

Mr Darren Pallett Wright Leisure Limited Unit 1 Kirkstall Industrial Estate Kirkstall Road Leeds LS4 2AZ	Proposed change of use of former offices (B1) to a gym (D2) including new front entrance and associated car parking. Crystal House 1 - 7 Crystal Drive Smethwick B66 1QG
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Date Valid Application Received 13th April 2015

1. Recommendations

Subject to referral to Full Council, approval is recommended subject to:

- i) Hours of operation as stated in application;
- ii) Drainage;
- iii) Plant equipment details;
- iv) External windows and doors remain closed where amplified music is played;
- v) No gym use and amplified music in the courtyard;
- vi) No bonfires on site during construction and site clearance;
- vii) External CCTV details;
- viii) External lighting details;
- ix) Roller Shutters details;
- x) Site Management Plan – Security and Parking;
- xi) Provision/retention of parking areas (including over spill car park).

2. Observations

Your Committee visited the site prior to the last the last meeting on 1st July 2015: the application was deferred to allow for further correspondence between the applicant and the Council's Planning Policy Team.

The application premises are situated on the corner of Oldbury Road and Crystal Drive, Oldbury. The premises comprise of former offices (B1) within an industrial area.

The applicant proposes to change the use to a gym with a new front entrance and associated car parking. The proposed opening times are: Monday – Friday: 06:00 – 22:00 hours; Saturday, Sunday and Bank Holidays: 08:00 – 20:00 hours.

The applicant has provided a sequential test for the proposed location of the use, stating the application site meets their needs and would create around 50 jobs. Their sequential test states:

“The unit has been unsuccessfully marketed since the present owner acquired the premises circa 10 years ago and prior to that by the former owners...It is concluded that the proposed investment will not have a significant impact on the existing facilities in the town centres.”

The proposal would be a departure of the Council’s adopted development plan: in the SADD document the site is within a wider area designated as “Potential Strategic High Quality Employment Land”. Paragraph 11 and 196 of the adopted National Planning Policy Framework states:

“Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.”

For information, any resolution to approve the submission would require the application to be referred to Full Council for determination.

The application has been publicised by neighbour notification letters, site notice, press notice and advertised on the Council’s website. In total four objections with a further anonymous objection has been received, and these can be summarised as:

- i) There are already a number of gyms in the local area (competition);
- ii) Inadequate parking, resulting in highway safety concerns;
- iii) The applicant is already advertising the facility.

The Council's Environmental Health (Air Pollution and Noise) Team have no objections but have requested the following conditions be attached to any approval: details of plant equipment, all windows and doors to be shut if amplified music is being played, and the courtyard not to be used as part of the gym (with no amplified music played there either), all to safeguard nearby uses from excessive noise. The Environmental Health Team has also requested that there are no bonfires on site during the sites clearance and construction works.

The Council's Traffic and Road Safety Team requested further parking details. Amended plans have been received showing an overspill car park, increasing in number of spaces from 110 to 147. This could be secured via appropriate planning condition.

The Council's Planning Policy Team continue to object to the application on the grounds that the proposal is contrary to the Council's adopted Local Plan and that the applicant has not been marketed for a significantly length of period (the Council's Social Services Team used the site until October 2014), and that there are empty buildings within West Bromwich Town Centre that could be used.

Severn Trent Water has been consulted and they have requested the standard drainage condition be attached to any approval.

West Midlands Police have commented on the application. No objections have been raised. However, to improve the security on site and safeguard against potential crime in the areas, they have requested details of any roller shutters, lighting, CCTV. Other security measures were raised, but a site management plan can be requested that covers these.

In respect of the objectors concerns I would respond as follows:

i) Competition

Competition is not a material planning reason for refusal. Paragraph 23 of the adopted National Planning Policy Framework encourages competition and states:

...local planning authorities should retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive...

[ILO: UNCLASSIFIED]

- ii) Inadequate parking resulting in highway safety

Amended plans have been received resulting in the increase of off-street parking provisions resulting in the Head of Traffic and Road Safety withdrawing their initial objection.

- iii) That the applicant company are already advertising the Smethwick site

Any marketing is done at the applicants own expense and risk and is a matter outside of the Council's control.

With regards to the Council's Planning Policy Team objecting to the application on the two above mentioned grounds, marketing and alternative sites, the reasons for setting aside the adopted Local Plan can be justified as:

Alternative Sites (West Bromwich Town Centre):

It is argued that the use could move to another location such as West Bromwich but would have to rely on land deals or amalgamation of units to accommodate the size required by the applicant. Onsite parking could not be accommodated, although there are pay and display car parks within the town centre and public transport is also available. However Sandwell has a number of other examples of gyms outside of town centres, which rely on public and private transport means to access them. Whilst it is recognized that the footfall of West Bromwich may be higher than the applicant's proposed site (due to shoppers, office workers and students) the applicant has stated that the proposed site meets the need of their company.

Marketing:

Whilst the original submitted information stated that the applicant has been marketing for ten years, the Council used the building up until October last year. This has been confirmed by the agent who now states the property has been marketed since October 2014 following the vacation of the previous tenant (the Council). The agent confirms that there have been 24 enquiries with 8 viewings, with interest coming from developers, leisure operators, places of worship and banqueting operators.

The failure to let the building out after this short period would not justify the setting aside of the Council's adopted Local Plan. However, I am of the opinion, that the change of use would occupy an otherwise empty building that could be converted back to offices if the needed. Therefore in my opinion, on these grounds the proposal accords with the Local Plan.

Paragraph 27 of the National Planning Policy Framework states that applications that fail to satisfy the sequential test or is likely to have a significant adverse impact on the area should be refused. However paragraph 22 states:

Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

In my opinion, the existing use is in a unique location. I am of the opinion that the site is unlikely to be used as offices in the near future (based on the submission) therefore have no objection to the proposed change of use. I therefore consider the Council's adopted Plan should be set aside in this instance.

On balance, I recommend that the application be conditionally approved.

3. Relevant History

None

4. Central Government Guidance

National Planning Policy Framework: supports sustainable development and the re-use of vacant premises

5. Development Plan Policy

EMP2 – Actual & Potential Strategic High Quality Employment Areas

CEN2 – Hierarchy of Centres

CEN7 – Controlling Out-of-Centre Development

ENV5 – Flood Risk, Sustainable Drainage and Urban Heat Island

6. Contact Officer

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