Development Management - Delegated Officer Report

Application Number: AWDM/0670/19 Recommendation – Approve

Site: 79 - 81 Brighton Road, Shoreham-By-Sea

Proposal: Change of Use of part of ground floor from retail (A1 Class Use) to Gym (D2 Class Use) with 17 parking spaces

Date of site visit: 7 May 2019

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to part of the ground floor of the new building still under construction on the site of the former Parcelforce building on the south side of Brighton Road (now known as Mariners Point). Permission was granted in 2013 for a mixed residential and commercial building and at that time the whole of the ground floor (1348sqm) was anticipated to be used a single retail unit by a supermarket operator (AWDM/0501/12).

The proposal is for a change of use of the western half of the ground floor (659sqm) from A1 to D2 to enable it to be occupied by Anytime Fitness, a gym operating 24 hours a day, 7 days a week. The site abuts the Shoreham Conservation Area to the north and west. 4no. air conditioning units are proposed on the western elevation of the building facing the yacht club. 17 car parking spaces are proposed to be reserved for the users of the gym in front (north) of the building.

A separate application has been submitted for the approval of details reserved by permission AWDM/0501/12 for a change to the glazing on the southern elevation from glass blocks to a curtain walling system (AWDM/0618/19 refers). There is also a separate application for advertisement consent for new signage (AWDM/0671/19).

Relevant Planning History

AWDM/0501/12 - Demolition of existing warehouse to facilitate new mixed-use development of 132 dwellings (Use Class C3) (comprising 32 x 1-bed flats, 87 x 2-bed flats and 13 x 3-bed flats of which 27% are affordable units), a 1265sqm foodstore (Use Class A1) and 121sqm of ancillary commercial floorspace (Use Classes A1, A2, A3, A5 and B1) in a 5-7 storey building with 150 parking spaces plus cycle spaces at basement level and at the front of the site, new vehicular access to serve the foodstore from Brighton Road, access to residential units via Surry Hard, improvements to the existing river wall, public hard and boathouse and new landscaping.

Consultations

West Sussex County Council: The **Highways Authority** has no objection. Comments as follows:

Access and Parking
The access onto Brighton Road and the associated parking bays are existing with the access being shared with the adjoining unit to the east. The parking spaces have been defined and painted onto the tarmac area and furthermore are considered to meet WSCC requirements for parking space dimensions. There appear no known safety concerns with their use.

The LHA acknowledge that the extant permission at the site is for (amongst other uses) 1265SQM of floorspace for an A1 foodstore. This submitted proposal outlines difficulty in filling this unit and would result in the subdivision of the floorspace to use 659SQM floorspace for the Gym (D2).

When considering parking provisions, the LHA is mindful that an A1 Food 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 659SQM floor space would generate the requirement for 29.9 (rounded to 30) parking spaces. There are 17 parking spaces assigned to this development fronting the unit. 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).

The parking spaces are to standard and allow a turn on site manoeuvre to be undertaken in order to egress the site in a forward gear.

Sustainability
Public car parks are located within a short walking distance of the site which offers an alternative to on street parking on the wider network. This would be a pay and display parking arrangement during peak hours.

The LHA will only consider the impact of overspill parking from a safety perspective; matters of amenity would be a matter for the consideration of the Local Planning Authority. While it is likely that some overspill parking may occur it is not considered that this would be detrimental to highway safety and on top of this, key locations in the public highway are subject to enforceable parking restrictions.

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. Paragraph 103 of the NPPF also states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.

Shoreham-by-Sea train station is a 6 minute walk from the proposal site. Cycle parking is provided within the basement of the property and to the east of the car park and would offer an alternative to the use of a car. Brighton Road is a predominantly straight road and good forward visibility can be achieved for road users, this is a benefit for not only users of the gym but for emerging vehicles from the adjoining residential units to anticipate pedestrians. 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.

Adur and Worthing Councils: The **Environmental Health** Officer has no objection subject to conditions:
1. that details of the air conditioning plant be provided and agreed before installation.
2. That the scheme for isolating the windows from the first floor slab is provided and agreed prior to installation. See Recommendation 14 of Section 8 of the acoustic report. Details are needed to ensure vibration does not transmit through the glass into the concrete structure; this could be a flanking pathway for noise. It can be easily prevented by isolating the glazing with rubber grommets that will absorb any vibration.

The other conditions in Section 8 should be considered best practicable means for preventing noise nuisance and maybe reference should be made to this advice in an informative to any permission.

