

Planning Committee: 07 February 2012
Application No: ENF 139/29/11

Item Number: 15

Case Officer: Dave Fry
01926 456522 dave.fry@warwickdc.gov.uk

1 Collins Road, Heathcote Industrial Estate, Warwick, CV34 6TF

Change of use to fitness centre. PP W/09/1310 refused - Dismissed at appeal.
Property Owner(s) Shires Accident Repair Centre (Sedgley) Ltd

This enforcement case is being presented to the Committee to request that enforcement action be authorised.

BACKGROUND

In May, 2011 it was brought to the attention of the Enforcement Section that the above property, an industrial unit operating within Use Classes B1 and B2 (light and general industrial) was being used as a fitness centre, Use Class D2 (assembly and leisure), under the name Urban Sports Fitness.

Contact was made with the manager Mr Noel Smith and he was advised that the property had been refused planning permission for this change on 4th January, 2010. An appeal was submitted against this decision, which was dismissed on 14th October, 2010.

Despite extensive discussions with the agent for the owners, the matter has still not been resolved and the fitness centre is still operating as such.

RELEVANT POLICIES

SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)

DP8 - Parking (Warwick District Local Plan 1996 - 2011)
Vehicle Parking Standards SPD.

PLANNING HISTORY

There are a number of planning applications relating to the property, the most recent and relevant being:

W/09/1310 Change of use from light industrial (Use Class B1 & B2) to indoor

"Warwick District Local Plan Policy SC2 states that redevelopment or change of use of existing and committed employment land will not be permitted unless:

- a) the location and/or nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses, and an applicant can demonstrate that it would not be desirable to seek to replace this with any other employment use, or*
- b) the applicant can demonstrate that there are valid reasons why the use of a*

site for the existing or another employment use is not economically viable, or
c) the proposal is for affordable housing provided in accordance with the definition contained in policy SC11, or
d) the application is for a non-housing use, accords with all other relevant policies of this Plan and the applicant can demonstrate that the proposal would not have the effect of limiting the level of provision and quality of land available for employment in accordance with this Plan and the Regional Spatial Strategy.

In the opinion of the District Planning Authority the application does not demonstrate that the use of the building for alternative employment uses have been fully explored or provide evidence why an employment use in this location has an unacceptable adverse impact or that there are valid reasons why the use of the building for employment purposes is not economically viable. It is not therefore considered that the proposal complies with any of the aforementioned exceptions contained within this policy such that to allow this change of use would seriously undermine the objectives of this policy and would set a difficult precedent for resisting further loss of employment land and buildings.

Policy DP8 of the Warwick District Local Plan 1996-2011 states (inter alia) that development will only be permitted that makes provision for car parking that does not result in on-street parking detrimental to highway safety. No proposals are made in the application for the provision of car parking facilities within the curtilage of the premises and vehicles would, therefore, be likely to park on the public highway causing danger and inconvenience to other road users.

The development is thereby considered to be contrary to the aforementioned policy."

During the consideration of an appeal against this decision, the Inspector considered that :

".....Although the Council is concerned that the applicant has not fully explored and refers to alternative criteria within Policy SC2 which it considers have not been met, given the number of vacant units it would be difficult to conclude that the proposal would have the effect of limiting the level of provision and quality of land available for employment.

Furthermore, whilst the change of use of the unit to an indoor sports hall And related uses would not constitute an employment use, Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4) makes it clear that economic development includes public and community uses and development which provides employment opportunities and that where there is no reasonable prospect of a site being used for the allocated economic use, wider economic uses should be considered.

In this case, given the number of vacant units on the estate, I consider that use of the unit as an indoor sports hall and related uses, which would provide 12 equivalent full time jobs and community benefits, would not in principle result in an unacceptable loss of employment land and would accord with advice in PPS4.

