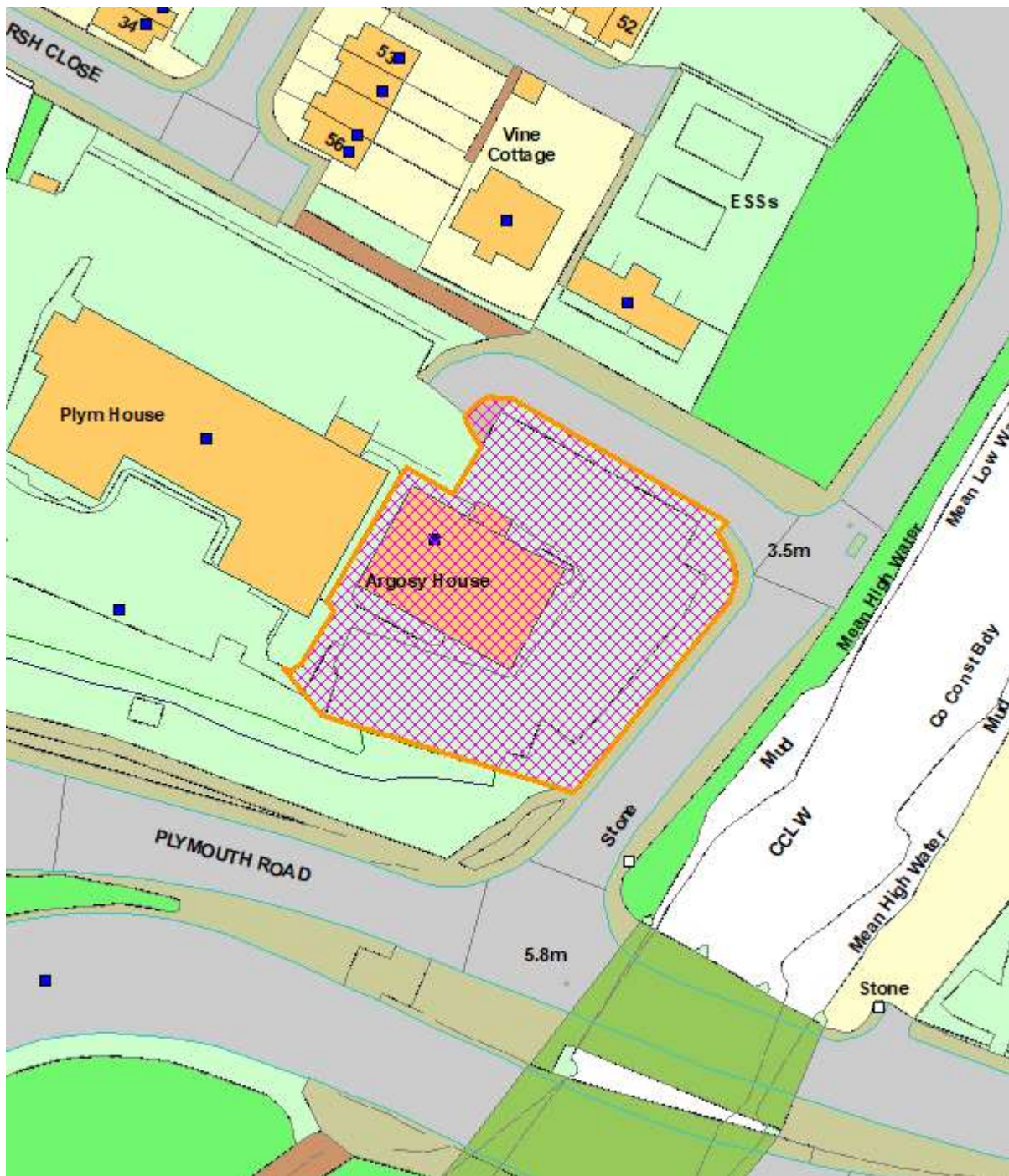


PLANNING APPLICATION OFFICERS REPORT



Application Number	18/01210/FUL	Item	03
Date Valid	07.08.2018	Ward	MOORVIEW
Site Address	Argosy House Longbridge Road Plymouth PL6 8LS		
Proposal	Change of use from clinic (Class D1) to gym (Class D2) at Left Hand Suite, 2nd Floor		
Applicant	Mr Duncan Attwood		
Application Type	Full Application		
Target Date	02.10.2018	Committee Date	18.01.2019
Extended Target Date	21.01.2019		
Decision Category	Councillor/PCC Employee		
Case Officer	Mr Macauley Potter		
Recommendation	Grant Conditionally		



This application was referred to Planning Committee by Councillor Bridgeman.

1. Description of Site

Argosy House is a relatively large brick faced building containing offices of various companies, surrounded by associated car parking. Marsh Mills Roundabout and the Parkway Industrial Estate lie immediately to the south west and west (respectively).

2. Proposal Description

Change of use from clinic (Class D1) to gym (Class D2) at Left Hand Suite, 2nd Floor. Proposed D2 use will have an area of 119.6 square metres.

