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CHARTERED TOWN PLANNERS  
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## **PLANNING REPORT**

**Unit F, Broughton Business Park,  
Caxton Road, Preston, PR2 9ZA**

**Description:**

Use of premises as gym (Class D2).

**Applicant:**

Mr James Calderbank

**Date :**

February 2019



# **Planning Report**

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# Chapter 1

## Introduction

- 1.1. This Planning Report, prepared by De Pol Associates, supports a planning application submitted by Mr James Calderbank for the change of use of Unit F, Broughton Business Park, Caxton Road, Preston, PR2 9ZA.
- 1.2. This Report has been prepared to respond to two key areas associated with the application at the request of Preston City Council. The first of these relates to the location of a main town centre use in an out-of-centre location and the locating of a non-traditional employment use in a defined employment area. Both of these specific matters are addressed by this Statement.
- 1.3. This document responds to the requirements of the Local Plan Policy and NPPF in relation to town centre uses and economic development. It considers the pertinent matters relevant to this application.



## Chapter 2

# Application Proposal

- 2.1. The application proposes the use of the premises as an access controlled gym for the provision of personal training and bespoke fitness classes. The proposal is aimed predominantly at people over 30 years old and is primarily targeted at providing an opportunity for people who may not feel comfortable in a traditional gym environment, for example people who are obese or members of the transgender community. The concept is provided around the provision of tailored training together with detailed nutrition plans to help people achieve their goals. The proposed gym is not open access and would not provide for people to attend without a set appointment.
- 2.2. The proposed gym would be open between 6:00 and 8:00am and in the evenings between 6:00 and 9:00 pm. There will be no more than 10 people booked in at any one time with the gym operating with three full time and four part-time staff initially. Generally there would be two personal trainers at the premises providing training to attendees.
- 2.3. The application proposal is not for a traditional intensive use gym or fitness centre. The proposal is for a bespoke form of development which is tailored to the requirements of customers fitting their needs.



## Chapter 3

# Planning Policy Context

- 3.1. There are planning policy documents at local and national level which are of relevance to the proposed retail use.

### National Planning Policy Framework

- 3.2. The National Planning Policy Framework (NPPF) represents national planning policy and is of relevance to this application. NPPF states that the government is committed to securing economic growth in order to create jobs and prosperity and ensuring that the planning system does everything it can to support sustainable economic growth. The latest version of the NPPF was published in July 2018.
- 3.3. Paragraph 85 of NPPF identifies that local authorities should support the role town centres play at the heart of communities.
- 3.4. NPPF outlines national policy tests which should be met for a main town centre development to be considered acceptable. It states that development outside of town centres, not in accordance with an up-to-date Local Plan, should be supported by an impact assessment if the development is over a proportionally set local threshold or where there is no local threshold a default threshold of 2,500sqm should apply.
- 3.5. NPPF also requires proposals for town centre uses outside of town centres and not in accordance with the Local Plan to be subject to a sequential assessment, with town centre sites being considered before edge of centre and out of centre sites. In relation to edge of centre and out of centre sites preference should be given to those which are accessible and well connected to a centre.
- 3.6. In respect of alternative uses of existing land and buildings paragraph 118 clearly states that local authorities should support the development of under-utilised land and buildings.

### Planning Policy Guidance

- 3.7. On 6 March 2014 the government launched its National Planning Practice Guidance (NPPG) to assist planners in the interpretation and practice of national planning policies as outlined in the NPPF.
- 3.8. Guidance category '*Ensuring the vitality of town centres*' reiterates the 'town centre first' approach outlined in the NPPF. Paragraph: 010 Reference ID: 2b-010-20140306 states that the suitability of more central sites to accommodate the proposal should be considered in the sequential test.



- 3.9. Paragraph 010 advises that any associated reasoning should be set out clearly and if it is demonstrated that there are no suitable sequentially preferable locations, the sequential test is passed.

Central Lancashire Core Strategy (2012)

- 3.10. The Central Lancashire Core Strategy was adopted in July 2012 and forms part of the Development Plan for Preston. Policy 11 sets out a retail hierarchy for the Central Lancashire authorities and identifies Preston as the main centre for growth and investment.
- 3.11. Policy 11 identifies Preston as the City Centre and at the top of the retail hierarchy. It identifies Preston as the primary focus retail office and leisure investment in Central Lancashire.
- 3.12. Policy 10 relates to employment premises and sites. This policy identifies that there should be a presumption against non B class uses on the areas best employment sites. The policy identifies a number of criteria against which developments for non-traditional employment uses will be assessed.

