

REPORT UPDATE

Application No: BE/136/14/PL

Reason for the Update / Changes

Reason for Update/Changes:

Three late objections have been received with the grounds as follows:

- * Disagree that there are adequate facilities elsewhere in Bognor Regis;
- * Consider that the only other gym which offers the same facilities is in Chichester but this allows children in;
- * Home Bargains is not needed in a location which already has Matalan & Lidl;
- * Rolls Royce workers would be interested in a nearby gym;
- * Excellent disabled facilities - nowhere else for disabled people to go;

A letter has also been received from the Property Director at Fitness First which states that:

"As set out in the application supporting material, our current corporate strategy is to consolidate and refit clubs inside the M25 core area, and whilst we can in the short term sustainably remain in place at the Retail Park, the grant of planning permission on 28th January 2015 will not harm Fitness First in pursuing its core corporate strategy.

In the event of refusal of planning permission, over the longer term we may struggle to justify continued investment in the club at Bognor Regis with respect to existing Membership levels. The site is located on a retail park without other leisure 'anchors' and is therefore a sub-optimal site which is an impediment to continued membership growth.

As such, we do understand the rationale behind the proposed change of use, and that you may consider it to better meet the Council's aspirations to maintain economic growth and enhance employment levels within the town."

We have also now received comments from WSCC Highways. No objection is raised and the following points are made:

- * The Transport Statement (TS), indicates there will be no significant differences between the two uses;
- * A beat parking survey undertaken as part of the Transport Statement reveals the existing parking provision at the retail park is only used to 68% of its capacity at peak times;
- * The car park currently has space for 290 cars including 10 disabled spaces which equates to 90-100 un-used spaces even when it is at its busiest period;
- * This has been compared to the TRICS data supplied for an A1 non-food retail outlet, which suggests even in the busiest periods there would be enough space;
- * Servicing arrangements for the store will remain as they currently exist and will not exceed a 16.5m articulated HGV; and
- * There are already planned improvement works to the existing access into the retail park from Rowan Way as part of separate planning application BE/19/07. As Rowan Way will form part of the Bognor Regis Relief road route improvement works will be undertaken to prohibit right hand turn movements out of the retail park as per the approved drawing (B/206493/06 of planning application BE/19/07).

Finally, the applicant has requested an amendment to proposed condition 04. The applicant argues that the condition as worded will prevent Home Bargains from occupying and trading

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from the unit. This is because Home Bargains sell a very limited range of food products, limited to no more than 30% of the gross internal floor area of the unit. In addition, they sell the following:

- * Pet Products and Pet Supplies;
- * Baby and Child Goods and Toys;
- * Health and Beauty Goods and Fragrances;
- * Household and Cleaning Products;
- * Travel and Leisure Goods; and
- * A limited range of Arts and Crafts and Stationary Goods.

The applicant notes that the recent Oldlands Way retail permission is only restricted in that the sale of food, fashion and footwear are excluded. Therefore the only difference in this case is the 30% food sales. With regard to this, the applicant states that there would be no harm to the vitality and viability of the town centre. Furthermore, that the conditions attached to the recent permission for M&S and Next on the site opposite Sainsbury's were tailored to the end users.

Having regard to the case that the applicant has made, it is considered that there will not be any harm to the town centre from allowing the sale of these non-bulky items or the 30% food sales. It is therefore condition that the following amended condition put forward is acceptable:

"The retail premises hereby permitted shall only be used for the sale of non-food goods (Class A1) excluding fashion and footwear, save for an area of no more than 30% of the Gross Internal Area which shall be used for the sale of food and drink, and for no other purposes (including any other purpose in in Class A1 of the Use Classes Order 1987 as amended without the prior permission in writing of the Local Planning Authority. Goods falling outside the permitted range may be sold only where they form a strictly minor and ancillary part of the proposed store's operation.

Officers Comment:

The amended condition 4 is shown on the attached amended replacement recommendation sheet.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report/Recommendation.

