Development Control – Committee Report

Application Number: ADC/0044/11 **Recommendation - Temporary Permission**

Site: **1 Freshbrook Road Lancing West Sussex BN15 8DA**

Proposal: **Temporary change of use (max 3 years) from storage/office (B1/B8) to a boxing gym and keep fit facility (D2)**

The Application

The application site comprises the former storage/office building that was the subject of enforcement action requiring the cessation of its use as a recreational meeting place ('cannabis cafe') and the removal of concrete-filled tyres on posts and razor wire. The application is submitted by Adur District Amateur Boxing Club, a prospective short-term tenant. The new owner of the site has obtained outline permission to redevelop it with a terrace of 4 small houses (under ADC/0229/10). The Club is currently based at West Street, Shoreham, but needs to relocate owing to conversion of those premises to flats.

It is a triangular-shaped 'backland' site behind the terrace of houses No's 3-25 Freshbrook Road. It adjoins the railway on its northern boundary and a detached bungalow (No.25A) on its eastern side, with the large Amberley Court block of 38 sheltered flats further to the east. Access is from the bend in Freshbrook Road and runs 45m alongside the railway, adjacent to the end terraced house (No.3), before reaching the site itself.

The application states that the use comprises a boxing gym for licensed boxers to train during the daytime plus 5 evenings per week, and also keep fitters during the daytime. The proposed opening hours are given as 9am-9pm Monday-Saturday and 10am-4pm Sundays but are stated to be variable. It refers to 3 part-time employees. At present at Shoreham, the website advertised hours are 6pm-7pm on Tuesdays and Fridays for Beginners, and 7pm-8.30pm on Tuesdays and Thursdays for Boxers and it refers to 4 named persons as coaches.

The applicant states:- "At any one time, there should not be more than 4-6 cars present. These would belong to the boxing coaches. Some of the boxers would arrive by car, but would then be dropped off. Some boxers live locally and would either walk or cycle in. And some of the boxers would come by train. Maximum number of people including coaches and boxers would be about 25 at any one time.
Times currently and likely to continue would be 6pm till 8pm week nights, with the occasional Sunday morning for training.
The premises at West Street have not been used during the day, and the proposed use by keep fitters is a new idea to generate revenue for the upkeep and rent for the premises.
We have to vacate West Street as new owners have bought the premises and wish to redevelop the site and want us out as soon as possible."

Consultations and Representations

Consultations/Comments

West Sussex County Council: To be reported. Raised no objection to previous application for redevelopment with 6 flats and 6 parking spaces.

Adur District Council: The Environmental Health Officer states that it is difficult to gauge what problems could arise, if any, and considers a temporary permission would enable assessment to be made.

Environment Agency: States that the site is in flood zone 3 and therefore a flood risk assessment is required. Given the nature of the proposal, this should be fairly simple and should look to incorporate flood proofing measures, providing betterment over the existing situation but recognising options are limited.

Lancing Parish Council: Considers the site should be cleaned and tidied up as a condition of approval.

Third Parties: 5 letters of objection have been received, from the residents of the houses and bungalow at No's 3, 21, 23 and 25A Freshbrook Road and 85 Brook Way, objecting on the following grounds:-

- disturbance to neighbouring dwellings and their gardens from the building for 12 hours per day 7 days per week because gyms and boxing training can be very noisy.
- the use is not in keeping in a quiet residential area and will impair residents' quality of life and detract from their property values.
- noise from people entering and leaving the building and from traffic using the access way which runs alongside the end house (No.3).
- the access is onto a dangerous bend onto a congested road used as a 'rat-run' and serving a large school and is unsuitable for the anticipated amount of traffic, the proposal worsening existing traffic problems.
- owing to inadequate space on-site for parking and turning, cars would overspill onto the existing highway which already has a shortage of on-street parking.
- external lighting needed to illuminate the access would be intrusive for residents.
- users would cause overlooking of rear gardens.
- the premises are unsuitable for this type of use from a health and safety aspect having only one door and no windows and there is no provision for emergency exit from the building and limited access for emergency services.
- the area is already well-served with gyms
- the fitness of the applicants to run the premises is questioned and whether they have experience; and whether it will be licensed and inspected and its use by ad hoc visitors controlled.
- it would be likely to result in recurrence of previous problems of threatening behaviour, drunkenness and abuse from clientele, causing residents to fear going out after dark.
- the requirements of the enforcement notice to remove the concrete tyres on posts and razor wire have still not been complied with and in addition the other 'defences' remain in place. It is questioned whether it is coincidence that the person who ran the 'cannabis cafe' is soon to be released from prison and whether that use will re-commence.
- if permitted, other D2 Use Class purposes should be excluded by condition in order to limit the use to solely a boxing gym and keep-fit facility.

Relevant Planning Policies and Guidance

The South East Plan 2006-2026 (GOSE 2009): SCT1
Adopted Adur District Local Plan 1993–2006 (ADC 1996) (saved policies): AG1, AR7

Revised West Sussex Parking Standards (WSCC 2003 and ADC 2004)
PPS1 'Delivering Sustainable Development (ODPM 2005)
PPG13 'Transport' (DTLR 2001, amended 2011)
PPG17 'Planning for Open Space, Sport and Recreation' (ODPM 2002)
PPS25 'Planning and Flood Risk' (ODPM 2006) & Circular 04/07

Planning Assessment

Policies

Local Plan policy AR7 states that new recreational facilities within the built-up area will normally be permitted subject the facilities being of a scale and character appropriate for the locality; local environmental considerations including the effects on the residential amenity of nearby dwellings; and acceptable on-site access and parking arrangements and incorporating appropriate facilities for disabled persons.

