

DELEGATED DECISION REPORT

HPK/2023/0055
Valid 04/04/2023

58A SURREY STREET
GLOSSOP

**RETROSPLECTIVE CHANGE OF
USE FROM F1(A) -
INDUSTRIAL TRAINING
FACILITY TO E(D)
GYMNASIUM**

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Amenity
- Parking Provision and Highway Safety

DESCRIPTION OF SITE

The application site relates to a parcel of land to the north of Surrey Street within the built-up area boundary of Glossop, which comprises a single building of an industrial nature and associated surrounding hard standing, facilitated by a vehicular access.

The site is bounded to the north by a railway line, and to the east by a neighbouring industrial unit which operates as a packaging plant business. The western boundary is also shared with a light industrial business, whilst to the south on the opposite side of the public highway stands a row of terraced two storey residential properties. The site forms part of a Primary Employment Zone under Local Plan Policy E3.

Until relatively recently, the building operated as an educational training facility for the use of industrial plant and machinery (F1(a) Use Class).

The Council's Income Team have confirmed that No.58A, described as offices and premises were occupied by a company called Juniper Training Ltd, the nature of this business described as 'technical and vocational secondary education' on Companies House, which were present from May 2008 up until October 2015, when it was then vacant. No.58B is described as a workshop and has been vacant since October 2011.

It has been identified that the two were merged with effect from 1st March 2016, known as 58A Surrey Street, occupied between April 2016 and December 2022 by JJ Training, the nature of this business described as 'other education and not elsewhere' on Companies House.

The two premises, 58A and 58B, were then once again split into two separate premises in January 2023, with Unit 1 being occupied by Fit Factory (Glossop) Ltd and Unit 2 being occupied by PT Glossop Ltd.

As per the Application Form, it is understood that in January 2023, the building was subject to a change of use to a Gymnasium (Class E(d)). This use occurred without the granting of planning permission.

PROPOSAL

Following an enforcement complaint and subsequent investigation, the application is seeking retrospective permission for a change of use from an Industrial Training Facility (Class F.1) to a Gymnasium (Class E). For the avoidance of doubt, the description of development has been amended and updated to reflect the fact that the application is seeking retrospective planning permission.

The plans show that the building is split into two main areas, the main gym being in one half of the building, with a separate area allocated to Personal Training (both across two floors) with Toilet/Changing Facilities and Admin supplementing the main gym area. The elevation plans show that no physical external alterations are proposed as part of the change of use.

At the request of Officers, revised existing and proposed floor plans have been submitted which accurately reflect the existing (lawful) use and functionality of the building and the proposed use.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- EQ6 Design and Place Making
- EQ10 Pollution and Unstable Land
- CF4 Open Space, Sports and Recreation Facilities
- CF6 Accessibility and Transport

National Planning Policy Framework 2021

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| Achieving Sustainable Development | Chapter 2 |
| Building a Strong Competitive Economy | Chapter 6 |
| Promoting a Healthy and Safe Communities | Chapter 8 |
| Promoting Sustainable Transport | Chapter 9 |

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0001/4565 Storage Building (Permit 21/08/1989)

HPK/2005/0690 Extension to existing industrial unit (Approved 27/10/2005)

CONSULTATIONS

Publicity

Site Notice expiry date: 25th May 2023
Neighbour consultation period ends: 8th May 2023
Press Advert: N/A

Public Comments

1 x neutral comment has been received in connection with this application which questions the level and period of time associated with neighbour consultation when the use has been operating for months.

3 x objections have been received which raises the following concerns:

- Sound proofing is inadequate for the proposed use
- Music and other associated noise impact on neighbouring amenity – worse in summer months when windows are open
- Gym operates very early in the morning and associated noise causes disturbance to residents

Town / Parish Comments

N/A

Environmental Health

Initial Comments

No objections subject to conditions:

1. Amplified music

Sound (including music) from any sound-amplifying equipment, loudspeaker, public address system etc. utilised within the premises, shall not be audible beyond the site boundary before the following times:

- 07:00 Monday to Friday
- 09:00 Saturday, Sundays and Bank Holidays

2. Windows and Doors

All windows and external doors shall be kept closed at all times that amplified music is played within the premises; except for the immediate access and egress of persons.

Updated Response

Updated Condition 1

Sound (including music) attributable to any sound-amplifying equipment, loudspeaker, public address system etc. utilised within the premises, shall not exceed the following levels:

- a) 23:00 to 07:00 - Noise Rating Curve NR25, when measured in (or calculated for) the bedroom of any residential premises.
- b) 07:00 to 23:00 - Rating Curve NR35, when measured in (or calculated for) the living room of any residential premises.

Noise Rating Curves shall be measured as a 15 minute linear Leq at the octave band centre frequencies 31.5 Hz to 8 kHz

Derbyshire County Council Highways

No objection.

OFFICER COMMENTS

Principle of Development

The application seeks retrospective change of use of an existing building which is industrial in nature that has a lawful use as an educational facility (F1 Use Class) which has been unlawfully converted to a commercial Gymnasium since January 2023.

