

**Planning Committee:** 21 June 2016

**Item Number:** **8**

**Application No:** [W 16 / 0609](#)

**Town/Parish Council:** Kenilworth  
**Case Officer:** Helena Obremski  
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**Registration Date:** 18/05/16  
**Expiry Date:** 13/07/16

**12-17 Talisman Square, Kenilworth, CV8 1JB**

Change of use for the 1st floor units above 12-17 Talisman Square in Kenilworth from B1 (offices) to D2 (assembly and leisure) to open an Anytime Fitness gym operating on a 24 hours a day, 7 days a week basis, including raising of roof height by 0.9 metres. FOR Mukhtair Bains Limited

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This application is being presented to Committee due to the number of objections received.

**RECOMMENDATION**

Planning Committee are recommended to grant the application.

**DETAILS OF THE DEVELOPMENT**

Proposed change of use from B1 (offices) to D1 (assembly and leisure) for use as an Anytime Fitness gym operating on a 24 hours a day, 7 days a week basis, including raising of roof height by 0.9 metres.

**THE SITE AND ITS LOCATION**

The application site is located within Talisman Square, which is found within Kenilworth Town Centre, positioned to the north east of Warwick Road, the main high street leading into the town. The change of use is for the first floor units above 12-17 Talisman Square which have been vacant for 12 years and last known use was as B1 offices.

**PLANNING HISTORY**

There is no relevant planning history relating to this site.

**RELEVANT POLICIES**

- National Planning Policy Framework

The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)

### The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

### Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

## **SUMMARY OF REPRESENTATIONS**

**Environmental Health:** No objection, comments that the application should be conditioned to be used as a gymnasium only to prevent potential loss of amenity or nuisance which could be caused by other D1 uses; the proposed air conditioning units should be conditioned such that they do not cause any noise disturbance to neighbouring residential units; the noise impact assessment provided is acceptable and identifies that mitigation is required to protect the existing commercial units from noise and vibration - condition required for mitigation scheme to be submitted to and approved by the Local Authority; it is acknowledged that the internal lighting from the proposed use could cause harm to nearby residential properties and requests further information to demonstrate that lighting will not cause nuisance to nearby properties which can be secured by condition.

**WCC Ecology:** No objection, subject to inclusion of bat and nesting bird notes.

**12 Public Objections:** Main concern regarding the increased parking requirements which cannot be accommodated in the town centre; also, support should be shown for smaller local businesses rather large companies; potential unwanted noise disturbance created from proposed use; potential security concerns regarding entrance to units and potential to increase anti-social behaviour in surrounding area.

**1 Public Letter of Support:** Proposal would bring a purpose to office space which has been vacant for number of years. Increased parking can be accommodated for in various car parks within Kenilworth.

## **ASSESSMENT**

The main issues relevant to the consideration of this application are as follows:

- Principle of the change of use
- Design
- Impact on Neighbouring Amenity
- Energy Efficiency

- Parking
- Ecology

### Principle of the change of use

Adopted Local Plan policy TCP1 states that proposals for leisure development will be permitted where they are of an appropriate scale in relation to the role and function of the town centre and its catchment, and reflect the character and form of the town centre. Local Plan policy TCP12 states that development that denies access to the upper floors of buildings within town centres will not be permitted.

The proposed change of use is considered to be an appropriate scale for this town centre location and would support the existing services already provided in the wider area. There has been concern raised by members of the public that the Local Authority should be supportive of smaller local businesses, rather than larger companies such as the applicant. However, it is not possible for the Council to have such tight controls on the scale of businesses within the Town Centre and would be unreasonable to put such restrictions in place. The proposal would facilitate use of the upper floors of Talisman Square which have been vacant for a number of years, therefore in principle the development is acceptable.

### Design

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the way it functions. Furthermore, adopted Local Plan policy DP1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing.

The proposed change of use would also include raising the main ridge height of the building by 0.9m and will be constructed from matching materials to those of the existing property. There would be no overall change in the design or appearance of the building other than this increase in roof height which is not considered to have a detrimental impact on the property or wider street scene. The roof height increase would facilitate the use of the units as a gymnasium, to improve the function of the building, whilst respecting the surrounding buildings. The proposal is therefore considered to comply with Local Plan policy DP1.

