

Application Number:	P/VO/2021/03367
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Unit 2 Lyme Regis Industrial Estate Uplyme Road Lyme Regis DT7 3LS
Proposal:	Change of use from B1 to E(d) (formerly use class D2) to allow the building to be used as a fitness centre (without compliance to condition 4 of planning approval WD/D/14/002435 - restriction on business hours)
Applicant name:	Mr Craig Bernhardt
Case Officer:	Bob Burden
Ward Member(s):	Cllr Turner

1.0 The building is owned by Dorset Council; consequently under the Councils Scheme of Delegation this application is required to be referred to the Planning Committee for determination.

2.0 Summary of recommendation:

That the committee be minded to grant subject to conditions and the Head of Planning determine the application accordingly.

3.0 Reason for the recommendation:

- Para 14 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise
- The location is considered to be sustainable and the proposal is acceptable in its design and general visual impact.
- There is not considered to be any significant harm to neighbouring residential amenity.
- There are no material considerations which would warrant refusal of this application

4.0 Key planning issues

Issue	Conclusion
Principle of development	The principle of use as a fitness centre was established by the implemented permission WD/D/14/002435 in 2015.

Effect on residential amenity	There are residential dwellings in the vicinity - albeit not immediately adjacent to the building. A temporary permission could therefore be used to assess the unrestricted use.
Effect on visual amenity	Minimal change as building already exists.
Economic aspects	4 full-time and 3 part-time employees in total-potential for 1.5 employees increase under this application.
Access and Parking	Acceptable vehicular access and on-site parking exists; considered acceptable in highways terms.

5.0 Description of Site

5.1 The site is located on the east side of the Uplyme Road forming part of the Uplyme Business Park and Lyme Regis Industrial Estate. It is a relatively modern building forming the central section of a three unit commercial block. It is positioned at a lower level relative to the road The building is two storey and finished with pale render to the ground floor with brown and buff cladding above and to the low pitched roof. Off-road car spaces are located adjacent to the site.

5.2 The site is flanked by Toad Hall Country Cottages Offices to the south-east and the precision Waterjet Company to the north-west. Further industrial/commercial units lie nearby to the south and east, with the Lyme Medical Centre to the north. There are residential houses further to the east. West of the site beyond the Uplyme road are dwellings on rising land relative to the site, the nearest actual dwelling being "Highview" about 47m away.

6.0 Description of Development

The application seeks relief from the current operating restrictions which are; 07.00-21.00 Mon-Fri; 08.00-17.00 Sat; 09.00-16.00 Sun/bank holidays. The application proposes instead unrestricted days and hours of operation.

7.0 Relevant Planning History

WD/D/14/002435 Change of use from B1 to D2 (now E(d)) to allow the building to be used as a fitness centre. Approved 17/11/14.

8.0 List of Constraints

Within Defined Development Boundary

ENV 7; Lyme Regis and Charmouth Slope Instability Zones; Zone 2

ECON2; Key Employment Site; Uplyme Road Business Park, Lyme Regis

ENV 1; Area of Outstanding Natural Beauty; Dorset

Area of Outstanding Natural Beauty: (statutory protection in order to conserve and enhance the natural beauty of their landscapes - National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000)

9.0 Consultations

Environmental Health Officer-

Environmental Protection, having regard to the supplied statement on noise management, would have concerns about the premises operating overnight owing to the character of the area where other commercial units will likely be limited to daytime hours and owing to the proximity of residential dwellings. Environmental Protection would have concern an extension to include night-time operation and prior to 7am has the potential for noise disturbance to residences and potential for loss of amenity.

Assets and Property Officer-

No objection to this proposal and wouldn't have thought it would adversely impact upon any of the other occupiers of the estate. It is only the neighbouring residents who it could affect.

Lyme Regis Town Council-

Members recommended that the application be refused because the change of operating hours to 24/7 would adversely affect the residential amenity of nearby properties. (NOTE: The Town Council may be more sympathetic to an amended/alternative application which sought to extend the existing operating hours to 7.00 a.m. - 10.00 p.m. 7 days per week).

All consultee responses can be viewed in full on the website.

Representations received

None received.

10.0 Relevant Policies

Development Plan

West Dorset, Weymouth and Portland Local Plan 2015 –
INT 1 - Presumption in favour of sustainable development
ENV16 - Amenity
ECON2 - Protection of key employment sites
ECON 4 - Retail and town centre development
COM9 - Parking standards in new development

National Planning Policy Framework 2021-

Part 2 Achieving sustainable development
Part 6 Building a strong, competitive economy
Part 8 Promoting healthy and safe communities
Part 9 Promoting sustainable transport

Decision-making

Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle,

and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Other material considerations

Design and Sustainable Development Guidelines 2009
West Dorset Landscape Character Assessment 2009
AONB Management Plan 2019-2024

11.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. Parking facilities are located close to the building which would allow easy access for those who suffer from limited mobility by reason of age or disability.

13.0 Financial benefits

Material considerations

Continuity of business supporting employment.
Element of additional employment

Non material considerations

Business rates

14.0 Climate Implications

Possible increased use of motor vehicles over extended days/hours, with increased emissions. However, use of walking, cycling, availability of public transport will also be likely means of transport. Any emissions must be balanced against the public benefits of improved health and fitness.

