
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 23-Nov-2017

Subject: Planning Application 2017/92825 Change of use of part of bakery to gymnasium 1, Ruth Street, Newsome, Newsome, Huddersfield, HD4 6JF

APPLICANT

Jade Robshaw, JRSC
GYM

DATE VALID

23-Aug-2017

TARGET DATE

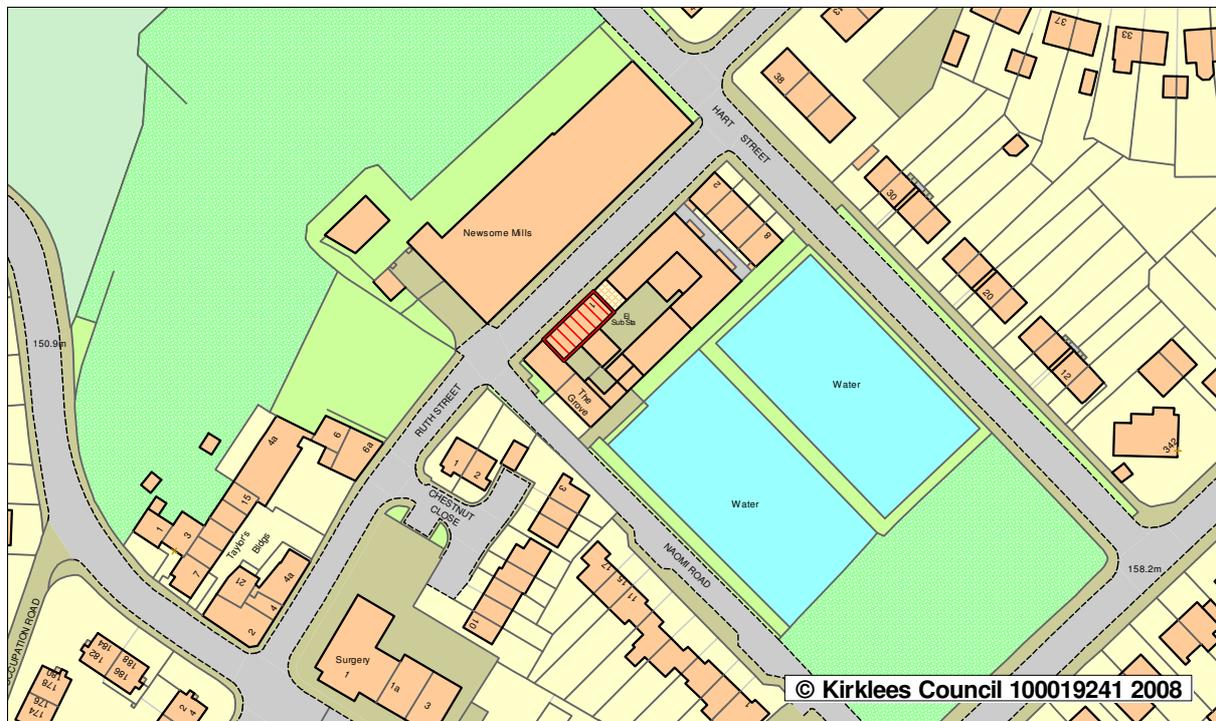
18-Oct-2017

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Newsome

No

Ward Members consulted

RECOMMENDATION

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION

- 1.1 The application is brought to Huddersfield Planning Sub Committee due to receiving a significant volume of local opinion. In all 155 representations have been received.
- 1.2 Further to the above Councillor Cooper has requested that, if officers are minded to approve, the application be brought to the Sub Committee. This is due to concerns over the impact on the adjoining residents. Councillor Cooper requested that a site visit take place.

2.0 SITE AND SURROUNDINGS

- 2.1 1 Ruth Street previously hosted a bakery. The bakery ceased trading some years ago and was left vacant. Recently the site has been split into several separate planning units.
- 2.2 This application relates to 1b, which is seeking permission for change of use to Gym. This application is retrospective, with the gym being in operation since
- 2.3 The site is on the edge of Newsome Local Centre. To the north of the site is a detached terrace row. To the south of 1 Ruth Street is an attached residential unit, The Old Coach House. To the west is the remains of Newsome Mills, a grade 2 listed building, and to the east are two mill ponds, the site of which has recently obtained outline planning permission for residential development.

