



Committee and date

South Planning Committee

8 May 2019

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 19/00185/COU	Parish: Burford
Proposal: Change of use from office and storage to private gym facility	
Site Address: Unit 7 The Aspire Centre Burford Tenbury Wells Shropshire	
Applicant: Mr P J Spalding & Miss D J Piggott	
Case Officer: Elizabeth Davies	email: planningdmsw@shropshire.gov.uk

Grid Ref: 359133 - 268844



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This is a full application for the change of use of Unit 7 at The Aspire Centre Burford from office/storage to a private gym. No external alterations to the building are proposed.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Aspire Centre is located adjacent to the A456 in an industrial area of Burford. Unit 7 is one of 8 similar workshop units all formed within one single building. The unit has a floor space of approximately 50 sqm. Planning permission for the erection of an engineering centre of excellence and 8 workshops was granted planning permission under reference 99/09892 in June 1999. The use class was not specified on the application or in conditions but workshops would normally be considered Class B1 or B2.
- 2.2 Access to these units is off the A456 which leads to a parking area to the front of the front of the building. The building itself is orientated at 90 degrees to the road, with the front entrances to the units facing the parking area rather than over looking the highway.
- 2.3 To the north and east of the site lie large modern industrial units currently occupied by Kerrys Food Ingredients. To the west is a open field which separates these units from a group of residential properties. To the south lies a further group of residential properties.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application requires consideration by Planning Committee because Shropshire Council are the landowners and the proposed development is not in line with the Councils statutory functions.

4.0 Community Representations

- 4.1 Consultee Comments - full details of the responses can be viewed online.
- 4.1.1 Burford Parish Council – No comments received at the time of writing this report
- 4.2 Public Comments
- 4.2.1 A notice at the site has advertised the application for 21 days and no representations have been received in response to this publicity.

5.0 THE MAIN ISSUES

Principle of development

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Policy CS8 'Facilities, Services and Infrastructure Provision' of the Shropshire Core Strategy aims to develop sustainable places in Shropshire and maintain and enhance existing services and facilities; whilst Policy CS13 'Economic Development, Enterprise and Employment' supports the development and diversification of the Shropshire economy, supporting enterprise and seeking to deliver sustainable economic growth.
- 6.1.2 Core Strategy Policy CS6 'Sustainable Design and Development Principles', requires that development should protect, restore, conserve and enhance the built environment and be appropriate in scale, density, pattern and design taking into consideration the local context and character.
- 6.1.3 In addition SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.
- 6.1.4 CS16 deals with Tourism, Culture and Leisure. In order for the Council to deliver high quality sustainable tourism and cultural and leisure development they must enhance the vital role that these sectors play with regard to the local economy and local communities
- 6.1.5 The eight units at the Aspire Centre were originally constructed to provide workshops for employment purposes and over the years these workshops have been converted into various non-industrial uses which currently include a Vets, a Care Agency, a Taxi firm, a Flooring business, and a Heating/Electrical Contractor.
- 6.1.6 There are no alterations proposed to the building, to enable the change of use proposed. The main issue in terms of the use is the loss of a workshop space for business or industrial purposes. In general, planning policies safeguard employment land and premises, although this area is not allocated within the local plan as protected employment land. To a small degree the proposed use continues to generate some employment and the proposed gym would provide some benefit in the provision of a facility for workers in the surrounding industrial units. Given the small size of the unit, it is judged that the loss of employment here would be minor in nature and have negligible impact on the supply of employment premises within the locality.
- 6.1.7 The unit is located on the edge of Burford with access onto the A456, along which pedestrian pathways lead into the main residential area of Burford and further into Tenbury Wells. There are 2 parking spaces allocated for the unit within the car park at the front of the site. It is noted however that the car park does not have bays formally marked out on the ground.