Representations

3 letters of objection received from the occupiers of Flat 99, Mariners Point and 49 Milford Court, Brighton Road, Lancing plus on behalf of Tony Stitt Fitness:

- First floor flat will be affected by noise, vibration and light pollution from the gym below.
- Music played at the gym is a concern
- Noise and vibration through the walls
- Sound resistance of these flats is already poor and will be exacerbated by music from the gym
- 24 hour access will have detrimental impact on quality of life/health
- Will be detrimental to existing gym on opposite side of the road and could result in loss of small local business

- No need for another gym in the area
- 24 hour opening has not been granted for the 360 Gym opposite – "level playing field" should be applied
- Increased pressure on spaces in Tarmount Road car park
- Unfair

Relevant Planning Policies

Adur Local Plan 2017 Policies 1, 8, 15, 27, 28, 33, 34, 36
National Planning Policy Framework (February 2019)

Planning Assessment

Principle

The ground floor of the building has permission to be used for commercial purposes, predominantly A1 retail with smaller commercial units at the rear to be used for a mix of A1, A2, A3 and B1(a) uses. At the time of the planning permission for the redevelopment of the site it was envisaged that the bulk of the ground floor would be used by a supermarket operator but no interest has been shown in such a use as evidenced in a brief report from Warwick Baker Estate Agent. The report states that the ground floor has been marketed since March 2017 but has not been successfully sold or let due to a lack of parking, which is considered to be "*substantially below that of the retailers' requirements*."

The report advises that the only serious interest has been from the current applicants and a medical practice, who were considering renting the other half of the building.

The site does not lie within the defined town centre boundary and the partial loss of retail use is not considered to result in harm to the viability of the town centre. A commercial use would be retained at the site, ensuring that the development remains as mixed use. There is no objection in principle to a gym use in this location. An existing gym use operates from a building opposite the site (Tony Stitt Fitness/360) and, while there would be direct competition to those premises, the loss of trade or increased competition is not a valid planning consideration.

Visual amenity

There is no external change to the building proposed as part of this application other than the siting of 4no. A/C units on the western elevation. These will be sited on a recessed wall which is hidden from the road by the front part of the building. Their visual impact is not considered to be significant.

Residential amenity

The site sits underneath residential flats and a commercial use has already been approved here, for A1 retail. A change to a 24 hour gym has the potential to cause more disturbance to residential amenity. It should be noted, however, that there is no restriction on the opening hours of the approved retail floor space, only that deliveries should not take place except between the hours of 7am and 7pm Mondays to Fridays and 8am and 1pm on Saturdays, with no deliveries on Sundays or Public Holidays.

The Planning Statement submitted with the application advises that the gym will be staffed between 8am and 8pm on weekdays and 10am and 4pm on Saturdays. CCTV will be used to monitor and identify members using the site at other times in case of complaints. Various mitigation measures are proposed, as set out within the Noise Assessment, such as the use of rubber tile flooring in the freeweights and functional area, setting music levels which are inaudible to the residents above, non-opening windows, use of anti-vibration mounts for wall-mounted or ceiling hung speakers and locating weight stacks away from structure bearing columns to prevent vibration paths into the structure above.

The Environmental Health Officer (EHO) has not objected to the application subject to the noise mitigation measures set out in the Noise Assessment being fully implemented. While there are residents directly above the site, the building is a new construction and should have better sound insulation than a converted building. The site fronts Brighton Road and it is not considered to be necessary to restrict vehicular access at unsocial hours. In the case of the Anytime Fitness gym in Newland Road, Worthing (AWDM/0720/16) a restriction on vehicular access at night was deemed to be necessary as the car park was at the rear in a relatively secluded area. The situation here is different. Furthermore, parking takes place in an undercroft beneath the flats and activity at unsocial hours is expected to be relatively low. The EHO has not raised any concerns about this particular issue.

The air conditioning units serving the gym are to be located on the west elevation and will sit directly below a first floor flat. The specification of the units is not yet known and it is recommended that a condition is imposed to secure these details prior to their installation.

With suitable noise controls in place there are no concerns with regard to the impact of the proposal on the amenity of residents.

Parking and Access

17 parking spaces are shown as being allocated to the proposed gym, located at the front of the building in an undercroft beneath the flats. These are currently used on a temporary basis by the occupants of the affordable flats while they wait for the basement parking to be completed and there is concern that were the gym to open before the basement parking has been provided this could lead to parking problems. The surface car park at the front of the site is currently used by the occupants of the affordable flats as well as by contractors' vehicles.

Following discussion, the applicant has accepted a condition preventing occupation of the gym until the car parking required by AWDM/0501/12 has been provided in full.

Flood Risk
The site will be protected from flooding following the provision of flood defence works as required by AWDM/0501/12. It is considered that the gym should not open until these works have been completed and the applicant has accepted a condition to this effect.

Recommendation

APPROVE

Subject to Conditions:-

1. Approved Plans
2. Standard 3 year time limit
3. Gym use only and for no other purpose
4. Use to operate in full accordance with Noise Assessment and all mitigation measures contained in Section 8
5. No use shall commence until the scheme for isolating the windows from the first floor slab is provided and agreed prior to installation.
6. Details of the air conditioning plant to be provided and agreed before installation
7. Car parking as required by AWDM/0501/12 to be provided prior to commencement of use
8. Flood defence works required by AWDM/0501/12 to be completed prior to commencement of use

Is recommendation contrary to letter(s) of representation? Y

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.

Case Officer: Peter Barnett Date: 18 June 2019

Authorised by: Gary Peck Date: 18 June 2019