

Ward: Bicester Town

District Councillor: Cllrs D Pickford and
D Edwards

Case Officer: Rebecca Horley

Recommendation: Approval

Applicant: Anytime Fitness c/o Nexus Planning

Application Description: Change of use from retail (A1 use class) to a gymnasium (D2 use class)

Committee Referral: Council's interest in the land **Committee Date:** 7th August 2014

1. Site Description and Proposed Development

- 1.1 This application relates to two of the new units, adjacent to Bure Square and facing Wesley Lane in the northern part of the new town centre redevelopment scheme. At the time of writing, there is a resolution to approve the remaining phase (office, community uses and hotel – 14/00403/F refers) on the Franklyn's Yard car park thereby enclosing the north side of the site. The units were purpose built for a retail use as part of the Pioneer Square development and are currently vacant.
- 1.2 The application is to change the use of the units from their intended retail use (A1) to a gymnasium (D2). The applicant is seeking a 24 hours operation, 365 days a year, following an established business model used in 32 other Anytime Fitness gyms in the UK. Other than the advertisement application (14/00889/ADV), no external alterations are proposed save for the installation of 4 No. condenser units to be positioned within the plant area in the roof of Unit 6. Internally, the application also proposes the installation of a mezzanine floor of 156 sqm within unit A6.
- 1.3 The site is constrained by its location within the Bicester Conservation Area and there are listed buildings nearby (along Sheep Street).

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice. The final date for comment was 24th July 2014 and to date 3 letters of objection have been received raising the following issues:
 - Pioneer Square was planned it was for increased retail
 - Already retail units are being lost to other uses and the town needs an offer of choice
 - Compared to Witney Bicester has nothing and hence people continue to travel to Oxford, Banbury, Milton Keynes and Aylesbury to visit the shops they want.
 - no more restaurants/food outlets
 - These 2 units are large and very valuable.
 - Once a gym is here the units will be lost forever – a temporary solution should be found
 - The footfall in this part of the complex is/has been low because this area has thus far remained unfinished with construction work still taking place etc. Once the Travelodge/CDC building complex is in situ, the footfall should totally change.
 - There are still no decent quality shops like Next, H&M etc which are suited to Bicester residents not Bicester Village
 - Bicester is going to have a huge increase in housing - and will once again have

no shops to match. A gym can be placed anywhere in Bicester - shops cannot.

- Shops need to be in the centre of Bicester
- Doubt that Bicester needs further gym facilities as we have a large number in the town already. If competition is sufficient to support a further facility then I am sure this would be better suited to an edge of town location where dedicated parking is close at hand with easy access for its clients.
- Bicester has grown much over the last decade with new housing so residents surely deserve more from Pioneer Square than to lose two large shop units at this early stage in what is still a very new development and an area very limited by the space available for shopping.

3. Consultations

3.1 Bicester Town Council: Comments awaited.

Cherwell District Council Consultees

3.2 Conservation Officer: No objections

3.3 Anti-Social Behaviour Manager: No objections.

3.4 Economic Development Officer: Welcomes this proposal to create employment and to provide a service within the new town centre development. The fitness sector is important in supporting the health and vitality of residents. The 24 hour operation adds to the variety of such facilities and could create another reason to visit central Bicester, enabling 'linked trips' to be taken, such as for shopping or a visit to a restaurant. Its central location should allow for a range of modes of transport to be considered by users.

Oxfordshire County Council Consultees

3.5 Highways Liaison Officer: No objections subject to the use to be retained as specified. It is noted that the use proposed would tend to be on an appointments basis and therefore a more controlled use of the site.

Other Consultees

3.6 None

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

ENV1: Pollution Control

The site is unallocated on the proposals map

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

Submission Local Plan (January 2014)

The draft Local Plan has been through public consultation and although this plan

does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The following policy is relevant to this case:

SLE2: Securing Dynamic Town Centres

Policy ESD16: The Character of the Built and Historic Environment

Proposals Map: Existing Retail Park

Bicester Masterplan Draft (August 2012) – Retail Quarter of the Town Centre Action Area.

