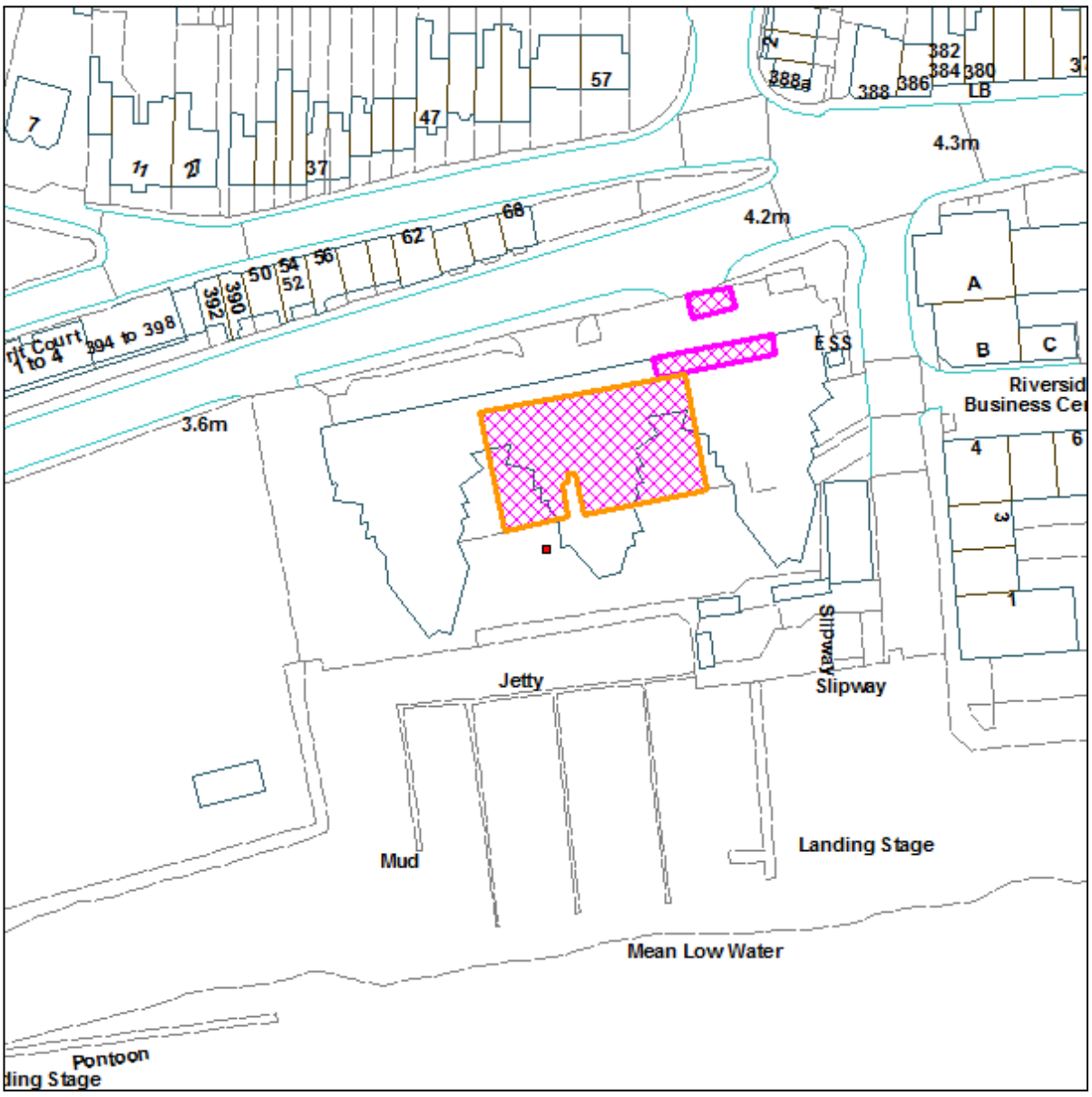
Application Number:	**AWDM/1391/23**	**Recommendation - APPROVE**
Site:	**Mariner Point, 83 Brighton Road, Shoreham-by-Sea**	
Proposal:	**Change of use of part of ground floor to Class E (24 hour gym)**	
Applicant:	Mr Massimo Petretta	Ward: St Mary's
Agent:	Mr Anthony Phebey	
Case Officer:	Peter Barnett	



Not to Scale

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Proposal, Site and Surroundings

The application relates to part of the ground floor of the new building on the south side of Brighton Road known as Mariner 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 as a single retail unit by a supermarket operator (AWDM/0501/12).