- 6.1.8 In terms of the number of customers utilising the facility at any one time, the applicant has confirmed that the main intention of the gym is to provide individual personal training sessions, which would consist of no more than 2 people (the applicant and client). The applicant considers that due to the size of the unit there would be no more than 3 people per session allowed within the unit, to enable adequate supervision.
- 6.1.9 It is considered that due to the small size of the building which restricts the number of customers whom could use the gym at any one time, the proposal is unlikely to generate significant increase to traffic movements. It is considered that the existing access and parking facilities are satisfactory for this level of use, and would not result in adverse highway safety issues as there are two allocated parking spaces specifically allocated the unit and are located opposite the unit. There are additional spaces which are allocated to the other businesses but could be potentially be used with their permission during sessions that occur outside of their business hours. (e.g. 6am-8am or 6pm - 8pm)
- 6.1.10 There is also space in front of the building off the road for an additional car. This is not an allocated car parking space, and therefore has not been included as part of application but it could provide extra space if needed and would not infringe on the other units.
- 6.1.11 The applicant has indicated that the proposed opening hours would be 06.00 am to 08.00pm Monday to Friday and 08.00am to 12:00pm on a Saturday only and would consist of 1-1 training sessions in the morning from 6am-10am and the evening from 4pm to 8pm. The hours in between would be for administration tasks, meetings and consultations with potential clients. The Council owns and lets the unit so ultimately there is control over its occupation, In terms of planning polices there is no sound reason for refusing planning permission. A condition is recommended to prevent the change of use of the premises to any other use in Class D2 which could be inappropriate in an industrial area.

7.0 CONCLUSION

- 7.1 In conclusion, it is considered that the proposal accords with the above polices. There is no additional footprint created or alterations to the buildings structure, and therefore it is recommended that permission for the change of use of the building from office/storage to a private gym (D2) is granted.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication

of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:

CS06 Sustainable Design and Development Principles

CS08 Facilities, Services and Infrastructure

CS13 Economic Development, Enterprise and Employment

CS16 Tourism, Culture and Leisure

Adopted Shropshire Site Allocations and Management of Development (SAMDev) Plan

MD02 Sustainable Design

RELEVANT PLANNING HISTORY:

SS/1/6360/P/ Erection of a screen wall 2.5m high around effluent plant extension of existing boiler house wall to level with wall either side. PERCON 11th January 1996

SS/1/3485/P/ Erection of an infill factory unit. PERCON 27th May 1993

SS/1989/578/P/ Temporary installation of two toilet blocks and adjoining lobby. PERCON 31st August 1989

SS/1977/369/P/ Erection of an extension to existing factory. PERCON 23rd September 1977

SS/1976/68/P/ Erection of a steel portal frame building (30' x 24') to form covered area for loading and unloading goods. PERCON 12th March 1976

SS/1974/875/P/ Erection of electrical sub-station. PERCON 23rd August 1974

SS/1/04/15692/F Change of use of warehouse for storage to hire of private hire vehicles and installation of LPG bulk tank. PERCON 3rd June 2004

SS/1/00/11118/AD Erection of a freestanding sign. PERCON 29th June 2000

SS/1/99/009892/F Demolition of existing buildings, erection of engineering centre of excellence and 8 workshops, and associated site works. PERCON 7th June 1999

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PLBUW3TD08V00>

List of Background Papers
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Richard Huffer
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The premises shall be used for a gym only and for no other purpose including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to restrict the use of the premises in the interest of the amenities of the area.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The change of use hereby permitted opening hours shall be as follows:

Monday to Friday	06:00 - 20:00
Saturday	08:00 - 12:00
Sunday	Closed
Bank Holidays	Closed

Reason: To protect the amenities of occupiers of nearby properties from potential noise and disturbance.

Informatives

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:
CS06 Sustainable Design and Development Principles
CS08 Facilities, Services and Infrastructure

CS13 Economic Development, Enterprise and Employment
CS16 Tourism, Culture and Leisure

Adopted Shropshire Site Allocations and Management of Development (SAMDev) Plan
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