BE/136/14/PL

Recommendation Report for Planning Permission

REF NO: BE/136/14/PL

LOCATION: Unit 3
The Bognor Regis Retail Park
Rowan Way Bognor Regis

PROPOSAL: Change of use from Health & Fitness Centre (D2 Assembly & Leisure) to A1 (A1 Shops).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. The application also involves the removal of the existing mezzanine floor and thus brings the floor space down from 1702 square metres to 949 square metres. There will be no changes to the parking arrangements, access or to the elevations. In terms of job creation, the application form states 44 new Full Time Equivalent (FTE) employees. The application supporting statement states that the end user will be the retailer "Home Bargains".

It is understood from the application supporting documents that Fitness First's corporate strategy is to consolidate and refit clubs inside the M25 core area, and that the investment required to update the Bognor club is not financially justified by the membership levels.

SITE AREA

949 square metres.

RESIDENTIAL DEVELOPMENT DENSITY

N/A

TOPOGRAPHY

Predominantly flat.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

The unit is open to the car park and to the rear shared storage area.

SITE CHARACTERISTICS

The Bognor Regis Retail Park comprises six retail warehouses with associated parking to the front adjacent to Shripney Road, Bognor Regis. The unit is between two furniture shops (Bensons Beds and Dreams).

CHARACTER OF LOCALITY

Retail Park on western side of the A29. To the north lies Rowan Way, to the east and south is a large holiday caravan park. And industrial

estate lies on the other side of the A29 to the east.

RELEVANT SITE HISTORY

BE/7/87	Outline application for erection of two non food retail warehouse units 6500 sq m with garden centre (929 sq m) related site roads, car parking, service yard and landscaping	ApproveConditionally 17-07-1987
BE/185/87	Details in pursuance of planning application BE/7/87 for erection of non-food retail warehouse units 6500 sq m with related site roads, car parking, service yard and landscaping.	ApproveConditionally 18-01-1988
BE/40/99/	Variation of planning condition 4 imposed on planning permission BE/7/87 to allow the ancillary sale of clothing and footwear from unit 3	ApproveConditionally 30-09-1999
BE/102/99/	Variation of condition No. 4 imposed on planning permission BE/7/87 to allow the ancillary sale of clothing and footwear from Unit 3	Withdrawn 17-03-2000
BE/31/00/	Non compliance with Condition 4 imposed upon BE/7/87 to allow A1 (Non food goods) in unit 3 and A1 (Non-food, bulky goods) in Unit 4	ApproveConditionally 16-06-2000
BE/10/01/	Change of use from class A1 (retail) to class D2 (leisure & assembly), to accommodate a health and fitness centre. Installation of mezzanine floor & external alterations.	ApproveConditionally 01-05-2001

The site has a detailed planning history reflective of active asset management on behalf of the owners. The retail park was approved for a garden centre and for the sale of bulky goods. These units have been subdivided and their uses changed over the life of the retail park. Unit 1a is currently used for sale of non-bulky goods; Unit 1b is used for A1 food retail; Unit 2, 4 and 5 are A1 retail restricted to bulky goods by condition.

In 2001, unit 3 was permitted to change to a gym & leisure facility. Permission (BE/10/01/PL) was not restricted to a gym and the unit could change to another use within the D2 Class without planning permission. The alternative uses include but are not limited to Cinema, Bingo Hall, Dance Hall, Swimming Pool or Skating Rink.

A pre-application enquiry was received in early 2013 which proposed the change of use of unit 3 to A1 retail. The response set out the importance of protecting the vitality & viability of Bognor Regis Town Centre and concluded that the "District Council are not likely to support any application that is shown to have a negative impact on the vitality and viability of existing town

centres". In addition, the response stated that the District Council would have strong concerns about a new non-bulky goods retailer locating in this part of the District.

