

Application Number 17/00524/FUL

Proposal Change of use from industrial unit to a gymnasium - retrospective.

Site Unit 7A, Albion Trading Estate, Mossley Road, Ashton-Under-Lyne

Applicant Gritstone Crossfit Ltd

Recommendation Refuse planning permission and authorise enforcement action in respect of the unlawful use.

REPORT

1. REASON FOR SPEAKERS PANEL DECISION

- 1.1 A Speakers Panel decision is required because, in accordance with the Council's Statement of Community Involvement, a member of the public has requested the opportunity to address the Panel before a decision is made. Accordingly, the applicant, or their agent, has been given the opportunity to speak also.

2. APPLICATION DESCRIPTION

- 2.1 The application seeks retrospective, full planning consent for the change of use from an industrial unit to a gymnasium. The application is for the change of use only with no physical external alterations proposed to the building.

3. SITE AND SURROUNDINGS

- 3.1 The application relates to a flat-roofed unit that has been added as an extension, and then sub-divided, to the former tramshed on Mossley Road that is now used as an industrial, or trading, estate. One half of the unit's frontage consists of a roller shutter door.
- 3.2 Access and egress to and from the estate is off Mossley Road in two locations at either end of the block, with forecourt parking and servicing space.
- 3.3 The attached unit in the extension is used as a childrens' play centre and on the other (the end unit in the original tramshed) the unit is used for retail purposes. Across Mossley Road there is a new housing development at the Heys estate on the former Herries School site. The nearest houses being separated from the application premises by approximately 30m and situated beyond the estate forecourt and Mossley Road.

4. PLANNING HISTORY

- 4.1 Retrospective planning permission (ref. 16/00816/FUL) was refused in November 2016 for the same development as now proposed. The reasons given for refusing the application were:
- The fact that the development can be accepted in principle cannot be established in the absence of the need for a sequential approach to the choice of the site being addressed in the application. The proposal is thus

contrary to policy S8 of the Tameside Unitary Development Plan and Section 2 of the National Planning Policy Framework.

- The absence of a fixed frontage to the unit results in noise spillage causing an unacceptable level of disturbance for neighbouring residents. The proposal is thus contrary to policy S9 of the Tameside Unitary Development Plan.

5. RELEVANT PLANNING POLICIES

5.1 Tameside Unitary Development Plan (UDP) Allocation
Unallocated

5.2 Tameside UDP

Part 1 Policies

1.3: Creating a Cleaner and Greener Environment.

1.5: Following the Principles of Sustainable Development

1.7: Supporting the Role of Town Centres

1.12: Ensuring an Accessible, Safe and Healthy Environment.

Part 2 Policies

S8: Built Recreation, Leisure and Tourism Developments.

S9: Detailed Design of Retail and Leisure Developments.

MW11: Contaminated Land.

5.3 Other Policies

Employment Land Supplementary Planning Document.

5.4 National Planning Policy Framework (NPPF)

Achieving sustainable development

Section 2. Ensuring the vitality of town centres

5.5 Planning Practice Guidance (PPG)

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

6. PUBLICITY CARRIED OUT

6.1 As part of the planning application process notification letters were sent out on 25th July 2017 to 10 neighbouring properties, including all of the other units in the Trading Estate and the occupiers of a house in the Heys estate across Mossley Road.

7. RESPONSES FROM CONSULTEES

7.1 The Head of Environmental Services – Environmental Protection has raised no objections to the proposal subject to the imposition of a condition requiring the roller shutter door to be closed during the hours of operation to prevent noise spillage.

8. SUMMARY OF THIRD PARTY RESPONSES RECEIVED

- 8.1 Objections have been received from two households; one being from the occupier of the household that was notified as part of the planning application process, the other does not provide an address.
- 8.2 The reasons given for objecting are:-
- disturbance caused by vibration and, when the roller shutter doors are open, noise, including music being played, particularly early in the morning and late in the evening, and that such disturbance is proving detrimental to health and well-being
 - that the operation of the unit is unsafe, posing a hazard to the physical health of users
 - anti-social behaviour by users of the gymnasium
- 8.3 A message of support has been received from a user of the gymnasium resident in Dukinfield.