Preston Site Allocation and Development Management DPD (2015)

- 3.13. The Preston Site Allocation and Development Management DPD was adopted in 2015 and allocates sites to meet the development needs of Preston to 2026 whilst also providing a set of policies for development control purposes.
- 3.14. Policy EP2 relates to the protection of employment land and identifies that 'other urban' employment premises and sites will be subject to a balanced assessment. In respect of best and good urban sites the policy relies on the existing Core Strategy approach.

**Relevant Case Law & Secretary of State Decisions**

- 3.15. The following Case Law and Secretary of State decisions provide clear guidance in the interpretation of national policy and the application of the Sequential Test.

Tesco Stores Ltd v Dundee City Council (2012)

- 3.16. The Supreme Court in *Tesco Stores Ltd v Dundee City Council* considered the meaning of 'suitable' when assessing whether alternative sites are suitable for the proposal in the undertaking of the sequential test. In their judgement of 21 March 2012, the Supreme Court conclude that "*it is the proposal for which the developer seeks permission that has to be considered when the question is asked whether no suitable site is available within or on the edge of the town centre.*" Lord Reed states in paragraph 38 of the judgment;



*“[The sequential assessment] criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.”*

3.17. Therefore in terms of how the sequential test should be applied, the judgment is clear in that the exercise is to establish whether an alternative site is suitable for the development as proposed, not whether the proposed scheme can be altered so that it can be accommodated within an alternative site.

Secretary of State Call-in Decision at Rushden Lakes (2014)

3.18. The above call-in decision by the Secretary of State followed an application by LXB RP (Rushden) Limited to East Northamptonshire Council for the development of a major out of town retail-led mixed use scheme.

3.19. In the decision of 11 June 2014, the Secretary of State endorses the following conclusions drawn by the Inspector in his report;

- The Dundee case is legally binding case law on the meaning of the sequential approach;
- In applying the parameters of the sequential test, the proposal as a whole needs to be considered, and should not be disaggregated;
- In terms of suitability, the test is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit an alternative site;

Zurich Assurance Ltd v North Lincolnshire Council and Simons Developments (2012)

3.20. The High Court in *Zurich v North Lincs and Simon Developments* confirm in their judgment of 20 December 2012 that in circumstances where a local planning authority concludes that the sequential test has not been satisfactorily met, a balancing exercise of the positive and negative impacts of the proposal is still required to be undertaken. Paragraph 46 of the judgment states;

*“The applicant having failed to persuade the officer that the sequential test is passed, the officer performs the exercise which he must perform to see whether the presumption of refusal...is outweighed by other material considerations.”*

3.21. Accordingly, in the event that the decision maker is not convinced that the sequential test has been passed, planning permission should not automatically be refused.

3.22. This High Court judgment also confirmed that the Dundee case applies in England.



## Chapter 4

# Requirement for a Sequential Test and Parameters

### Requirement for a Sequential Test

- 4.1. This Statement has been prepared in direct response to a request from Planning Officers at Preston City Council. However, it is contested as to whether a sequential test is required for the development proposed. Paragraph 86 of NPPF identifies that a sequential test should be applied for “*main town centre uses which are neither in an existing centre or in accordance with an up-to-date plan*”. The glossary of NPPF defines Main Town Centre Uses as retail development; leisure, entertainment and more intensive sports and recreational uses. The glossary goes on to include within the more intensive uses “health and fitness centres”.
- 4.2. It is considered that the proposed use of the premises does not fall within the category of a “more intensive use” and as such is not classed as a Main Town Centre Use as defined by NPPF. The application proposes the use of the unit for limited hours at the start and end of the day and is limited to no more than 10 people attending at any one time. Attendance is by appointment only and access is strictly controlled. The application proposal is not for a health and fitness centre as traditionally defined. On this basis it is contended by the applicant that the proposed use is not a main town centre use and should not be subject to the requirements of the Sequential Test.