5. Appraisal

5.1 The National Planning Policy Framework re-emphasises the Government's view of what sustainable development means in practice for the planning system. There are 3 dimensions: an economic role with the emphasis on contributing to building a strong, responsive and competitive economy; a social role reflecting the community's needs by supporting strong, vibrant and healthy communities and an environmental role by contributing to protecting and enhancing the natural, built and historic environment. To achieve sustainable development these economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

5.2 There is clearly a presumption in favour of sustainable development and applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is the starting point and proposals should accord with it. Where the development plan is absent, silent or out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The key issues for consideration in this case are considered to be:

- Principle
- Effect on the vitality and viability of the town centre
- Effect on heritage assets
- Amenity

Principle

5.3 The unit does not lie within the primary shopping frontage which is largely confined to those units which face onto Sheep Street. There are, therefore, no relevant adopted policies in the Local Plan which affect this proposal. The Draft Submission Local Plan highlights the Council's commitment to supporting its town centres and to maintaining and enhancing their vitality and viability to create vibrant retail environments. Town centre uses are confirmed as being those identified by the NPPF including retail, leisure, offices, art, tourism cultural and community uses. It is my view that the proposal complies with policy principles and should be judged against the following remaining issues:

Effect on the vitality and viability of the town centre

5.4 The unit is in a very central location and important to the overall town centre redevelopment area which was intended as the principle core for retail activity. However, this needs to be balanced against the prospect of the unit remaining vacant or being given over to lesser quality retail offers. BWD Retail Property Consultants have been marketing the units at lower than market rate since August 2012 (before the town centre scheme was opened in July 2013) with limited success attracting little quality retailer interest due, in part, to the lack of passing footfall. Whilst this may improve when Franklyn's Yard is developed this would not be in the short term. Another factor for the lack of interest has been attributed to the economic recession

which has made retailers more cautious about their site choices and again, whilst this may be improving retailers remain focussed on the safe options.

- 5.5 Landlords of traditional retail units are now being forced to consider alternative options such as gym operators, bookmakers and charity shops to prevent too many empty units. The gym operator 'Anytime Fitness' relates well to the future hotel use nearby and considered preferable to the real alternative of leaving the unit vacant as a retail use. The vitality and viability of the town centre as a whole is unlikely to be harmed given the already enhanced offer provided by the town centre scheme and the take up of units for retail uses more central to Bure Place. Together with the restaurants and cinema close by it is considered that the mix of uses will cumulatively assist in securing a dynamic town centre as envisaged by Policy SLE3 of the Submission Local Plan.

Effect on heritage assets

- 5.6 As regards their impact on the Conservation Area and settings of the listed buildings, the application raises no concerns as there are no external alterations relevant to the change of use application. Installation of the air vents and units being confined to the plant area in the roof being modest in size and appropriately sited will go unnoticed. The application has not met with an objection from the Conservation Officer and it is agreed that the significance of the heritage assets (Conservation Area and settings of listed buildings) would not be harmed by this proposal.

Neighbour Amenity

- 5.7 It is intended that the units be operated for 24 hours a day, 365 days a year which may be of concern to residents nearby in terms of potential noise. The anti-social behaviour manager has not raised any concerns or issues and it is noted that the operation is confined to the commercial area of the town where most appropriate. No changes are proposed to any lighting arrangement that would exist in any event. It is not considered that the application would cause any additional harm to the environment such that a refusal would be justified on these grounds. The application is therefore considered acceptable in this regard.

Highway Safety

- 5.8 Oxfordshire County Council Highways raises no objections to the application on the grounds of highway safety and parking. It is considered that the application will not have a detrimental impact on public safety in accordance with Government guidance contained within the NPPF.

Engagement

- 5.9 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through approving an application which represents sustainable development, in accordance with the NPPF's objectives.

Conclusion

- 5.10 Having considered the issues arising, the application would not cause harm to the vitality and viability of the town centre and the effect on the visual amenities is neutral causing no harm to the Conservation Area or the setting of listed buildings in proximity. Matters of neighbour amenity and highway safety are also considered acceptable and the application is, therefore, recommended for approval, subject to conditions as detailed below.

6. Approval, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Planning Statement and drawings numbered: D11448-N and D11501-B submitted with the application.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. The ventilation system shall be installed, brought into use and retained in accordance with the Mitsubishi Electric Air Conditioning Systems details (reference PLA-RP60BA) and sited in accordance with drawing number D11501-B submitted with the application, unless otherwise agreed in writing by the Local Planning Authority prior to the system being installed.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. The units (A5 and A6) shall be used only for the purpose of a gymnasium and for no other purpose whatsoever, including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005.

Reason - To enable the Local Planning Authority to retain planning control over the development of the site in order to maintain the character of the area, safeguard the amenities of the occupants of the adjoining premises and in the interests of highway safety in accordance with Policies C28 and C31 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.