3. Pre-application Enquiry

No pre application enquiry associated with this application.

4. Relevant Planning History

14/01899/FUL -Change of use from offices (Class B1) to Laser Clinic (Class D1)- Grant conditionally.

18/01167/GPD - Change of use from D1 to D2 at Left Hand Suite, 2nd floor, Argosy House – Application returned/withdrawn.

5. Consultation Responses

Highway Authority – The Highway Authority does not wish to raise any in-principle objections to this application from a highway viewpoint. The Highway Authority would recommend that a minimum of 2 secure and covered cycle parking spaces be provided and that this be addressed through a cycle parking condition.

Economic Development Department – Economic Development has no objection to this proposal.

Public Protection Service – Public Protection Service originally recommended refusal based on a lack of information submitted regarding the noise impact the proposed facilities will have and any mitigation methods which will be used to reduce this impact. Public Protection cite that they experience a high level of noise complaints from gyms near residential properties. Following a submission of a noise impact statement by the applicant, Public Protection Suggested that a condition be attached detailing that no audible noise is to be emitted outside the surrounding areas of the gym. Public Protection confirm that they would support this application with the noise condition attached to any grant of consent.

6. Representations

19 letters of representation received. Summarised below are the main issues highlighted in the objections:

- 1) Overflow parking into Marsh Close which is already overloaded resulting from the existing office use of Argosy/Plym House along with the wider Marsh Mills retail park.
- 2) Gym would be open late hours and will cause unwanted noise pollution.
- 3) Argosy House is designated as offices and a gym would be outside that use.
- 4) Application has insufficient parking (5 spaces and 8 full time members of staff).
- 5) Already endure noise from nearby speedway.
- 6) There are many other sites that a gym can be allocated, without the need to impede on an already burdened residential area.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the Core Strategy and other Plymouth Development Plan Documents as the statutory development plan for Plymouth once it is formally adopted.

Annex I of the National Planning Policy Framework (2018) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For Plymouth's current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- For the JLP which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at an advanced stage of preparation having been submitted to the Planning Inspectorate for Examination, pursuant to Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations. On 15 August 2018 the JLP Councils received a Post Hearing Advice Note from the Planning Inspectors. The inspectors state that "at this stage we consider that the JLP is a plan which could be found sound subject to main modifications" and, provided their views on further work and potential main modifications needed. The Council have prepared a schedule setting out the proposed Main Modifications and these are available for consultation until 3rd December 2018. It is therefore considered that the JLP's policies have the potential to carry significant weight within the planning decision, particularly if there are no substantive unresolved objections.

Other material considerations include the policies of the Framework itself, guidance in National Planning Practice Guidance (NPPG). Additionally, the following planning documents are also material considerations in the determination of the application:

- Development Guidelines Supplementary Planning Document

8. Analysis

1. This application has been considered in the context of the development plan, the submitted Joint Local Plan, the Framework and other material policy documents as set out in Section 7. The application turns particularly on policies CS34 (Planning Application Considerations), CS22 (Pollution), CS28 (Local Transport Considerations) and Dev2 (Air, water, soil, noise and land), Dev16 (Providing retail and town centre uses in appropriate locations) and Dev31 (Specific provisions relating to transport) of the JLP. The most significant key issues are: whether the proposed use is acceptable in this location (outside a designated centre); whether the development is acceptable in transport terms, and in particular whether adequate parking is proposed with particular consideration of its impacts on residential occupiers of Marsh Close.

Principle of development

2 The application is for a proposed change of use from a D1 use to a D2 use and whilst acceptable in principle the site itself is situated outside Plymouth's Designated Town Centres and in order to address paragraphs 86, 87, 88 and 90 of the NPPF (2018) as well as being compliant with Dev16 of the emerging Joint Local Plan a sequential test was therefore required.

3 A sequential test should define the primary catchment area of the proposal, this establishes the site requirement taking into account flexibility in the business model. It should include all sites in existing centres, edge of centres, and more accessible locations both considering their suitability and availability.

4 A test was submitted which highlights a proposed catchment area encompassing much of the Devon Expressway from the outskirts of the Plympton area to the Crownhill/Derriford area. As highlighted in the document the 2nd floor office space currently has consent for use as a D1 having previously been a tattoo removal clinic. It has since been vacant for 3 and a half years. Officers consider the proposal is acceptable in this case as the gym already falls within Class D and is therefore not considered to have a detrimental impact to the surrounding area and neighbour amenity (in terms of change to the physical character of the area, noise issues and parking), provided

the conditions attached to the recommendation at the end of this report are considered to make this application acceptable in development terms.

Transport Issues?

5 Adequate car parking for this specific proposal is retained on site and is considered suitable (subject to conditions requested by the Highway Authority). An allocated parking condition and a cycle storage condition have been attached to the recommendation of this application (to be in compliance with CS28).