Since then, the western end of the ground floor is now in use as a dental practice. This proposal is for a change of use of the central/western part (707sqm) to Class E to enable it to be used as a gym (Anytime Fitness) operating 24 hours a day, 7 days a week. The gym provides members with a key-fob and access is possible 24 hours a day. The remaining part of the ground floor is hoped to be used by a separate commercial premises, but details are not known at this stage.

The existing elevations will remain unaltered and will utilise the existing front entrance doors. 2no. external air conditioning units are to be installed on the south elevation of the building.

15 car parking spaces are proposed to be reserved for the users of the gym in front (north) of the building.

There was a previous permission for a 24 hour gym in 2019 but this was never implemented and has now lapsed.

The site abuts the Shoreham Conservation Area to the north and west.

Relevant Planning History

AWDM/0801/21 - Change of Use of part of ground floor commercial unit to Dental Practice (Use Class E) - **Approved and implemented**

AWDM/0670/19 - Change of Use of part of ground floor from retail (A1 Class Use) to Gym (D2 Class Use) with 17 parking spaces - **Approved 2019**

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 - approved and implemented - **Approved 07-10-2013**

Consultations

West Sussex County Council: The **Highway Authorit**y has no objection. Comments:
<u>Access and Visibility</u>

The site is served by an existing vehicular access point on Brighton Road, and no alterations are proposed to this arrangement. From inspection of WSCC mapping, there are no apparent visibility concerns with the existing point of access on Brighton Road.

An inspection of collision data provided to WSCC by Sussex Police from a period of the last five years reveals no recorded injury accidents attributed to road layout, or the use of the existing access point, within the vicinity of the site. Therefore, there is no evidence to suggest the existing access point has been operating unsafely or that the proposals would exacerbate an existing safety concern.

Capacity

The LHA would not anticipate that the proposed change of use to gym would give rise to a significant material intensification of movements to or from the site, when compared with the existing retail use. Whilst I appreciate the gym will operate 24-hours a day, an increase in movements could be expected during later hours. However, this would be outside of network peak times and therefore not anticipated to give rise to an adverse impact.

Parking and Turning

15 existing car parking spaces are to be allocated for the proposed gym. Under WSCC Parking Standards for gyms, one car parking space should be provided per 22 sqm of floorspace. Therefore, 32 car parking spaces should be provided. Consequently, any overspill parking associated with this development would have to be accommodated on- street or within nearby paid-for provision. I do note that the existing retail use would require one car parking space per 14 sqm of floorspace, which would be a more intensive use than that proposed.

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.

Further weight is given to the site's sustainable location that is well accessible on foot or by cycle, and is well connected by public transport links. The LPA may wish to secure additional cycle parking provision to promote the use of sustainable transport methods.

Conclusion

The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 115), and that there are no transport grounds to resist the proposal

Adur & Worthing Councils: The ***Environmental Health*** officer has no objection provided the noise mitigation proposed in the acoustic report is implemented.

Environment Agency: No comments received

Representations

74 objections received from the occupiers of flats in Mariner Point, including from Mariner Point Residents' Association, plus Three Sixty Fitness, Dragonfly, Surrey Boat Yard, and addresses in New Road, Mill Lane, Chanctonbury Drive:

- Noise, especially as open 24/7
- Noise from music when doors are opened
- Noise from weights being dropped onto the floor
- Noise from air conditioning units
- Noise amplifies and echoes upwards at the back of Mariner Point
- Inappropriate use in a residential building
- Gym users could access residents' garden at rear
- There is already a gym opposite the site
- No need for another gym
- Flats over the gym on the opposite side of the road regularly complain about the noise
- Limited parking spaces available
- Will lead to cars parking on surrounding streets
- Inadequate waste and refuse facilities
- Security issues with strangers wandering around at all hours
- Noise from people talking when leaving the gym late at night
- Increased vehicle movements and doors slamming at night
- Parking spaces allocated to gym users would mean the only working EV charging point would be inaccessible to residents
- 360 gym has been struggling and to open another gym opposite may further harm the viability of the existing gym
- Multinational gym goes against principles of serving values and interest of the local community
- A doctor's surgery would be better use
- Children and elderly residents live at Mariner Point
- Increased air pollution
- Light pollution
- More appropriate to be located on an industrial estate
- Gym should not be 24 hour opening
- Clarity is needed regarding final building control sign-off to ensure that all regulations and standards have been met.
- Flood protection measures need to be assessed
- Surry Hard flood wall is still being overtopped
- Original planning permission permitted A1 uses on the ground floor
- Previous permission for a gym contained significant conditions which the current application does not meet
- No noise mitigation measures proposed in application as first submitted
- Parking provision at Mariner Point is already inadequate.
- No disabled spaces are provided