### Sequential Test Parameters

- 4.3. Notwithstanding the above, the applicant has prepared a sequential test to satisfy this policy requirement in the event the City Council takes an alternative view on matters.
- 4.4. As previously highlighted, policy at national and local level seeks to direct town centre use proposals into town centres, promoting a ‘town centre first’ approach to development. In policy terms the site would be out of centre and need to be assessed in this context.
- 4.5. In accordance with national policy and guidance, the Sequential Assessment will need to demonstrate that there are no more centrally located sites which could accommodate the proposal. A sequential approach to site selection has been adopted by the applicant as demonstrated below.
- 4.6. The applicant has a requirement for a site or premises within the borough which can accommodate a gym type use of approximately 400sqm, These requirements have been set as the details and parameters for the sequential assessment.



- 4.7. The proposals meet the requirements of the applicant and have therefore been used for the basis of this Sequential Test. The parameters in terms of floorspace demonstrate the flexibility of the applicant in accordance with paragraph 87 of NPPF.
- 4.8. The parameters for the sequential assessment are as follows;
- Internal floorspace between 360sqm and 440sqm;
  - Provision of separate access;
  - Site or premises must be available now.
- 4.9. This approach is consistent with the legal ruling on sequential testing by the Supreme Court in *Tesco Stores v Dundee City Council* on 21 March 2012 which confirms that when considering whether suitable sites are available, the sequential test exercise is to consider the proposal for which the applicant seeks permission. As identified the parameters have not disaggregated the residential and retail elements of the scheme as part of the sequential test. Again. This is consistent with the Secretary of State call-in decision *LXP RP (Rushden) Limited v East Northamptonshire Council* on 11 June 2014 which confirms that the proposals as a whole need to be considered and should not be disaggregated.
- 4.10. Paragraph 008 Reference ID: 2b-008-20140306 of the national Planning Practice Guidance states: *“The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre location are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre.”*
- 4.11. In sequential terms, an edge of centre location is therefore the next sequentially preferable location for main town centre uses outside of Preston Centre itself. As agreed in discussions with Officers the type of use proposed should consider Preston City Centre only as the appropriate location for development.
- 4.12. The Sequential Assessment considers:
- Sites which are sequentially preferable to the application site in a town centre location;
  - Compliance with development plan policies;
  - Site specific constraints;
  - Potential for alternative developments;
  - Availability.
- 4.13. In order to establish sites in the Preston City Centre boundary, and within 300metres of the boundary, an online search of agents has been undertaken. Where possible, the particulars or details of identified sites were then obtained via the respective commercial agents.



4.14. The parameters of the sequential test, as outlined above, are reasonable and consistent with policy requirements outlined in the Chorley Local Plan, NPPF and NPPG and relevant case law.



## Chapter 5

# Sequential Test

5.1. The sequential test covers the defined centre of Preston, and its edge as defined by the development plan for Preston. As outlined in Chapter 2, sites have been identified through an online search of available properties including local commercial agents' websites and sites identified in the Local Plan.

### Online Review

5.2. An online review of all available premises within Preston was undertaken on 15 February 2019 using various online search portals for commercial properties and commercial agents. There are a number of available premises but those clearly unsuitable due to size have not been reported in this assessment. The relevant premises identified are listed below with particulars included in the appendix to this Assessment.

Property	Ground Floor Buckingham House
Agent	Whittle Jones
Floor Area	Up to 503sqm
Tenure	Leasehold

5.3. The above property has recently been subject to recent renovation to provide modern office space with carpeted floors and suspended ceilings. These renovations would not be suitable for the application proposal and therefore the premises is not suitable for the application proposal.

Property	2 <sup>nd</sup> Floor Guildhall House
Agent	HIMOR
Size	357sqm
Tenure	Leasehold

5.4. The premises at Guildhall House only extends to 537sqm. As such it falls below the floor area required for the application proposal and therefore is not suitable.

Property	Victoria House, Ormskirk Road
Agent	Duxburys Commercial
Size	334sqm
Tenure	Leasehold

5.5. Duxburys Commercial are marketing five floors of this existing office building. However each of the suites only extend to 334sqm each. This is below the minimum suitable floorspace for the application proposal and therefore this premises is not suitable for the development proposed.



Property	Marshall House, Ringway
Agent	Hurstwood Holdings
Size	43 - 286sqm
Tenure	Leasehold

- 5.6. Marshall House is a nine storey building on the main Preston ring road. The premises is not suitable for the development proposed as the maximum floorspace available on any floor is 286sqm which falls below what is required by the application proposal.