LP Policy DP6 provides that development proposals will be expected to demonstrate a number of matters including that they would not cause harm to highway safety and are designed to give priority access to pedestrians, cyclists and public transport services. PPS4 stresses the importance of sustainable patterns of development, including reducing the need to travel, especially by

car.

I accept that the facility is likely to be used by people already working within the industrial area and also that it would be possible to access the site from local housing without using a private car. However, although the industrial estate is served by bus, the bus stop is located over 500m from the appeal site and the service does not run after 1900 hours. The appellant acknowledges that the development is likely to attract a considerable amount of custom in an evening, and given the limited opportunities for using public transport and the distance from local housing, it seems likely that many customers from outside the industrial estate would access the site by private car.

The appellant states that the entire area along the road frontage of the building is to be used for parking and that the area would be surfaced to provide 23 car parking spaces including 2 disabled parking spaces. However, although the application form refers to parking, no on-site provision is shown on the appeal plans and the location of parking spaces and the impact those spaces may have has not been considered as part of this application. Although there is some space around the building within the application site, some of this is landscaped, and in the absence of details showing the siting of the spaces and the access to them I am not satisfied that acceptable parking provision could be made. In these circumstances it would therefore not be appropriate to deal with the matter by means of a condition as suggested by the appellant.

In the absence of parking provision, and given my conclusion with regard to the use of the private car, I consider that the proposal would lead to a significant amount of on-street parking. No information has been provided with regard to the hours of use of nearby premises but it is likely that there would be a considerable overlap in opening hours. At the time of my site visit in the early afternoon I noted that a number of vehicles were parked on the highway in the vicinity of the site and in my opinion the traffic generated by the proposed development would result in a significant increase in on-street car parking which given the location of the site close to a junction within an industrial estate would be detrimental to highway safety, contrary both to LP Policy DP6 and LP Policy DP8.

I conclude therefore that the proposal would not result in an unacceptable loss of employment land and would not be contrary to the objectives of LP Policy SC2 or PPS4. Given that the unit exists and that the proposal would bring it back into economic use I consider that the likely reliance upon the private car is not determinative in this case. However, the lack of parking provision would lead to on street parking which would be prejudicial to highway safety and for this reason I conclude that the appeal should be dismissed."

KEY ISSUES

The Site and its Location

The site relates to an industrial unit located in the heart of an established employment estate, consisting of a mix of uses including warehousing and general industrial units with associated offices. There are numerous vacant units within the Heathcote Industrial Estate and the property had been vacant for in excess of 2 years.

The use of the building has been changed to a fully equipped fitness centre, comprising a 2 storey internal layout with a reception & refreshment area, gym and changing facilities for male and female on the ground floor, cardio room, sun beds and office on the first floor. The opening hours are 06.15 - 22.00 Monday to Friday, 07.00 - 21.00 Saturday & 07.00 - 19.00 Sunday. There is a membership scheme in place but members of the public are admitted at a day rate, currently £5.00.

Assessment

The District Council initially refused to grant planning permission for the change of use concerned because of the loss of employment land; the absence of on-site car parking and the impact of the resulting on street car parking on highway safety.

However at appeal, the Inspector concluded that there would not be an unacceptable loss of employment land but did refuse to grant planning permission because of the absence of off street car parking and the impact of on street car parking on highway safety.

The Inspectors conclusions in that respect carry significant weight in the consideration of the justification for enforcement action.

The unauthorised use of the building is now fully functional. No car parking provision has been made within the site for staff and customers and there is evidence of haphazard on and off street parking in the immediate vicinity of the site to the potential detriment of highway safety and contrary to Policy DP8 of the Local Plan.

Justification for enforcement action

Extensive contact has been made with the agent for the owner and the situation fully explained but the matter has not been resolved. The service of an Enforcement Notice is now the only appropriate option available to rectify this ongoing breach.

RECOMMENDATION

That officers be authorised to take appropriate enforcement action directed at the cessation of the unauthorised use of the premises with a period of compliance of 6 months.