### Impact on Neighbouring Residential Amenity

Adopted Local Plan policy DP2 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion.

There has been objections from some members of the public that the proposed change of use could create unwanted noise disturbance and there are concerns

regarding security and the potential to increase anti-social behaviour in surrounding area as a result of the proposed change of use.

A noise impact assessment has been provided by the applicants which details that noise disturbance could be an issue for the units on the ground floor as a result of the proposed change of use. Environmental Health have been consulted as part of the application and advise that a mitigation report should be provided in order to avoid any increased noise disruption to these units which can be conditioned. Environmental Health also indicate that the proposed air conditioning units could cause noise disturbance to nearby residential units, however, the application can be conditioned for further information from the applicants that the units will not exceed maximum background levels of 3dB(A) (measured as LAeq(5 minutes)).

There is no evidence to suggest that the proposed gymnasium would increase anti-social behaviour or the need for increased security. The applicant has however, provided a response to the comments from members of the public and state that more security measures will be introduced, via an increased number of CCTV cameras inside and outside of the property. It is not considered that the proposed change of use would increase anti-social behaviour in this area and would however increase natural surveillance.

Environmental Health have also identified that the internal lighting produced by the gymnasium could cause disturbance to the nearby residential properties. However, as long as details are provided to demonstrate that lighting will not cause nuisance to nearby properties, Environmental Health have no objection to the proposed change of use and confirm that this information can be conditioned.

Finally, in order to protect the amenity of nearby units against disturbance which could be caused by other uses within class D1, Environmental Health consider it appropriate to condition the application so that the units can only be used as a gymnasium which will be attached to the application.

The proposed change of use is therefore not considered to create undue harm to the amenity of any nearby units and is considered to comply with Local Plan policy DP2.

## Energy Efficiency/CO 2

It is considered the proposed use would generate a higher demand in energy use than a Class B1 use and therefore a renewables or fabric first approach towards construction methods scheme would need to be provided. Whilst no such scheme has been submitted, it is considered that this could be controlled by way of condition, thereby meeting Policy DP13 in the Local Plan and the Council's adopted Supplementary Planning Document on Sustainable Buildings.

## Parking

The majority of the concerns regarding the proposed change of use focus on the increase in car parking required for the proposed use and inability of the town centre to accommodate for this need. Contract Services have been consulted regarding the application and confirm that as three car parks serve the proposed gymnasium, it is likely that they can accommodate this use. Furthermore, as the gymnasium will be located within the Town Centre and is therefore a sustainable location, public transport can also be used to access the gymnasium. The peak times for use of the facility are between 5pm and 6pm which are not considered by Contract Services to be peak times for local car park use. For these reasons, the proposed change of use is considered to be acceptable and would not create additional parking requirements which could not be accommodated by local car parks. It is considered therefore that the proposal would be satisfactory in meeting the objectives of Local Plan policy DP8.

## Ecology

WCC Ecology have commented on the application and consider that cautionary bat and nesting bird notes would be sufficient and will be attached to the application. The proposal in its present form is acceptable and complies with Local Plan policy DP3.

## **Summary/Conclusion**

The proposed change of use is considered to comply with Local Plan Town Centre policies in principle and would not cause undue disturbance to neighbouring residential or commercial units which would be unacceptable and reason for refusal of the application. The town centre offers sufficient car parking to meet any increased parking requirements and the application should therefore be approved.