3.0 PROPOSAL

- 3.1 The application seeks retrospective permission for the change of use from B1 (light industrial) to D2 (gym). The unit has an area of 90sqm.

- 3.2 The site has no dedicated parking. The applicant has given a maximum occupancy of twelve customers and one staff; although typically it is much lower with the business model principally offering personal training sessions.
- 3.3 Following negotiations the following hours of use are proposed;
- Monday to Friday: 0800 – 2000
Saturday: 0900 – 1400
Sunday: 1000 – 1400
- 3.4 No external alterations are proposed as part of this application.

4.0 RELEVANT PLANNING HISTORY

4.1 Application site

COMP/17/0104: Alleged unauthorised change of use to gymnasium and alterations to building – Ongoing

4.2 Surrounding area

2017/92607: Change of use from former bakery to adult day-care centre (D1) – Full Permission Unconditional (implemented)

2017/92716: Erection of outbuilding and alterations to cart shed – Ongoing

5.0 HISTORY OF NEGOTIATIONS

- 5.1 The application is made retrospectively, with the gym having been in use since March 2017. Prior to the application discussions had taken place between the applicant, K.C. Planning Enforcement and K.C. Pollution and Noise Control (KCPNC).
- 5.2 K.C. Planning Enforcement invited an application, and KCPNC provided advice on noise mitigation measures for the gym. Separate to the planning process, KCPNC is required to investigate potential statutory noise nuisances. It is evident that the applicant has adhered to many of KCPNC's recommendations. KCPNC offered to place monitoring devices within The Old Coach House to assess the impact; however this offer was not taken up. Also the resident of The Old Coach House's was placed on the out of hours call out service, to allow officers to witness any issues affecting them from the gym operation however this has not been used in relation to the gym. As KCPNC have been unable to substantiate the complaint they have at this time concluded that the gym use is unlikely to amount to a statutory nuisance providing it is well managed.
- 5.3 Further to the above the gym initially inhabited two units. One of the units, 1c, shares a party wall with The Old Coach House's kitchen. The other unit, 1b, shares a party wall with The Old Coach House's rear yard. However following advice from KCPNC the applicant has vacated unit 1c and the application solely relates to unit 1b.

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 On the UDP Proposals Map the site is Unallocated.

6.3 The site is Unallocated on the PDLP Proposals Map.

6.4 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **D2** – Unallocated land
- **BE1** – Design principles
- **EP4** – Noise sensitive locations
- **T10** – Highways accessibility considerations in new development
- **B1** – Business and industry strategy
- **B4** – Premises and sites with established use, or last used for business and industry

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place shaping
- **PLP3** – Location of new development
- **PLP21** – Highway safety and access
- **PLP24** – Design
- **PLP35** – Historic environment
- **PLP50** – Sport and physical activity
- **PLP51** – Protection and improvement of local air quality
- **PLP52** – Protection and improvement of environmental quality

6.6 National Planning Guidance

- **Paragraph 17** – Core planning principles
- **Chapter 1** – Building a strong, competitive economy
- **Chapter 2** – Ensuring the vitality of town centres
- **Chapter 7** – Requiring good design

- **Chapter 8** – Promoting healthy communities
- **Chapter 11** – Conserving and enhancing the natural environment
- **Chapter 12** – Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE

7.1 The application has been advertised via site notice and through neighbour letters to addresses bordering the site. This is in line with the Councils adopted Statement of Community Involvement. The end date for publicity was the 8th of October, 2017.

7.2 155 representations have been received in response to the application. 132 are in support of the proposal and 23 are in objection. The following is a summary of the comments made.