- Lack of space for loading, deliveries, contractors, etc
- Western end of parking area is reserved for the dental practice
- No designated visitor spaces
- No current fire risk assessment for Martiner Point
- Bin stores already overused
- No further permissions should be granted until these issues have been resolved

3 letters of support from residents in Mariner Point:

- Would be good to have a 24 hour gym in the building
- Good to see commercial space being rented

Representation received from the owner of The Dental Practice which shares a dividing wall with the proposed gym premises:

In order to create a calming, reassuring environment, we keep noise to the minimum and play calm, relaxing background music. Four of our surgeries will share a dividing wall with the proposed gym. We all know that gyms play energetic, pumping music as motivation to their clients. As such, we are very concerned that noise levels, coming from the gym, will have a detrimental impact on our patients and staff. It is therefore paramount, should planning be granted for the gym to go ahead, that total sound insulation be installed on the gym's side of the dividing wall to avoid stress to patients in a medical facility. I propose sound testing will be required before the dividing wall is decorated/finished on the gym's side

Relevant Planning Policies and Guidance

Adur Local Plan 2017 Policies 1,8,15,27,28,33,34,36
WSCC Guidance on Parking at New Developments (Sept 2020).
National Planning Policy Framework (December 2023)
Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

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 (professional services and food and drink) and B1(a) office uses, these uses were reflected in a planning condition.

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 submitted with the previous application for the gym. The report stated that the ground floor had been marketed since March 2017 but had 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 site does not lie within the defined town centre boundary and the partial loss of retail space is not considered to result in harm to the viability of the town centre. A non residential use would be retained at the site, ensuring that the development remains as mixed use.

Since the permission was granted in 2013 the Use Classes Order has been revised to incorporate many Class A (retail, services, food & drink) and B (office and business) uses within a new Class E, which also includes gym uses (formerlyClass D2) such as that now proposed. Despite this regulatory change, planning permission is required for the gymnasium in this instance, due to the planning condition which specified use for the Classes A and B above.

An existing gym operates from a building opposite the site (360 Fitness) and, while there would be direct competition to those premises, the loss of trade or increased competition is not a valid planning consideration.

In 2019, permission was granted for a 24 hour gym (AWDM/0670/19) on the western half of the ground floor. That permission was not implemented and in 2021 permission was granted for a dental practice to use the western half of the ground floor instead and that use is ongoing.

There is no objection in principle to the use in this location.

Visual amenity

There is no external change to the building proposed as part of this application other than the siting of 2no. air conditioning units on the southern (rear) elevation. These would be sited on a wall beneath an overhang close to the central stair core. Their visual impact is not considered to be significant but final details are to be reserved by condition, including their acoustic performance in order to minimise risk of noise.

Residential amenity

The site sits below residential flats on upper floors and a commercial use has already been approved here, for A1 (now Class E) retail. A change to a 24 hour gym has the potential to cause disturbance to residential amenity but it should be remembered that a 24 hour gym was previously approved in 2019, albeit within a slightly different part of the ground floor.

It should also be noted 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 applicants have submitted a noise assessment in relation to air-handling plant, sound insulation at the building, noise from gym activities and noise from background music. The report advises that the only music to be played in the gym will be low-level background music and there will be no studio or classes and thus no music associated with zumba or spinning or aerobics, etc.

The report identifies that "*the difference in sound level and sound source is significant between the north and south of the building – To the north, is a busy A259 through-road, which is highly dominant, but once around the rear of the building to the south, this sound source is generally removed from the soundscape and the audible sound levels are significantly lower*."

An assumption has been made that the air conditioning plant will run for 24 hours a day. The plant will be positioned below an overhang close to the central stair core which is likely to provide an effective noise barrier. Plant will be mounted on anti-vibration mounts to prevent transfer of sound into the building structure.

There are residential flats directly above the proposed gym and there is the potential for noise to travel and affect the residents above. The noise report explains that the party wall to the dental practice will be upgraded and an additional suspended ceiling will be constructed to protect residents above from noise. As existing there is a solid concrete slab separating the ground floor from the flats above approximately 600mm thick. There is a floor to ceiling height of 3m and the suspended ceiling will improve sound insulation.