The site lies within the built-up area boundary of Glossop, one of the larger Market Towns which supports the majority of services facilities and better access to public transport links, and within walking distance of the town centre in a sustainable location.

Local Plan Policy E4 refers to the change of use of employment land to a non-employment use and requires applicants to demonstrate through an appropriate marketing exercise that the use of the site for employment purposes is no longer commercially viable.

Upon visiting the site and reviewing the planning history, Officers were in need of further information with regards to the existing lawful use of the site (in the absence of any planning history associated with the stated previous use). In light of comments received from the Council's Income Team, that confirms that a training facility has been operating from the site intermittently since 2008, this is considered to be

sufficient to establish (in the absence of any planning history) that the lawful use of the site amounts to an F.1 Use Class. As such, LP Policy E4 is not engaged.

Given the sustainable location of the site, and the nature of the building, the principle of the proposed use is supported subject to an assessment of all relevant planning considerations.

Amenity

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.

Paragraph 130 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

Paragraph 185 of the NPPF states that policies and decisions should ensure that new development is appropriate for its location taking account the likely effect of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or wider area to impacts that could arise from the development, and in doing so should mitigate and reduce to a minimum potential adverse impacts resulting from noise, and subsequent impacts on the health and quality of life for neighbouring land uses and occupiers.

The site lies within an industrial area of Glossop but nevertheless is located within close proximity to two storey residential properties situated on the opposite southern side of Surrey Street. Objections have been received from nearby residents with regards to inadequate sound proofing in the building, early morning use and the timing and volume of amplified music associated with the proposed use, and the subsequent impacts on public and residential amenity.

In order to ascertain the appropriateness of the proposed use having regard to relevant local and national planning policies, Officers sought the comments of the Council's Environmental Health Officer, which confirms that there are no objections to the proposed use of the building as a Gymnasium subject to strict conditions that restrict relate to the level and time of amplified music, and the shutting of windows and doors during the hours of operation.

Officers queried the wording of the conditions with the Environmental Health Officer in light of the fact that it would not be quantifiable and thus not enforceable. In response, the Environmental Health Officer has confirmed that a compliance condition that specifies the maximum noise limits is appropriate.

The Application Form notes that the proposed use would commence at 06:00 Monday-Friday until 21:00 and from 09:00 to 15:00 on Saturdays and Sundays. Given the close proximity of neighbouring residential properties and objections that have been received from local residents with regard to noise, it is considered that 06:00 is not an appropriate time for the operations of the gym to commence. It appears from the objections received that music has been playing at this time of the morning, which is considered to be unreasonable. As such, a condition has been attached which, notwithstanding the submitted details, requires that the gym does not open until 07:00. Moreover the EHO has recommended a condition to control noise levels at antisocial times (2300-0700), therefore the opening of the gym after 7am, would then allow an increased noise levels. This is considered necessary and reasonable given the proximity to local residents, and that the site, having been operating without the benefit of planning permission has generated objection due to early morning disturbance.

Given the wide scope of uses that are contained within Class E, a condition is also recommended that specifically limits the use of the building to that which lies under Class E(d) and (g). This is because the site lies within a primary employment zone, whereby Policy E3 identifies that proposals which fall within Class B (industrial and commercial uses) will be granted in order to support a range of jobs and employment premises. Class E covers a large range of uses, some of which would not necessarily reflect the type of industrial/commercial uses appropriate within the PEZ.

It is considered that subject to compliance with such a condition the application is compliant with LP Policy EQ6 and EQ10, and relevant paragraphs under Chapter 12 of the NPPF.

Highway Safety

LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network. Off-street parking provision in accordance with guidelines set out under Appendix 1 of the Local Plan should be provided.

Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 goes on to state that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The site benefits from a large area of hard standing that can facilitate a 20 off-street parking spaces and turning area, with an existing vehicular access to the public highway. The site also lies within a highly sustainable location within the built-up area boundary of Glossop, within short walking distance of public transport links including the railway station and local bus stops.

As such, and in light of there being no objections from the Highways Authority, it is considered that the proposed use would be supplemented by a sufficient amount of

off-street parking provision and would not result in any adverse harm to highway safety, in accordance with LP Policy CF6 and paragraph 110 of the NPPF.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework. It states that planning applications that accord with relevant policies in the Local Plan will be approved without delay.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks retrospective planning permission for the change of use of a change of use from an Industrial Training Facility (Class F.1) to a Gymnasium (Class E).

An assessment of the application has established that there would be no loss of an employment use, despite the characteristics of the building being of a light industrial nature, in light of information from internal Council departments, and therefore the principle of the proposed use on this site is acceptable having regard to its location and local context, subject to an assessment of planning considerations.

Subject to a specific noise compliance condition the application has been found to accord with all relevant local development plan policies and other material considerations, and as such constitutes a sustainable form of development. In line with LP Policy S1a and paragraph 11 of the NPPF, the application is recommended for approval subject to appropriate conditions.

OFFICER RECOMMENDATION: Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 11th July 2023

X *J Colley*

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council