9. ANALYSIS

- 9.1 The principal issues in deciding this application are:-
- 1) The principle of the development
 - 2) The impact on existing residential amenities.
 - 3) Highways and traffic

10. THE PRINCIPLE OF THE DEVELOPMENT

- 10.1 Although not specifically allocated as such, the site must be considered as lying within an established employment area. UDP policy E3 states that: 'Built leisure uses will normally be appropriate within established employment areas'. Section 2 of the NPPF does however require that a sequential test be applied to planning applications for main town centre uses, including leisure uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. The test requires applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.
- 10.2 Details of a search for alternative town centre and edge of centre premises within a 5 mile radius were submitted with the application. Due to the relatively small-scale of the operation/use and its specific requirements for no more than 350sqm floorspace, no suitable alternative, sequentially preferable premises were found to be available.
- 10.3 The application premises are located on the route of a number of high-frequency bus routes, and is thus in a relatively highly accessible and well-connected location. Demonstrating the flexibility on issues of format and scale that is required by the NPPF it is considered that the sequential test is satisfied. Moreover, given the small-scale of the leisure use proposed it is accepted that the use in this location would not cause any undue harm to the competitiveness of the town centre. The proposal is therefore considered acceptable and in compliance with UDP policies 1.5, 1.7 and S8 and the core principles and Section 2 of the NPPF.

11. RESIDENTIAL AMENITY

- 11.1 The Head of Environmental Services – Environmental Protection has raised no objections to the proposal subject to any permission be conditional, among other things, to a suitable, acoustically-insulated fixed frontage being fitted or requiring that the roller shutter doors remain closed during operating hours. In response to complaints from one of the objectors to this application noise recordings were made at the complainant's house. These recordings registered audible music and also voices from instructors at the gymnasium. Whilst the noise levels registered do not constitute a statutory noise nuisance at that property if any residents in the houses directly opposite the gymnasium were to complain there is a definite possibility that they could suffer statutory nuisance from noise.
- 11.2 The applicant has supplied a Noise Management Plan that suggests a number of means by which noise disturbance can be ameliorated. The suggested measures include that the doors be closed outside the hours of 08.00am until 08.30pm on Mondays through to Saturdays and will remain closed on Sundays and that when the doors are open any music audible would not exceed acceptable levels at the nearest residential property. The Noise Management Plan does not however satisfy Environmental Protection requirements as no noise from the proposed premises should be audible or cause annoyance at the nearest noise sensitive property.
- 11.3 The conditions suggested by the Head of Environmental Services – Environmental Protection do not satisfy the tests given by the NPPF for conditions.
- 11.4 A fixed frontage is not included in the application, which is for the change of use only, and so a condition requiring such would affect the applicant's ability to retain the development in use and impact on the proper implementation of the planning permission and will fail the test of reasonableness.
- 11.5 The monitoring of a condition requiring that the roller shutter doors to remain closed during operating hours would place an onerous burden on the council and so not be reasonably enforceable and so fail a test of the appropriateness of conditions.

12. HIGHWAYS AND TRAFFIC

- 12.1 The application indicates that there are 26 car parking spaces available in the shared forecourt. Given the relatively good accessibility of the site the parking provision available is considered acceptable. The gymnasium would utilise existing servicing and access arrangements which are adequate to cater for the proposed use, the requirements of which are not so great as other uses in the Trading Estate or the authorised general industrial use.

13. CONCLUSION

- 13.1 Because of the potential for a significant impact on residential amenity through noise the development is not acceptable and it is considered it is not possible to make it acceptable through the use of conditions. The proposal thereby fails to comply with policies 1.12, S8 and S9 of the UDP and for this reason the recommendation is for refusal.

14. RECOMMENDATION

Refuse planning permission for the following reason:

Because of the possible undue impact on residential amenity through noise the development is not acceptable and it is not considered possible to make it acceptable through the use of conditions. The proposal thereby fails to comply with policies 1.12, S8 and S9 of the Tameside Unitary Development Plan.