REPRESENTATIONS

Representations received:

Bersted Parish Council

Bersted Parish Council - "No objection. Bersted PC supports this proposal as it conforms to the requirements of policies EE1, EE3 and EE4 of the Bersted Neighbourhood Development Plan. Members do have concerns that more parking may be required at the Retail Park due to the likely increase in traffic this store may bring".

83 letters of objection have been received, primarily from Fitness First customers. The grounds of objection are as follows:

- * This will have a negative impact on local health & fitness;
- * Detrimental impact on the NHS's resources;
- * Local children, elderly & disabled people use the gym for fitness & social reasons;
- * Bognor already has lots of budget/home ware/garden retail shops;
- * 1600-2000 people use the gym;
- * Existing gym members are interested in taking on the gym business;
- * Largest, best & most accessible gym in the area;
- * Nearest comparable gyms will be Esporta in Littlehampton, David Lloyd in Worthing & Nuffield in Chichester;
- * Impact on local personal trainers, health/beauty professionals, studio teachers;
- * The 44 FTE staff may be on zero hour contracts;
- * The gym is recommended by Bognor Regis Hospital for rehabilitation/physiotherapy purposes;
- * Traffic congestion partly caused by the new store & partly by the relief road;
- * The gym is more than just health & fitness - it is an important community facility;
- * New retail should be directed to the town centre;
- * Impact on the vitality & viability of the town centre;
- * Where will trolleys be stored; and
- * Fitness First sponsor local events such as the Bognor 10K & Bognor Carnival.

2 letters of support have also been received stating that the quality of the gym & staff is poor and that the proposal will result in more jobs.

Comments on Representations received:

Comments noted. The majority of these issues will be assessed in the conclusions section. With regard to parking & access, unit 3 was previously in use as a retail store.

CONSULTATIONS

Economic Regeneration

WSCC Strategic Planning

Economic Regeneration

Consultations responses received:

WSCC Highways - no response received.

ADC Economic Regeneration - "Economic Development would not object to this application. We accept that there are no other sites locally which would meet the requirements of the proposed occupier. However, we would have some concern over the number of skilled jobs that would be lost. The application shows a net gain of 39 jobs but we are assuming that these would

principally be retail jobs, many of which could be part time. It would be interesting to know whether Fitness First plans to consider reopening elsewhere within the district and transferring these jobs to that new location."

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
Class A Road; and
Class C Road.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: [DEV26](#)
[DEV27](#)

[GEN12](#)
[GEN2](#)
[GEN7](#)

[Publication Version of the Local Plan \(October 2014\):](#)

[Bersted Neighbourhood Plan 2014 Policy EE1](#)
[Bersted Neighbourhood Plan 2014 Policy EE3](#)

[Bersted Neighbourhood Plan 2014 Policy EE4](#)

Criteria for Retail Development
Retail Development Outside the Principal Shopping Areas
Parking in New Development
Built-up Area Boundary
The Form of New Development

D DM1 Aspects of Form and Design Quality
RET DM1 Retail Development
OSR DM1 Open Space, Sport and Recreation
RET SP1 Hierarchy of Centres
SD SP1 Sustainable Development
SD SP2 Built-Up Area Boundary
T SP1 Transport and Development

Business expansion
Encourage a diverse range of commerce in the Parish
Local shopping facilities

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Arundel; Barnham & Eastergate; Bersted; Felpham; Littlehampton; Yapton. The report lists the relevant Neighbourhood Plan policies.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the vitality & viability of the Bognor Regis Town Centre.

OTHER MATERIAL CONSIDERATIONS

Application BE/10/01 was not restricted to a gym and therefore unit 3 could change to another use within the D2 Class without planning permission. Alternative uses include but are not limited to Cinema, Bingo Hall, Dance Hall, Swimming Pool or Skating Rink. However, supporting documents state that alternative uses are unlikely due to the configuration of the building.