7.3 Support

- The proposal will benefit the local area/community through;
 - Bringing the building back into use.
 - Improved health for locals, in a time of national obesity crisis, including children with the gym offering children's classes
 - Gyms provide mental benefits for local residents
 - Amenity benefit for residents
 - Makes Newsome village more attractive and interesting for residents and visitors.
 - The area has become safer and cleaner, bringing 'life' to Ruth Street, preventing the vandalism seen elsewhere nearby, particularly given the current state of Newsome Mills.
- The nature of the gym allows for greater social inclusion, as larger gyms are intimidating and scare off some self-conscious users.
- It is a small gym which is convenient for local residents, filling a need. It offers a personal touch you don't get at 'corporate gyms'.
- The gym has no detrimental visual impact and the building has been well converted. The development preserves Huddersfield's historic image as opposed to 'ugly' new developments.
- The development supports the local economy and small businesses, also creates a job in the area.
- Traffic is reasonable and the area can accommodate it, with parking on Ruth Street and on the nearby residential streets being possible.
- Claims that the noise generated is minimal and that the submitted noise report should address the concerns.
- Increasing the gym's size would allow it to provide even more benefit.
- Numerous personal recommendations of the application.

7.4 Object

- The building is inappropriate for a gym because it is adjoined to a domestic property. This is due to loud noises and vibrations caused through the gym's use e.g. shouting, grunting, music, impact from equipment (likened to an explosion). Due to the nature of the buildings (age and stone materials) and the courtyard these concerns are exacerbated.
- The application is retrospective and building regulations have not been applied for.

- In the past the gym has been open 0600 – 2130, causing early morning and late night disruption.
- The window causes overlooking of The Old Coach House. The obscure film on the window often falls off.
- A vent has been installed which comes out into The Old Coach House's yard.
- A toilet has been installed and has been linked to a private sewer and may drain into the nearby pond.
- The development causes additional parking within the area, impacting upon the efficient use of the Highway in the area.
- The area is residential and should remain so.
- There are bats within the area.
- The site was previously used for storage, which is a more suitable use for a residential area.
- Unit 1c has been omitted from the proposal and reference is made to an outbuilding which has not been built, with objections questioning why.
- A wall, with window, has been built to form unit 1b. Previously it was a wooden panel. The wall is not including within this application.
- The noise mitigation plan does not go into enough detail, is contrary to the objector's experience and does not address concerns of the objector.

8.0 WARD MEMBER INTEREST

- 8.1 Cllr Cooper contacted the case officer requesting that, should the application be recommended for approval, he would like it taken to Planning Committee with a site visit. No specific reason was given.

9.0 CONSULTATION RESPONSES

9.1 Statutory

No statutory consultees were required.

9.2 Non-statutory

K.C. Environmental Health: No objection subject to conditions.

K.C. Highways: No objection.

10.0 MAIN ISSUES

- Principle of development
- Urban Design issues, including impact on neighbouring heritage assets
- Residential Amenity
- Highway issues
- Other Matters
- Representations

11.0 APPRAISAL

Principle of development

Sustainable Development

- 11.1 NPPF Paragraph 14 and PLP1 outline a presumption in favour of sustainable development. Paragraph 7 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation (Para.8).
- 11.2 The dimensions of sustainable development will be considered throughout the proposal.
- 11.3 Paragraph 14 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Land allocation

- 11.4 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states;

'Planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]'

All these considerations are addressed later in this assessment.

- 11.5 Consideration must also be given to the emerging local plan. The site is without notation on the PDLP Policies Map. PLP2 states that;

All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...

The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

Change of use from B1 (light industrial) to D2 (Gym)

- 11.6 Chapter 1 of the NPPF and Policy B1 of the UDP establish a general principle in favour of economic development and supporting businesses although B4 requires the consideration of the loss of an industrial unit. Given the small size of the site, therefore limiting its modern practicality for industry, that it has been vacant for some time and that it will continue in an employment use, officer's do not considered the proposal harmful to local industry. Furthermore Chapter 8 of the NPPF and Policy PLP50 of the PDLP establish a presumption in favour of development which promotes healthy

communities and which encourages physical activity, so as to promote healthier lifestyles, where appropriate.

