

## COMMITTEE REPORT

**Date:** 5 September 2013      **Ward:** Skelton, Rawcliffe, Clifton Without  
**Team:** Major and Commercial Team      **Parish:** Clifton Without Parish Council

**Reference:** 13/01670/FULM  
**Application at:** Great Outdoors Stirling Road York YO30 4XY  
**For:** Change of use from non food retail (use class A1) to a commercial gym (use class D2) and alterations to existing car park  
**By:** Mr David Anderson  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 10 September 2013  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application site comprises a substantial shed type unit at the eastern edge of the Clifton Moor retail area. It was originally constructed in the late 1990s as a Night Club before being recently converted into a retail unit selling outdoor clothing and camping gear. It lies within a substantial area of car parking and close to one of the principal approaches to the A1237 York Outer Ring Road. It also lies directly to the west of the proposed Wigginton Road Park and Ride site. A North Yorkshire Police Branch Office lies directly to the north. It lies within a mixed use area with a predominance of bulky goods retailing but with leisure uses including several themed restaurants, a gym and a cinema. Planning permission is sought for change of use of the property into a gym involving the creation of approximately 8 jobs for new staff. The car parking area would be reconfigured to create an additional 57 spaces together with additional cycle and disabled parking spaces. Total car parking would be some 131 spaces with 18 cycle parking spaces. Additional information has subsequently been submitted in terms of the transport impact of the proposal to address concerns previously raised.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

## 2.2 Policies:

CYL1A

Sites for Leisure development

## 3.0 CONSULTATIONS

INTERNAL:-

3.1 Environmental Protection Unit raise no objection to the proposal.

3.2 Highway Network Management raise no objection to the proposal. Their response is outlined in detail below:-

The site is accessed by an existing access that is not to be altered as part of these proposals. Visibility is good from the site. Accident data has shown no clusters of accidents in the vicinity of the junction onto the highway.

The applicant has demonstrated a small increase in traffic generation at the week day peak times from that projected for the now defunct non food retail use of the site. It is considered, therefore, that traffic generation is likely to be similar to what could be expected for the existing lawful use which can continue without the need for further planning consent.

This application seeks to alter the existing car park that served the non food retail site, creating additional parking spaces. 140 spaces are proposed, 8 of which are to be dedicated to police operations and 3 are to be assumed for the staff. This leaves 129 to cater for the patrons. This level of provision satisfies CYC's Annex E maximum parking standards and has been proved by the study of similar sites to satisfy need.

There are no parking restrictions on the highway in the vicinity of the site.

Staff cycle parking is acceptable. Customer cycle parking levels have been negotiated with the developer. These fall short of the minimum requirements laid down by CYC's Annex E standards, however the cycle parking provision is based upon the likely maximum usage of the site (as per the evidence provided by the gym operator from other sites). In this case a provision of 36 customer spaces for a use of around 100 people is seen as appropriate.

There is a frequent bus service (Service 6) the stops 925m away from the site. This is the main bus route that serves Clifton Moor as it is the most frequent service from the city centre. Closer still are stops that for Service 20. This is an hourly service

that serves the University, Monks Cross Shopping Centre, Haxby, Clifton Moor and Acomb.

The requirement of a Travel Plan is to be secured through condition to promote sustainable travel.

3.3 Integrated Strategy Unit were consulted with regard to the proposal on 13th June 2013. Views will be reported verbally at the meeting.

EXTERNAL:-

3.4 Clifton (Without) Parish Council raise no objection to the proposal.

3.5 The Highways Agency raise no objection to the proposal.

3.6 Safer York Partnership raise no objection to the proposal.

3.7 20 Letters of objection have been received in respect of the proposal. The following is a summary of their contents:-

- an over concentration of similar uses in the area
- the area is already dangerous for pedestrians
- insufficient car parking
- the sequential analysis is clearly biased in favour of the site they want
- increase in traffic to the detriment of the safe and free flow of traffic
- increased on-street parking to the detriment of neighbouring uses;
- lack of consideration of sequentially preferable sites in accordance with the NPPF;
- lack of a detailed Traffic Impact Assessment or Travel Plan.