CONCLUSIONS

PROPOSAL, PLANNING HISTORY & PRINCIPLE

The proposal is to change the use of Unit 3 from an existing gym (occupied by Fitness First) to an

A1 retail store. This would effectively mean reverting back to the previously approved use. The proposal includes the removal of the existing floor and therefore the application falls below the threshold at which a Retail Impact Assessment would be required (the threshold being 1,000sqm).

The site lies within the built up area boundary where the principle of development is considered to be acceptable. The National Planning Policy Framework supports effective and efficient use of land for sites such as this but also advises that new development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access. The principle is therefore considered to be acceptable subject to meeting the relevant local planning policies.

LOSS OF RECREATION/COMMUNITY FACILITY

There are no policies within the adopted Local Plan which provide protection to existing community or indoor recreational facilities. Furthermore, there are no policies within the Arun Local Plan 2011 - 2031 Publication Version (October 2014) which seek to protect community uses.

Emerging Local Plan Policy OSR DM1 is more detailed and section 3 has regard to the protection of indoor sport, arts and cultural facilities. It states that these should not be redeveloped for other uses unless (a) an assessment shows that the facilities are surplus to requirements; or, (b) the facilities are replaced elsewhere; or, (c) the development is for alternative sports, arts or cultural provision. The applicant has provided a response to the requirements of Policy OSR DM1 and this is summarised below:

- * The Policy should be subject to reduced weight on the basis that it is currently subject to an objection made on the grounds that the policy to protect private health clubs is not based on sound robust evidence;
- * There are a number of other gym facilities in the local area, many of which offer complementary services;
- * There are also a wide variety of fitness classes run in less formal settings; and
- * Based on national statistics & averages, there would appear to currently be an over supply of gym places locally.

Given the current objection to the policy, it is clear that a reduced amount of weight should be afforded to the policy. Furthermore, it is acknowledged that the applicant has provided a brief assessment of existing facilities. It may be that these other places are not of the same quality or as convenient as those at Fitness First but the fact remains that there is provision elsewhere. It is therefore considered that the local authority should not raise an objection on the grounds of loss of the gym facility. This being the case, the outstanding issue is the impact of a new retail store on Bognor Regis Town Centre.

RETAIL PLANNING CONSIDERATIONS

Emerging Local Plan Policy RET DM1 essentially replicates Adopted Local Plan Policy DEV27 but also includes the requirement to meet the impact tests of the NPPF. The criteria for retail development outside of the Town & Service Centres is therefore as follows:

- a. The scheme meets the impact tests of the NPPF;

- b. The scheme is easily accessible by the highway network and public transport;
- c. The scheme includes provision for access by cycle and on foot;
- d. The scheme includes appropriate provision to enable access for people with disabilities.

Additionally, applications must demonstrate that no suitable site can be found, firstly within the existing town centre or, secondly, on the edge of the centre.

The preamble to the Policy states an impact assessment is required for schemes above a threshold of 1000 square metres (floor space). This is lower than the 2500 square metre default threshold stated in the NPPF. The proposals falls just below the 1000 square metre figure. However, the applicant has provided an impact assessment within their supporting statement. This demonstrates that:

- "(1) Requirements for retail representation within the town centre is buoyant, with published requirements from 55 retailers;
- (2) There will be a very modest level of turnover (around 0.5% of the turnover of the town centre) diverted from the town centre which would not equate to harm to the viability and vitality of the town centre;
- (3) The level of trade diversion is likely to be an over estimate, as the assessment assumes (unrealistically) no expenditure inflow from tourism;
- (4) Conversely, a much larger sum of turnover (£0.59m) will be clawed back to the catchment area that is currently 'leaking' to other retail destinations such as Chichester; and
- (5) The store will be most likely to compete with other out-of-centre retail destinations."

The application supporting statement also includes a sequential assessment which concludes that there are no sequentially preferable available or suitable sites that could accommodate the proposed Home Bargains store. It is noted that the sequential assessment excludes the Hothamton and Regis Centre sites as these are both not currently available for development.

