance of the site to offer alternative to the use of a car.

The main routes surrounding the site including B2036 London Road and B2113 Queen Elizabeth Avenue are subject to parking restrictions which prevents on street parking impacting upon the major routes. Adjoining roads within proximity of the site are also subject to junction protection which prevents parking in unsafe locations on the network.

Based upon the above, my recommendation remains as previously advised. A condition securing cycle parking is advised to be secured alongside any permission of this proposal.

Comments received 10.06.2019

Summary

The Local Highways Authority (LHA) has been consulted on the above proposal for the change of use of Unit B 208-216 London Road from A1 to D2 with minor external alterations.

The LHA has reviewed data supplied to WSCC by Sussex Police over a period of the last five years. There have been two recorded injury accidents near the junction with the public highway, onto Brighton Road. These collisions have been attributed to driver error and there is no evidence to suggest that the junction is operating unsafely, or that the proposed change of use would exacerbate an existing safety concern.

Access and Parking

The access onto London Road and the associated parking bays are existing with the access being shared with the adjoining Halfords unit. There are a total of 79 parking bays within the site, it is anticipated that these spaces are shared with the Halfords unit. The parking spaces are considered to meet WSCC requirements for parking space dimensions. There appear no known safety concerns with their use.

When considering parking provisions, the LHA is mindful that an A1 retail use generates the requirement for 1 space per 14SQM whereby a D2 Gym use requires 1 space per 22SQM. The proposed use therefore would be a less intensive use of this portion of the site.

For a D2 Gym use the 836.5 SQM floor space would generate the requirement for 38 parking spaces. There are 79 parking spaces assigned to this development fronting the unit. The proposal therefore utilises under half of the available provision. When considering the proposed development, the LHA has also considered the sustainable nature of the site in determining if this parking provision would be adequate for the proposal as outlined (below).

Sustainability

The National Planning Policy Framework states that plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site. In these respects, the site is located within a reasonable walking distance of the passenger transport infrastructure.

Burgess Hill train station is a 12 minute walk from the proposal site and the route is served with linked pedestrian footways and is lit along its length. Regular bus services operate within a 3 minute walk of the site and allow links to Crawley, East Grinstead and Haywards Heath.

Cycle parking has not been outlined within this proposal however the LHA advise that cycle parking is provided to promote sustainable alternatives to the use of a car.

London Road is a predominantly straight road and good forward visibility can be achieved for road users, there is a pedestrian crossing point opposite the unit which facilitates crossing at safe locations on the network. Due to the central location and ease of access for pedestrians- it is considered that sustainable modes of transport could be taken up by users of the gym and that there would not be a reliance on the use of a car for transportation.

I advise that the applicant considers promoting car sharing, cycling and the use of public transport for potential gym users and staff, this is to assist in reducing vehicular movements to the site while promoting healthier and more sustainable alternatives.

Conclusion

The LHA does not consider that the proposal would have a 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (para 109), and that there are no transport grounds to resist the proposal. Should planning consent be obtained, the following condition is advised.

Cycle parking

No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

MSDC Environmental Protection

This application for change of use from retail to gymnasium (24hr) has the potential to negatively impact the residential amenity of nearby residential premises due to noise from the following sources:

Noise from "ambient" music which may be played 24 hrs.

Noise from externally mounted plant (air conditioning condenser units)

Use of planning conditions can be used to mitigate the impact from these. An acoustic report has been submitted to quantify the likely effect on the nearest residential premises which are around 12m away. The report concludes that both music noise and plant noise will fall within acceptable limits.

NOTE - There is potential for structure-borne noise from gym activities to affect the adjoining commercial premises. Whilst this may not be a material consideration for Planning, it could affect the tenants of, and therefore the commercial viability of, the adjacent unit. On this basis I have added an informative based on the recommendations of the supplementary noise report submitted in addition to the main acoustic report.

In areas where there is an interface between commercial and residential property there will always be a challenge in trying to find a balance between encouraging local business, with its attendant social and economic benefits, and protecting the quality of life of nearby residents.