3.8 More detailed objections have been submitted on behalf of neighbouring businesses expressing concern in respect of the lack of a Sequential Assessment for the proposal and expressing detailed concern in highway terms. A detailed Sequential Assessment has subsequently been submitted. The highway objection expresses concern in respect to a number of matters outlined below:-

- lack of sufficient vehicle parking spaces;
- lack of sufficient cycle parking spaces;
- lack of a travel plan will result in gym members travelling predominantly by car;
- overspill into adjacent car parks and the public highway;
- remoteness from public transport routes;
- the transport statement is inaccurate and based on dated surveys from unrepresentative locations;
- potential increase in traffic congestion and road safety hazards in the locality;
- inadequate mitigation to address the shortfall in parking spaces or measures to encourage members not to travel by car.

A detailed transport assessment has subsequently been submitted by the applicant.

## **4.0 APPRAISAL**

### **KEY CONSIDERATIONS:-**

#### **4.1 KEY CONSIDERATIONS INCLUDE:-**

- \* Over-Concentration of Similar Uses in the Surrounding Area;
- \* Lack of Consideration of Sequentially Preferable Sites;
- \* Impact upon the safe and free flow of traffic in the surrounding area.

### **STATUS OF THE DRAFT LOCAL PLAN:-**

4.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

### **OVER CONCENTRATION OF SIMILAR USES IN THE SURROUNDING AREA:-**

4.3 Concern has been expressed in respect of an over-concentration of similar uses in the surrounding area. Two other gyms lie within the wider Clifton Moor development with a further gym to the west at the York Business Park. A gym falls within Class D2 (Assembly and Leisure) of the Use Classes Order and such uses are commonly found in or in close proximity to town centres and other retail areas where they are easily accessible to potential users. Clifton Moor contains a wide variety of uses including some employment and residential uses as well as the retailing predominant in the immediate vicinity of the site. The application site was originally constructed for another leisure(Use Class D2) type use commonly found in similar locations and consists of a very large covered space unsuitable for the types of retail operator seeking to locate in the area. The unit has briefly been used as a retail unit but without success. In order to demonstrate an issue of over-concentration there would need to be difficulties demonstrated in terms of other retail and leisure uses locating in the area and operational difficulties for existing operators as a direct result of the existing level of provision. This has not been demonstrated in the current case and it is considered that such concerns arise rather from issues of commercial competition which the planning system does not exist to regulate.

### **LACK OF CONSIDERATION OF SEQUENTIALLY PREFERABLE SITES:-**

4.4 Policy L1a) of the York Development Control Local Plan states that out of centre locations will only be considered where a sequential assessment has been undertaken that demonstrates that the proposed development cannot be

accommodated on alternative town centre or edge of centre sites. This reflects Central Government Planning Policy outlined in paragraph 24 of the National Planning Policy Framework(NPPF) in giving preference for town centre type uses to be located within or directly adjacent to town centres. Concern has been expressed that the originally submitted application did not include a sequential assessment submitted with the application. The applicant has, however subsequently submitted a detailed sequential assessment looking at range of sites within the environs of the City Centre, notably at Layerthorpe and James Street. However for a variety of reasons mostly connected with size and format of each site, together with existing employment use in some cases, none have proved to be suitable. In view of this assessment and the previous history of leisure use at the site the proposal is considered to be acceptable in the context of Policy L1a) of the Draft Local Plan and paragraph 24 of the NPPF.

#### IMPACT UPON THE SAFE AND FREE FLOW OF TRAFFIC ON THE SURROUNDING NETWORK:-

4.5 Serious concern has been expressed in relation to the potential impact of the proposal on total traffic volumes at peak times in the surrounding network and also the overall level of car parking provided at the site and the potential knock on effect on adjacent occupiers. The applicant has submitted a detailed Transport Statement in order to address these concerns. In terms of car parking the site has a conjoined entrance with the adjacent retail unit currently occupied by a bargain retailer. The proposed gym would be organised around a format providing a series of pre-booked exercise sessions from early in the morning through until late evening. It lies within easy walking distance of the principal retailing sector of Clifton Moor along with an element of the office related uses in the area. The detailed highway objection indicates that the site is too far distant from neighbouring land uses for a significant proportion of its users to walk, however the site is some 900 metres from the western edge of the Clifton Moor Retail Park putting it within the accepted 800 to 1000 metre walking distance for leisure/work related activity. In practice, therefore, an element of the custom is likely to come from those otherwise in the area for work and other purposes.