Amplified music from a speaker system is expected to be played at a low level. A similar gym in Worthing has been assessed as part of the noise assessment and it was reported that the majority of gym users have their own music system and music through the speakers is therefore kept at a deliberately low level (60dB). The report has assumed a higher noise level from music (+5dB) to be robust.

There is no need for any windows or doors to be opened as the heating and cooling/air exchange is carried out mechanically. Automatic door closers are in use at the Worthing gym.

Vibration through structural columns within the building is possible, as is noise from direct floor impacts (such as from the release of weights on machines, free weights where dumbbells and bar weights are dropped or repetitive striking of feet on treadmills). Various tests were carried out to assess the effectiveness of a proposed floor system, with measurements taken from the flats directly above the gym (Flats 73 and 103). This sprung floor system is proposed to be installed on top of the existing concrete floor to absorb sound from weights being dropped.

The report states that noise "was almost completely inaudible" in the two flats. Flat 103 is more in line with the gym than Flat 73 and had a slightly more noticeable

impact but it was still “only barely audible if one concentrated and the existing ambient noise level was very low.” It was also stated in the report that it is very rare for weights to be dropped. All members are encouraged to place them gently on the floor to prevent damage. The noise results also do not take account of the proposed suspended ceiling which is to be installed.

The report recommends that the sprung floor system is used throughout the gym to future-proof any layout changes. An independent stud wall lining will be required on the party wall with the dental practice. A scheme for isolating the windows from the first floor slab is also likely to be needed. All of these measures will be required by condition to ensure that the noise impact on residents and adjoining businesses is mitigated to an acceptable level.

With suitable noise controls in place, similar to those required in the previous permission for a gym, it is considered that the impact of the proposal on the amenity of residents will be acceptable.

Accessibility and parking

Fifteen parking spaces are to be allocated to the proposed gym, located at the front of the building. The West Sussex Highway Authority has advised that there are less than half the number of parking spaces being provided for the use than would be expected (one car parking space should be provided per 22 sqm of floorspace which equates to 32 car parking spaces). Some overspill parking could be expected therefore and a number of objections have raised this an issue.

However, public car parks are located within a short walking distance of the site which offers an alternative to on street parking. It is also likely that some users of the gym will be within walking distance of the site, which is also sustainably located on a bus route and reasonably close to the railway station. It should also be noted that the original planning permission envisaged uses including retail and food and drink businesses. Parking standards for these are greater than the proposal and could therefore have a greater parking impact.

There are no plans to remove the existing EV charging points or to prevent them from being accessible to residents. The applicant has advised that he would seek to be allocated alternative spaces to ensure that the EV charging points remained available to residents. Final details of the car parking spaces to be allocated to the gym can be reserved by condition. Additional cycle spaces could also be provided and a condition is proposed to secure this.

The highway authority has not objected to the application as it does not consider that this proposal would have an unacceptable impact on highway safety or result in ‘severe’ cumulative impacts on the operation of the highway network.

Flood Risk

The site is protected from flooding following the provision of flood defence works as required by AWDM/0501/12. There is an issue with the river overtopping Surry Hard during flood events but this is outside of the site itself and does not affect

consideration of this current application.

Recommendation: APPROVE

Subject to conditions:-

1. Approved Plans.

2. 3 year time limit.

3. No windows or doors to be kept open.

4. Recommendations in section 7 of the noise report dated 6/2/24 and the noise report relating to the gym acoustic floor system dated 10/7/24 shall be fully implemented (including installation of sprung floor system throughout the gym) prior to use and a test shall be carried out within 1 month of opening to demonstrate a noise level of 50DnT+Ctr in the nearest flats above the gym with the results submitted to the LPA for approval.

5. Gym use only and for no other purpose.

6. The use shall commence until the scheme for isolating the windows from the first floor slab is provided and agreed prior to installation.

7. The use shall not commence until an independent stud wall lining has been installed on the party wall with the dental practice in accordance with details to be submitted and approved.

8. Details of the position and type of air conditioning plant, including acoustic specification to be provided and agreed before installation.

9. Existing EV charging points shall at all times remain available to use by residents of Mariner Point and final details of the number and location of car parking spaces to be allocated to gym users shall be submitted and approved prior to use commencing.

10. Details of additional cycle parking facilities to be provided shall be submitted and approved prior to use commencing.