PPG17 'Planning for Open Space, Sport and Recreation' states amongst its objectives that recreational facilities can play a major part in improving people's sense of well being and can bring together members of deprived communities and provide opportunities for social interaction. They have a vital role in promoting healthy living and preventing illness.

This 'backland' site is located within the built-up area of Lancing and is not identified for any particular use or development in the Local Plan. There is no policy specifically protecting the use of the site for business purposes. In this instance, the re-use of the site for storage purposes, being the type of purpose for which the building was designed and originally permitted, has some potential through the generation of lorry traffic to be unneighbourly because it directly adjoins a bungalow to the east side and, together with the long access, adjoins terraced houses and their rear gardens to the south on the road frontage. As stated above, residential redevelopment has been permitted, which accords more closely with the adopted policies, so the loss of business use of the site has already been accepted.

The present proposal is stated only to be an interim use pending this redevelopment for residential purposes. Consequently, it is considered that there is no land-use objection in principle to the proposed sports and recreational use and, taking account of policy AR7 and PPG17, it is supportable in principle.

Residential amenity – effect on existing dwellings

It is not considered likely that the use of the building itself for the proposed purposes would be likely to cause significant disturbance to the neighbouring dwellings. It is the incidental use of the external curtilage that might give rise to noise for neighbours from parking of cars, possible slamming of car doors, and if people congregate outside. The main concern is the evening period when residents have a reasonable expectation to be able to enjoy peace and quiet, including in their rear gardens.

The most affected property is No.25A Freshbrook Road, the bungalow to the east, which is 3.5m away from the side of the building, behind an approx 2m high tall close-boarded fence along the common boundary. The fence is up to the eaves height of the bungalow (which is on a lower ground level) and which, on its west-facing side elevation, has one side window and rooflight to a bedroom, plus a high level window in the side of the lounge.

The other most affected property is the end-of-terrace house No.3 Freshbrook Road, the side of which adjoins the access to the site. The long accessway to the site runs the full length of its long

rear garden. The building itself is 25m and more away from these terraced houses, so it is the use of the access and external curtilage that is the main concern. The existing screen fences provide a reasonable degree of privacy.

Although the applicant has provided some information (see above) about the likely number of users and traffic based on the existing town centre (West Street) premises, this does not necessarily apply to the new location and it is also proposed to add a keep-fit facility which is a new venture. Whilst it is not considered likely, on the balance of probability, that the proposed use would give rise to an intensity of use adversely affecting residents to an extent warranting refusal, it is considered that it is justified only to grant a temporary permission in order to retain planning control.

Access and parking

The site is in a relatively sustainable location, being fairly close to facilities in central Lancing and to public transport links. It is only 450m east of the station. From this point of view, it is a suitable location for the use proposed, enabling users to have a choice of modes of travel and not to be reliant on car usage.

Under the adopted West Sussex Parking Standard, a maximum of 8 car parking spaces would be required for indoor leisure use of the amount of floorspace involved and this number can be accommodated on the site with sufficient turning space. Space also exists for cycle parking.

Despite the concerns of residents, both WSCC and the Planning Inspectorate have, at the time of the previous proposal for 6 flats, found the access, located on the outside of the bend in Freshbrook Road (ADC/0437/09), to be acceptable from a highway safety aspect.

Flood Risk

The site lies within Flood zone 3A on the Adur & Worthing Strategic Flood Risk Assessment but is very close to the edge of this zone. Freshbrook Road and the terraced houses are outside the flood risk area but the land slopes down slightly at the rear so that much of their rear gardens and also the bungalow at No.25A and Amberley Court are within the flood risk area. The latest data indicates potential flood depths of only 0.3m at the exit from the site in the 1 in 200 year flood event. The level of the site, which was raised at the time the existing building was built is approximately 3.15mAOD which is well below the Environment Agency's recommended habitable floor level of 5.0mAOD. However, the proposed sports and recreational use is no more vulnerable than the existing lawful business use and is less vulnerable than residential use. Given that it is only a temporary use, it is considered that the FRA and floodproofing measures sought by the Environment Agency cannot reasonably be justified in the circumstances.

Other matters

Some local residents have raised the issue of the proposal having similarities with the previous 'cannabis cafe' use and expressed concern that as the present proposal is in the same use class and because the 'defences' around the building remain in place (in contravention of the enforcement notice), that 'recreational meeting place' use might recommence.

In this respect, the present application has to be considered at face value and, as it is possible to impose a condition restricting the use to a boxing gym and fitness facility and exclude other Class D2 (assembly and leisure) purposes, it is considered that there is sufficient safeguard against this. There is no justifiable reason to presuppose that users of the gym or keepfit facility would behave in a manner that is threatening or abusive to local residents; no such problems appear to have been reported in respect of their long-established premises in West Street, Shoreham, which is a mainly residential street.

As to the tyres on concrete posts and razor wire, the applicant states he will remove these. Previously, no prosecution action had been taken for non-compliance with the enforcement notice because the new owner stated an intention to totally clear the site for redevelopment with dwellings (as permitted in 2010) and had asked for action to be postponed for a short period.

Recommendation

APPROVE for the reason:-

The site is sustainably located within the built-up area and the proposed use would help meet the local need for sports and recreational provision without detracting from highway safety. It is no more vulnerable to flood risk than the existing permitted use. Owing to concerns about possible disturbance to neighbouring dwellings from persons using the premises, it is appropriate only to grant a temporary permission in order to retain planning control and not conflict with the relevant policies of the Adur District Local Plan (AG1, AR7).

Subject to:-

- C1Dii (Temporary permission expiring on 31 December 2013)
- C16Ai (Use restricted to gymnasium for boxers and a keep fit facility and for no other purposes within Use Class D2)
- C14L (Premises shall not be open for use other than between the hours of 8am and 9pm) (amended)
- C14Gi (No external lighting without approval of the details)

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