4.6 A detailed objection has been submitted in relation to the level of parking provision, however, the adopted standard for a gym use is a maximum and any divergence below that level cannot legitimately be taken as a deficiency. The proposed re-configuration of the parking area would significantly increase the level of spaces over and above that previously associated with the earlier leisure use and which did not give rise to a significant problem. The objections also appear to be based on an assumption that the site would be used at maximum capacity throughout its hours of operation. The applicant has submitted details which indicate that it would be operated on the basis of participation in pre-booked activities which would not all occur simultaneously. The assumption of use at maximum capacity is therefore not considered to be a reasonable basis for assessing the proposal.

4.7 The proposed level of vehicle parking provision is based upon a net floorspace of 1,700 square metres which generates a requirement for 140 spaces as stipulated. Furthermore the site lies in relatively close proximity to established public transport and cycle routes. The highway objection identifies the site as distant from main bus routes, however, two bus stops lie adjacent to the site entrance with others in the direct vicinity. The objection also indicates that the proposal would generate a need for somewhere in the order of 400 cycle parking spaces which would simply be unreasonable. The proposed level of cycle parking is based on the operator's experience of other similar sites and is considered to be acceptable. The level of vehicle parking space and the relationship to public transport routes is also considered to be acceptable.

4.8 Concern has also been expressed in relation to the absence of a Travel Plan. Travel Plans have generally only been sought in respect of entirely new sites and sites where more than 30 people are employed. The proposed gym would employ 8 staff and the proposal involves a straight change of use from a Class A1 (Retail) to a Class D2 (Assembly and Leisure) when the building was previously in a similar use. The submission of a Travel Plan at the pre-determination stage was not, therefore considered to be necessary. However, the submission of a Travel Plan is sought by condition for prior approval in line with practice applying at other similar sites in the vicinity. In terms of wider traffic impacts the applicant has submitted a detailed Transport Statement that demonstrates in terms of overall traffic volumes and flows that the proposal would not have an adverse impact on surrounding roads.

4.9 The site lies directly adjacent to the site of the proposed Wigginton Road Park and Ride site and one of the proposed access routes lies directly to the south. At the time of consideration of the proposal no evidence was forthcoming of a significant issue of traffic congestion in the immediate environs of the site. Photographs have been submitted with the highway objection illustrating examples of traffic congestion, however these relate to conditions on the A1237 Outer Ring Road itself some way to the north and which can be subject to issues of short term congestion unrelated to the adjoining land uses. In reality the majority of users of the site will access it via Clifton Moor to the south and west and not directly from the Ring Road. The site is well located in terms of its relationship to both the A1237 Outer Ring Road and routes heading south towards the City Centre. The Highway Authority has expressed itself satisfied with the proposal in terms of the level of traffic generated, the level of parking provision, the level of cycle parking provision and the proximity to public transport links. The proposal is therefore felt to be acceptable.

## **5.0 CONCLUSION**

5.1 The building to which the application relates was initially constructed in the late 1990s as a night club. Planning permission is sought for change of use of the building from its most recent use as a retail unit selling outdoor clothing and camping gear to a gym (Use Class D2). A sequential assessment has been

submitted which clearly demonstrates that other more appropriate sites do not exist within or within the environs of the City Centre. At the same time despite concerns in respect of over-concentration of similar uses in the vicinity there is no evidence of a particular issue and it is not the role of the planning system to intervene in issues of commercial competition. Additional car and cycle parking is to be provided within the adopted maximum standards and there is no evidence that this would not be sufficient to cater for the needs of the enterprise without harming surrounding uses. A Transport Statement has been submitted which demonstrates that any increase in traffic flows to and from the site would not cause demonstrable harm to other road users in the locality. The proposal is therefore considered to be acceptable in planning terms and is recommended for approval.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing Refs:- 0516 A\_2000 and 0516 A\_0002. Date Stamped 31st May 2013.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 The site shall not be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The travel plan should be developed and implemented in line with local and national guidelines. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with advice contained in local and national transport and planning policy in order to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

4 HWAY18 Cycle parking details to be agreed -

5 HWAY19 Car and cycle parking laid out -

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority requested the following further information in order to achieve a positive outcome:

- i) Detailed Transport Statement;
- ii) Detailed programme of activities to take place at the site.

#### **Contact details:**

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