- 11.7 As a main town centre use the appropriate location for gyms is within the identified main town centres so as to accord with Chapter 2 of the NPPF and PLP13 of the PDLP. The site is 100.0m from Newsome Local Centre and is therefore considered an edge of centre location.
- 11.8 The applicant has claimed Newsome is the sole catchment area as the gym is to offer bespoke personal training to local clients. Giving the level of public representation in support of the proposal officers does not dispute this. However the buildings within Newsome Centre do not provide the required space or layout to facilitate a gym. In this situation it is considered reasonable to consider an out of centre location. Paragraph 24 states;

When considering edge of centre ... proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

- 11.9 The site is 80.0m away from the local centre, a brief walk along Ruth Street. This is considered to be a suitably accessible location for a gym. In terms of scale, the gym is small in size, being 90sqm. Considering the lack of suitable buildings in the centre, the accessibility of the site and the overall small scale of the proposal, it is concluded that the development would not material harm the viability of the local centre, therefore in accordance with Chapter 2 of the NPPF and PLP13 of the PDLP.

Urban Design issues, including impact on neighbouring heritage assets

- 11.10 No physical alterations are proposed to the building exterior. Therefore there will be no impact on visual amenity. Newsome Mill is Grade 2 Listed. Considering S66 of Planning (Listed Buildings & Conservation Areas) Act 1990, as the proposal is for a separate building and there are no external alterations, the proposal is not to impact upon the heritage asset.
- 11.11 The proposal is deemed to comply with Policies D2, BE1, BE2, PLP24 and Chapters 7 and 12 of the NPPF.

Residential Amenity

- 11.12 No physical alterations are proposed to the building through this application, preventing any harm to neighbouring dwelling through overbearing or overshadowing.
- 11.13 The gym shares a wall with the rear yard of the residential property The Old Coach House. The gym has been operating since March 2017 and has been the subject of an investigation from K.C. Pollution and Noise Control (KCPNC) due to complaints from residents of The Old Coach House. Complaints include the level of noise but also harm caused through vibrations (through impact of equipment/bodies). As noted within paragraph 5.3 the gym previously operated from two units, 1b and 1c. 1c shares a party wall with the dwellinghouse of The Old Coach House. The Gym no longer operates from 1c and this does not form part of the application.

- 11.14 Small gyms in residential areas are not uncommon, however the specific relationship between the proposed gym and The Old Coach House is acknowledged to be atypical. In assessing the impact on The Old Coach House it must be acknowledged that most planning approvals are likely to interfere to some extent with an adjoining occupier's enjoyment of their property. However the test is whether this is proportionate balancing the rights of the developer to develop and the rights of those affected by the development.
- 11.15 To summarise K.C. Pollution and Noise Control's investigation, they have been unable to substantiate the claims over the claimed level of noise/vibration and nuisance by the objector. Since discussions have taken place between KCPNC officers and the applicant a draft noise mitigation plan has been produced. This includes various methods of limiting noise generation and restricted hours of use. Officers accept the principle of the report, however further advice has been given by KCPNC officers which has been informally agreed. To ensure the additional agreed measures are implemented, if minded to approve, a condition can be imposed requiring an updated noise mitigation plan to be submitted, and then adhered to, within a given time period. Additional conditions would include hours of use, maximum number of clients and limiting the audible level of music.
- 11.16 Consideration must be given to the site's previous B1 use. The B1 use class includes offices, which would be unlikely given the site's format, and light industry which included the previous bakery. While vacant since the bakery ended trading, planning permission would not have been required for the site to be brought back into light industrial use. Given the historic nature of the site, there were no hours of use imposed through planning.
- 11.17 Concern has been expressed over potential overlooking from the gym into The Old Coach House's yard and windows. Currently the gym has applied an obscuring film over the windows. Officers consider this appropriate, however propose a condition that the film be retained and maintained to ensure its continued effectiveness.
- 11.18 Subject to the appropriate management of the site, which KCPNC officers are satisfied has been achieved, but can be ensured via condition; officers do not consider that the development would cause material harm to the amenity of neighbouring residents. This is giving weight to the site's existing use, with the proposed use being considered comparable, or less harmful, in terms of potential noise generation. It is therefore concluded that subject to condition the proposal would comply with Policies D2 and EP4 of the UDP, PLP24 and PLP52 of the PDLP and Paragraph 17 of the NPPF.