6 The supporting information states that accommodation comes with 5 parking spaces and is within the Argosy House development which has its own bespoke car park. The application states that the planned number of staff is 8 in total. The gym will operate for a total of 70 hours per week and none of the staff will be there all the time. On average, there will be two staff on site at any one time, together with one customer plus one waiting, thus occupying an average of four spaces in the car park. Officers acknowledge that a future business model for the gym may change the number of staff and clients. However, based on the floorspace provided with this development officers still consider that the parking is sufficient for the use proposed.

7 It is important to note that the existing D1 use as it stands could be occupied by a business falling under D1 with similar numbers of employees/visiting clients as suggested in this application. In planning there are no powers in the legislation which can restrict the number of people using a floor space for either a gym or a clinic.

Noise and opening hours

8 Multiple objections relating to noise have been raised. Some supporting information was submitted by the applicant to address this, as summarised below.

9 Addressing point 2 of the representations officers consider that the noise emitted from this specific gym type would have no adverse impact on the residents of Marsh Close (see noise impact statement submitted with this application). The opening hours of the premises will be 08.00 hours to 20.00 hours Monday to Friday and 08.00 hours to 18.00 hours Saturdays. Officers consider the proposed opening hours to be reasonable. A noise condition is recommended to be attached to any grant of consent along with an opening times condition (addressing CS22, CS34 and Dev2). This ensures that in the event of another gym with a different business model moving into this floor space under D2 Class would still have to meet the noise, parking and opening times conditions.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

None

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting

planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability. Specifically the applicant has only considered above ground floor premises (in the sequential test) which feature adequate lift facilities for disabled clients (see Supporting Sequential Assessment submitted with the application).

13. Conclusions and Reasons for Decision

The concerns raised by nearby residents have been considered and it is recognised that there are significant parking and noise issues surrounding the wider Marsh Mills area and planning conditions have been recommended to ensure that there are no further adverse impacts to the amenity of properties in Marsh Close and Longbridge Road resulting from this application. Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 07.08.2018 it is recommended to Grant Conditionally.

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

1 CONDITION: APPROVED PLANS

Tenant's Demise 27963/01 - received 11/07/18
Site Location Plan 11072018 - received 11/07/18
Site Plan 17092018- received 17/09/18

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 124, 127, 130 and 131 of the National Planning Policy Framework 2018.

2 CONDITION: COMMENCE WITHIN 3 YEARS

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

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

3 CONDITION: HOURS OF OPENING

The use hereby permitted shall not be open to customers outside the following times: 08.00 hours to 20.00 hours Monday to Friday and 08:00 to 18:00 on Saturday. The use shall not be open to customers on Sundays and public/bank holidays.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 170, 180-183 of the National Planning Policy Framework 2018.

4 CONDITION: CYCLE PROVISION

PRE-OCCUPATION

The 2nd level floorspace as detailed on the approved plans shall not be occupied until space has been laid out within the site in accordance with the approved plans for 6 bicycles to be securely parked. The secure area for storing bicycles shown on the approved plan shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, emerging policy DEV31 (specific provisions relating to transport) of the Plymouth and South West Devon Joint Local Plan (2014-2034) and paragraphs 91, 102, 108 and 110 of the National Planning Policy Framework 2018.

5 CONDITION: CAR PARKING PROVISION

PRE-OCCUPATION

The 2nd level floor space shall not be occupied until the car parking area shown on the approved plans providing a total of 5 allocated spaces have been marked out/labelled specifically for the use hereby permitted.

Reason:

To enable vehicles used by occupiers or visitors to be parked off the public highway so as to avoid damage to amenity and interference with the free flow of traffic on the highway in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, emerging policy DEV31 (specific provisions relating to transport) of the Plymouth and South West Devon Joint Local Plan (2014-2034), and paragraphs 91, 102, 105, 108 and 110 of the National Planning Policy Framework 2018.

6 CONDITION: NOISE LEVEL

The noise emanating from the use (LAeqT) shall not exceed the background noise level (LA90) by more than 5dB, including the character/tonalities of the noise, at any time as measured at the facade of the nearest residential property. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

Reason: To protect the residential and general amenity of the area from noise emanating from the operation of the gym and to avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and emerging policies DEVI (protecting health and amenity) and DEV2 (air, water, soil, noise and land) of the Plymouth and South West Devon Joint Local Plan (2014-2034), and the National Planning Policy Framework (2018).

7 CONDITION: SPECIFIED USE RESTRICTION

The premises shall be used as a personal training fitness studio business and for no other purposes (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. Upon cessation of the use hereby permitted the premises shall return to a D1 use.

Reason:

The Local Planning Authority considers that, in the particular circumstances of the case, the use of the premises for the purpose specified is appropriate but that a proposal to use the building for any other purposes would need to be made the subject of a separate application to be considered on its merits in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and DEVI6 (providing retail and town centre uses in appropriate locations) of the Plymouth and South West Devon Joint Local Plan (2014-2034), and paragraphs 80, 82, 85, 86, 89 and 102 of the National Planning Policy Framework 2018.

INFORMATIVES

1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

2 INFORMATIVE: CONDITIONAL APPROVAL (NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.