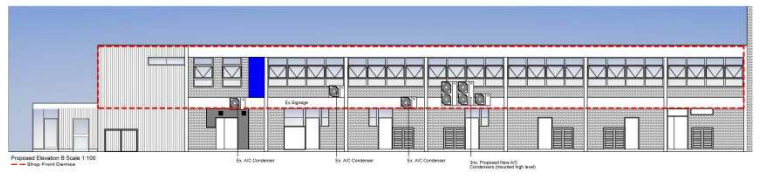
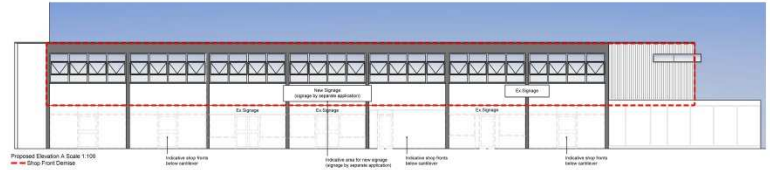
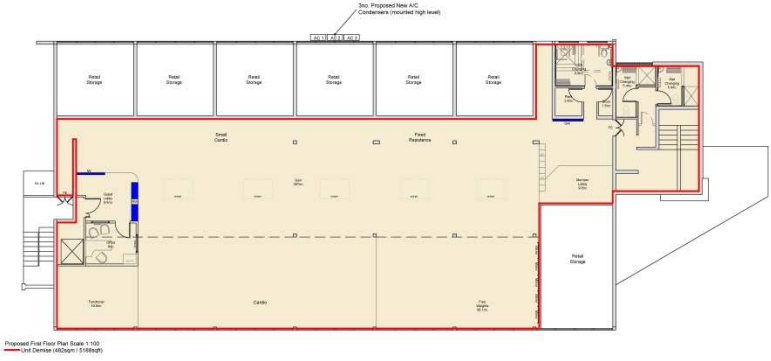
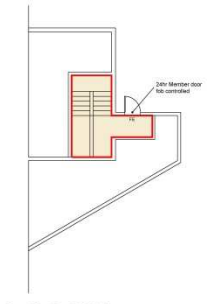
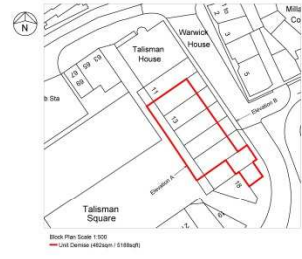
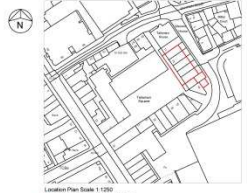
## **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing 2737/Plan/02, and specification contained therein, submitted on 6th April 2016. **REASON :** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 3 The development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO<sup>2</sup> emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **REASON:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 4 The development hereby permitted shall not commence until a mitigation scheme has been provided to the local planning authority for approval that details the structural and managerial measures to be implemented that minimise noise and vibration transmission to nearby sensitive commercial and residential receptors. The approved scheme shall be implemented in full and shall not be altered in any way without the express written approval from the local planning authority. Once completed, the applicant shall provide an updated noise and vibration assessment to the local planning authority for approval which demonstrates that the mitigation measures have been installed in accordance with the approved details. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
- 5 The development and change of use hereby permitted shall not commence until details of the internal lighting have been submitted to and approved by the Local Planning Authority which ensures that the internal lighting shall not cause a nuisance or a disturbance to the occupiers of nearby properties. The applicant shall have regard to the recommended lighting levels contained within the '*Guidance notes for the reduction of obtrusive light*' produced by the Institution of Lighting Professionals (2011). The internal lighting shall be installed and thereafter maintained in accordance with the approved details. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
- 6 If an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB (A) measured as LAeq (5 minutes). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone ( whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is

irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

- 7 Noise arising from any plant or equipment, when measured one metre from the façade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB(A) (measured as LAeq(5 minutes)). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. The applicant shall also provide an updated noise impact assessment to demonstrate that the proposed plant and equipment will comply with this criteria. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
  - 8 The premises shall only be used as a gymnasium and shall not be used for any other purpose, including any other purpose within 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:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
  - 9 All external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **REASON :** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.
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**A/C Conditioning Schedule**

|           |                    |           |
|-----------|--------------------|-----------|
| System 1: | AC1 - Outdoor unit | FDC140VNK |
| System 2: | AC2 - Outdoor unit | FDC140VNK |
| System 3: | AC3 - Outdoor unit | FDC17VNP  |

Planning

**soakgreen**  
 Anytime Fitness  
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 01462 444444  
 www.anytimefitness.com

**Proposed Layout**  
 100 High Street, Ipswich, Suffolk, IP1 1AA  
 22.00.00  
 10/10/2016  
 100 High Street, Ipswich, Suffolk, IP1 1AA  
 10/10/2016

Scale 1:1000 (100ft)