Property	26-27 Fishergate
Agent	Morgan Martin
Size	1,279sqm total
Tenure	Leasehold

- 5.7. The former HMV on Fishergate is currently being marketed by Morgan Martin, this is an extensive unit covering three floors. The floor space on the upper floors of the unit is limited with the first floor totalling 130sqm approximately and the second floor 249sqm. The ground floor in total extends to 522sqm. On this basis, the use of any upper floors would not provide the required space, whilst the ground floor would be too large and as such it would not be possible to split this unit to provide for the application proposal and is therefore not suitable.

Property	Fox Street
Agent	Pudney Shuttleworth
Size	608sqm
Tenure	Leasehold

- 5.8. Space is currently being marketed as part of a larger building which includes a Premier Inn hotel and café/restaurant. The available space is on the first floor and extends to 608sqm. This floorspace exceeds the requirements of the application proposal and therefore is not suitable for the development proposed.

#### Local Plan Site Allocations

- 5.9. NPPF is clear that retail uses should be directed into town centre locations before edge of centre sites are considered. The adopted Local Plan for Preston does not allocate any sites for retail development and therefore there are none to consider.
- 5.10. Following consideration of potential alternative premises in Preston Centre, there are none known to be available which could accommodate the application proposal. The proposed development meets the requirements of the sequential test.



## Chapter 6

# Employment Policy

- 6.1. The application relates to a former canteen facility which formed part of the offices previously occupied by the Lancashire Evening Post (LEP). It is understood that the premises were vacated by the LEP in the summer of 2016. Since this time, the office premises, alongside the adjacent former printworks facility (which is also vacant), have been actively marketed by multiple commercial agents as a range of individual units, with an option to combine units where preferred.
- 6.2. The former LEP offices and printworks are set within a wider commercial area known as Broughton Business Park, which comprises a further range of employment uses including office space.
- 6.3. Core Strategy Policy 10 states that there will be a presumption that existing employment sites and premises will be protected for employment use. The application proposal relates to the reuse of part of a former commercial premises and as such it is necessary to respond to this policy and the associated SPD Controlling Re-Use of Employment Premises. However this must be tempered against the requirements of NPPF for flexibility and promotion of re-use of existing buildings.

### **Policy Assessment**

- 6.4. Policy 10 and the SPD outline a number of criteria against which application proposals for non-employment uses on employment land will be assessed. These specific criteria are considered below.

There would not be an unacceptable reduction in the type, quality or quantity of employment land supply

- 6.5. The available office space within the former LEP / printworks buildings extends to approximately 2,500sqm, and comprises a number of units of various sizes to accommodate a range of potential occupants. The subject premises is limited to no more than 381sqm of internal floorspace. As such, it is clear that the subject proposal would not lead to an unacceptable reduction of the type, quality or quantity of existing employment land and premises within the former LEP building itself or indeed the wider Broughton Business Park.

The provision and need for the proposed use

- 6.6. The application proposes the use of the premises as an access controlled gym for the provision of personal training and bespoke fitness classes. As highlighted in Chapter 2 of this Statement, the proposed use is considered to represent a bespoke form of development which is targeted at people who may not feel comfortable in a traditional, open access gym environment. This could



include, amongst others, obese or older persons, or members of the transgender community. Accordingly, the proposed use is providing an opportunity to provide exercise opportunities to a section of the community who may have previously been deterred. The proposed use will introduce a new form of enterprise to this area of Preston as well as employment opportunities. Furthermore, this is not a speculative application. The applicant is a qualified personal trainer who intends to operate the unit. This demonstrates that there is a need for the use in this location.

The relative suitability of the site for employment and for the alternative use

- 6.7. It is evident that the subject unit and wider business premises has been suffering from long term vacancies and an ability to attract new tenants / operators, despite active marketing by multiple agents. It is considered that these ongoing circumstances demonstrate a clear lack of demand for potential B-use operators to take on the units within the former LEP/printworks buildings. The application site however is considered to represent a suitable location to accommodate the proposed use given that it is similar in nature to the lawful use of the premises. The proposed use will operate between 6:00am and 8:00am, and between 6:00pm and 9:00pm, therefore avoiding conflict with traditional working business hours. The proposed use intends to employ three full time and four part time staff initially, and there would be no more than 10 persons booked in to use the gym facility at any one time. As per the former use of the premises, staff and clientele would benefit from the communal car parking area which serves the wider premises.