Highway issues

- 11.19 The site has no dedicated parking. Therefore staff and visitors are required to park on street. The maximum occupancy of the site has been given as 12 customers + 1 member of staff. This is uncommon however, with the site typically being used for smaller, or one on one, classes. Nonetheless, considering the maximum customer numbers against the space standards of T19, the site would require 7 parking spaces.

- 11.20 The site is 100.0m from Newsome local centre which has good public transport links to the area. Furthermore Ruth Street is considered capable of accommodating additional off-street parking along the frontage of the old Bakery. It is also noted that the majority of customers are stated to be local residents.
- 11.21 Discussions have been held with K.C. Highways in regards to the above considerations. It has been concluded that the development would not result in a detrimental impact upon highway safety and efficiency, with the proposal deemed to comply with Policies T19 and PLP21.

Other Matters

- 11.22 No other material planning considerations are considered relevant to the current proposal.

Representations

- 11.23 155 representations have been received in response to the application. 132 are in support of the proposal and 23 are in objection. The following are officer responses to the comments made not considered previously within this report.

Support

- The proposal will benefit the local area/community through;
 - Bringing the building back into use.
 - Improved health for locals, in a time of national obesity crisis, including children with the gym offering children's classes
 - Gyms provide mental benefits for local residents
 - Amenity benefit for residents
 - Makes Newsome village more attractive and interesting for residents and visitors.
 - The area has become safer and cleaner, bringing 'life' to Ruth Street, preventing the vandalism seen elsewhere nearby, particularly given the current state of Newsome Mills.
- The development supports the local economy and small businesses, also creates a job in the area.
- The nature of the gym allows for greater social inclusion, as larger gyms are intimidating and scare off some self-conscious users.
- It is a small gym which is convenient for local residents, filling a need. It offers a personal touch you don't get at 'corporate gyms'.

Response: The benefits of the proposal are noted, and have been given due weight where appropriate.

- Numerous personal recommendations of the application.

Response: This is noted, however does not form a material planning consideration.

Object

- The application is retrospective and building regulations have not been applied for.

Response: This is noted, however does not form a material planning consideration.

- A vent has been installed which comes out into The Old Coach House's yard.
- A toilet has been installed and has been linked to a private sewer and may drain into the nearby pond.

Response: The vent is small in scale and does not materially impact on the appearance of the building. Therefore it is not deemed to amount to development and falls outside the remit of the planning authority. Connections to sewerage pipes form a consideration of building control, not the planning system.

- There are bats within the area.

Response: Given that the application seeks a change of use it is not considered harmful to local bat populations.

- The site was previously used for storage, which is a more suitable use for a residential area.

Response: While the site may have previously included ancillary storage, the principal use is deemed to have been B1.

- Unit 1c has been omitted from the proposal and reference is made to an outbuilding which has not been built, with objections questioning why.
- A wall, with window, has been built to form unit 1b. Previously it was a wooden panel. The wall is not including within this application.

Response: Unit 1c does not form part of this permission and is no longer used by the gym. Should the applicant seek to use 1c a separate planning permission would be required. Should the 1c be used without the appropriate permission it would be subject to investigation from K.C. Planning Enforcement.

12.0 CONCLUSION

12.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

12.2 Considering the merits and particulars of the application the development is not considered detrimental to the viability of local town centres. Conversely the development would provide an economic benefit for the area and bring a building back into use. In terms of social benefit, the development would provide fitness benefits for residents at a local level.

12.3 Notwithstanding this the concerns over the impact on the adjacent resident are noted. However, as assessed, subject to appropriate management of the site – securable via condition – officers conclude the development would not cause undue harm to the amenity of neighbouring occupiers. This is also taking into account the existing use class of the site.

12.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

13.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

1. Hours of use
2. Noise mitigation plan
3. Obscure Glazing
4. Limit number of visitors

Background Papers

Application and history files can be accessed at:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92825>

Certificate of Ownership: Certificate B signed

Notice served upon Spike Estates Ltd.