On balance, and having considered all of the above, I feel that the potential disturbance to residents can be managed by way of planning conditions. In the event that planning permission is granted, I would recommend that the following conditions are applied:

Conditions:

- **Construction hours:** Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays no work permitted

- **Plant & Machinery:** Unless otherwise agreed in writing, the noise rating level of any operational plant or machinery (e.g. extract or intake fans, condenser units etc.) shall be no higher than 35 dBA during the daytime hours (07:00 - 23:00) and 30 dBA during night time (23:00 - 07:00) at the nearest residential facade. All measurements and calculations shall be defined and derived in accordance with BS4142: 2014. Details of post installation acoustic testing shall be submitted to and approved in writing by the Local Planning Authority upon request.

Reason: To protect the amenity of local residents.

- **Gym Noise:** Unless otherwise agreed in writing, the noise rating level of any noise breakout from the gym (e.g. music and gym activities) shall be no higher than 35 dBA during the daytime hours (07:00 - 23:00) and 30 dBA during night time (23:00 - 07:00) at the nearest residential facade. All measurements and calculations shall be defined and derived in accordance with BS4142: 2014. Details of post installation acoustic testing shall be submitted to and approved in writing by the Local Planning Authority upon request.

Reason: To protect the amenity of local residents.

Informative

It is strongly advised that the recommendations made by Red Acoustics in their supplementary report R1661-REP01-PC dated 10 May 2019 are implemented, with particular regard to the recommendations for floor systems, electronic noise limiters, carpeting, use of free weights and mezzanine construction.

MSDC Corporate Estates

Please be aware that this is a prospective MSDC tenant on Council owned estate, and we are in favour of this planning proposal from a landowner's perspective.

Just to be clear, however, on the block /location plan, the car parking incorporated within the red line is shared in conjunction with the Halfords unit adjacent. It is considered that there will be more than ample provision of car parking between the two occupying businesses.

MSDC Planning Policy

Comments received 08.07.2019

A sequential assessment has been provided by the applicant, as per the requirements of DP2: Town Centre Development.

The assessment seems to satisfy the requirements of a sequential test (as set out in PPG Paragraph: 010 Reference ID: 2b-010-20140306). The assessment considers the suitability of more central sites and demonstrates flexibility in terms of the scale of the proposals. This shows that there are no suitable sites in sequentially preferable locations, and this seems to be an appropriate conclusion. Therefore, the proposal passes the sequential test.

Comments received 04.07.2019

The application site is located on a site that was previously developed and was in retail use as the premises of Carpetright. The application proposes the change of use from an employment use to leisure use. This retail site is located outside of the town centre, as defined on the Policies Map.

The loss of the retail use should be considered in the light of policy DP1: Sustainable Economic Development which states that effective use of employment land and premises will be made by:

- Protecting allocated and existing employment land and premises (including tourism) unless it can be demonstrated that there is no reasonable prospect of its use or continued use for employment or it can be demonstrated that the loss of employment provision is outweighed by the benefits or relative need for the proposed alternative use;
- Permitting appropriate intensification, conversion, redevelopment and/ or extension for employment uses providing it is in accordance with other policies in the Plan;

DP2: Town Centre Development requires:

A sequential test must be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with the District Plan and the relevant Neighbourhood Plan. The sequential test will require:

- Applications for main town centre uses to be located in town centres; or, if suitable sites are not available
- In edge of centre locations where the site is accessible and well connected to the town centre; or, if suitable sites are not available
- At accessible out of centre sites that are well connected to the town centre

Where an application fails to satisfy the sequential test, or fails to meet other requirements of this policy, it should be refused.

Proposals for retail, leisure and office and other main town centre uses should be in a town centre location in accordance with the sequential test for town centre uses. The application proposes a main town centre use outside of the town centre, as defined on the Policies Map, therefore, the sequential test must be applied to this planning application.

There is policy support for an increase in leisure facilities, which should be applied to this application. DP24: Leisure and Cultural Facilities and Activities supports development that provides new and/or enhanced leisure and cultural activities and facilities, including allotments, in accordance with the strategic aims of the Leisure and Cultural Strategy for Mid Sussex.

Burgess Hill Neighbourhood Plan Policy LR2: Protect and Improve Existing Leisure and Recreational Facilities also supports the allocation of new leisure facilities.