The location of the site and its relationship to other uses

- 6.8. In conjunction with the demand for the proposed use in this location, the application site is ideally located. The site is served by adequate communal parking for cars and motorcycles. LCC Highways also confirmed in a recent prior notification application for a nursery use in an adjacent unit that the existing and planned pedestrian facilities on Oliver's Place and Eastway would support pedestrian movements to and from Broughton Business Park (ref. 06/2018/1308). The proposal is considered to represent a non-intensive leisure use which would be unlikely to result in any detrimental impacts on neighbouring commercial uses.

Whether the ability to accommodate smaller scale requirements would be compromised

- 6.9. As previously highlighted, the subject proposal is small in scale and only relates to the re-use of one of the available units within both a wider former office building and wider business park. Accordingly the granting of planning permission would not compromise the ability of the wider site to accommodate smaller scale proposals.

There would be a net improvement in amenity

- 6.10. It is considered that the proposals would improve the amenity of the premises in that it would involve the refurbishment and re-use of a long standing vacant unit. The proposal would also introduce an active use which would encourage other prospective tenants to make active use of



the other remaining vacant units. There is no reason why the proposal would result in any detriment to the amenity of existing or future occupants of neighbouring units.

- 6.11. The proposal is therefore considered to be in general compliance with the criteria of Policy 10.
- 6.12. Further to this, there is a clear steer in NPPF for planning policies and decisions to promote sustainable development and create conditions in which businesses can invest, expand and adapt, particularly when bringing vacant and underused previously developed land and buildings back into productive use.
- 6.13. NPPF para. 81(d) states that planning policies should be flexible enough to accommodate needs not anticipated in the plan, and to enable a rapid response to changes in economic circumstances. This is particularly prudent given that the former occupants vacated the premises to move to improved premises, suggesting that the application site may no longer be suitable for modern office space requirements.
- 6.14. NPPF states that achieving sustainable development requires proposals to secure net gains in economic, social and environmental objectives. In line with the Framework's economic objective, the granting of planning permission will ensure that land is available in the right place and at the right time to support growth and innovation through the creation of a new business enterprise. The proposal will also create employment opportunities unlike the vacant subject unit and enhance the vitality and viability of the wider premises, which accommodates a number of long term vacant units. In accordance with the social dimension of sustainable development, the proposal would also support communities' health, social and cultural well-being through accessibility to necessary services, particularly to areas of the community which may be less inclined to access existing public services. The proposal meets the environmental objective of sustainable development through the re-use of an existing resource, as encouraged by NPPF para. 148.
- 6.15. The subject proposal seeks to bring a vacant commercial unit back into productive use with the introduction of a use which will be compatible with neighbouring commercial uses and surrounding development, whilst enhancing the vitality of the wider premises. The proposal is considered to achieve net gains in the three objectives of sustainable development.
- 6.16. In summary, the proposal accords with the Development Plan and NPPF and should therefore be approved without delay.



## Chapter 7

# Conclusion

- 7.1. This Planning Report has been prepared to respond to two key areas associated with the application at the request of Preston City Council. The first of these relates to the location of a main town centre use in an out-of-centre location. The second relates to the locating of a non-traditional employment use in a defined employment area.
- 7.2. Whilst it is contested as to whether a sequential test is required for the development proposed, the applicant has nevertheless undertaken a sequential test in accordance with NPPF and Local Plan Policy 11 in relation to town centre uses.
- 7.3. The sequential test demonstrates that there are no sequentially preferable sites for the proposed development in Preston City Centre. The application site is therefore sequentially preferable in the context of town centre uses and complies with Section 7 of NPPF and Local Plan Policy 11.
- 7.4. Whilst the subject site is sited within a designated employment area, the proposal is considered to represent an appropriate alternative use, which makes efficient reuse of a vacant premises. The proposal will also enhance the vitality of the wider business park, whilst also creating employment opportunities. Neither will the proposal lead to an unacceptable reduction of the type, quality or quantity of employment land supply within the immediate locality or wider supply within the local authority boundary.
- 7.5. Accordingly, based on planning policy and material considerations the application proposals represent appropriate development and planning permission ought to be granted.