IMPACT ON EMPLOYMENT

It is noted that the Councils Economic Regeneration Officers have not raised any objection to the application and confirm that the applicants sequential assessment is correct in that there are no other sites locally that could accommodate the proposed occupier. Economic Regeneration officers do have some concern over the number of skilled jobs that would be lost. It is noted that in addition to the stated number of existing jobs to be lost, there will be an indirect impact on personal trainers, health & beauty professionals & studio teachers. However, the applicant has also stated that the range of jobs available within the new store will be at all levels from shop floor staff through to management and that there will be spin off jobs in maintenance, cleaning & security. It is considered that although skill levels may differ, the number of jobs created will exceed the number to be lost.

With regard to the comment by Economic Regeneration as to whether Fitness First plans to consider reopening elsewhere within the district and transferring jobs to a new location; the application supporting statement states that: "Fitness First's corporate strategy is to consolidate and refit clubs inside the M25 core area, and investment required to update the Bognor club is not financially justified by the membership levels. The site being on a retail park without other leisure anchors is also seen as a disadvantage to growth." This also suggests that if this application

were turned down, that Fitness First would still vacate the premises.

HIGHWAYS AND PARKING

The applicant states that there will be a reduction in the number of vehicle trips at the retail park as a result of the proposal and therefore a reduction in parking demand. Therefore, no changes are made to the parking layout. The applicants have stated that a total of 18 cycle parking spaces will be provided for staff and customers. This will be enforced through a planning condition. Any WSCC Highways comments will be reported to the Committee by way of a report update.

SUMMARY

It is not considered that this proposal is in conflict with the policies of either the adopted or the emerging Local Plan. It is also clear that the proposal finds support from the Bersted Neighbourhood Plan. The applicant has provided retail impact and sequential assessments which demonstrate that there will be no significant adverse effect on the town centre arising from the planning application proposals with only negligible trade diversion - and that there are no other sites in the town centre or on the edge of the town centre which could accommodate the proposed retail occupier. Economic Regeneration Officers are supportive of the proposed change and it is clear that the application will result in an increase in the number of jobs offered.

It is also noted that Fitness First do not appear to want to retain the site and that the premises could change to an alternative D2 use without permission. It is therefore recommended that permission be granted to ensure that this employment opportunity is not lost. The following conditions include a restriction on the retail use to permit the sale of bulky goods only. This is in line with the pre-application advice given previously and with other existing retail units within the retail park.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the

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following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 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 approved shall be carried out in accordance with the following approved plans:

Site Location Plan Ref 200;
Unit 3 Mezzanine plan Existing and Proposed Ref 303;
Unit 3 Plans & Elevations Existing and Proposed Ref 302; and
Unit 3 Block Plan Ref 301.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 3 The gross floorspace of Unit 3 hereby permitted shall not exceed 949 square metres. No further additional floorspace shall be created, whether by extension or internal alterations including installation of mezzanine floorspace, unless approved in writing by the local planning authority.

Reason: To ensure no adverse impact on Bognor Regis town centre in accordance with policy DEV27 of the Arun District Local Plan and the National Planning Policy Framework.

- 4 The retail premises hereby permitted shall only be used for the sale of non-food goods (Class A1) excluding fashion and footwear, save for an area of no more than 30% of the Gross Internal Area which shall be used for the sale of food and drink, and for no other purposes (including any other purpose in in Class A1 of the Use Classes Order 1987 as amended without the prior permission in writing of the Local Planning Authority. Goods falling outside the permitted range may be sold only where they form a strictly minor and ancillary part of the proposed store's operation.

Reason: To protect town centre viability, in accordance with the National Planning Policy Framework and policies DEV26 and DEV27 of the Arun District Local Plan 2003

- 5 No part of the development shall be first occupied until covered & secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority. The cycle spaces shall then be retained

thereafter.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and Policy GEN7 of the Arun District Local Plan.

- 6 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.