15.0 Planning Assessment

Principle of use-

15.1 The fitness centre use has been established on this site since 2015 in accordance with permission WD/D/14/002435. The site falls within a Key Employment Site under Policy ECON 2 of the Local Plan. Whilst a fitness centre is not an on-site service that directly serves the needs of the industrial estate (although could be conveniently located for employees to make use of the facilities), however it has provided on-going employment and a useful benefit to the community.

The application seeks relief from the current operating restrictions which are;
07.00-21.00 Mon-Fri; 08.00-17.00 Sat; 09.00-16.00 Sun/bank holidays.

15.2 The applicant now seeks the freedom of unrestricted days and hours. This is partly because some of the potential clientele work in employment in areas such as the hospitality industry where they cannot attend on more conventional daytime hours. Furthermore, there are other fitness centres with unrestricted hours in the wider locality which the business cannot currently compete with, such as Oliver Joseph in Axminster, East Devon. Another example of one (to be implemented) with a current permission for "24/7" operation is in Trinity Street, Dorchester (WD/D/19/002571).

Effect on Residential Amenity-

15.3 Both the Lyme Regis Town Council and the Councils Environmental Health Officer have expressed concerns over the potential impact of noise and disturbance to residential properties which might result from unrestricted days/hours of use. In response to this the following observations can be made:

- Residential properties are at a remove from the site. Whilst it is true to say the nearest (Highview) is about 47m away, properties in this area are beyond the well-used Uplyme Road- which itself generates significant traffic noise day and night.
- The applicant uses domestic wireless speakers (Sonos Play 3's) for gym members to stream music from a tablet/computer. No amplifier is installed- the Environmental Health Officer has also raised concern over risks from amplified music at night; however, this is addressed by condition 4 of the recommendation.
- No third party objections have been received.
- There appear to have been no complaints to the Environmental Health Officer during the daytime operation of the current gym since 2015.

15.4 The applicant has provided the following information regarding measures intended as to how the business would operate:

We will be fitting Hikvision CCTV systems with full access controls. 24/7 access will only be granted to full paying members and outside of manned hours the CCTV system will be monitored via an outsourced company (Cerberus).

Between the hours of 10pm and 6am our reception area, exercise studio and staff office will become unauthorised areas with our CCTV systems switching to full zonal controls with audio notification of unauthorised access.

As such our music controls will remain off and inaccessible to members.

Existing members will be notified via email (and all new members upon sign up) and agree to abide by our club rules, that only personal headphones may be used outside of 10pm and 6am.

Signage will be displayed both inside and outside of the club reminding members to arrive and leave the club respectfully and quietly.

15.5 Having reviewed the comments received and other relevant information this is considered to be a situation where a temporary (1 year) permission for the unrestricted days/hours would be appropriate. This would allow the use wider freedom to operate for, in effect, a trial period. At the end of that period the use could be re-assessed to determine whether the unrestricted hours are appropriate to continue more permanently, or whether- if there have been sustainable complaints- there is a return to more limited days/hours.

Effect on Visual Amenity-

15.6 The building is two storey and finished with pale render to the ground floor with brown and buff cladding above and to the low pitched roof. The application does not involve changes to the existing building. There would be minimal visual change – this being most likely limited to occasional cars under longer operating hours.

15.7 In terms of effect on the Area of Outstanding Natural Beauty (AONB), the site lies within a built-up business park with the defined development boundary of the town and the proposal does not involve any changes to the existing building externally.

Economic Aspects-

15.8 The applicant indicates that current membership stands at 220. Of that figure he indicates about 50% are generally active and 50% either dormant or low usage. Current staffing is 2 Full-time, 3 Part-time and 2 Freelance. He indicates that if this application is successful and membership numbers increase to >260 net, he would expect to take 1 of the current part-time staff and make them a full-time employee and increase the local Freelance numbers by a further 1.

Land Stability-

15.9 The site lies in Land Stability Zone 2. However, the scheme does not include additional ground loading hence no geotechnical report is required.

Highway Safety-

15.9 No consultation was considered necessary with the Highways Officer in this particular instance as the use is already present and established. The highways officer on the original fitness centre application raised no objection. Existing vehicular access is available to the site from Uplyme Road and there are ample parking opportunities to the rear areas of the building.

16.0 Conclusion

This is an existing established fitness centre which provides employment and a public benefit in terms of assisting people's health and fitness. There are residential properties in the vicinity -and consequently it is expedient to exercise some caution over removing the days and hours restriction. The option of a temporary 1 year unrestricted permission is considered a sensible way forward.

17.0 Recommendation

That the committee be minded to grant subject to conditions and the Head of Planning determine the application accordingly:

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

Location and site plan 1343.001

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The use hereby approved shall be for the purposes as detailed in the application fitness centre only and for no other purpose (including any other purpose in Class E(d) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

REASON: In order to retain control over other such uses within the same Use Class given that the Council considers an unrestricted Class E use may not be compatible with the Local Plan Policies.

3. The use hereby permitted shall be unrestricted in terms of days and hours of operation for a temporary period beginning on and including the date of this Permission and expiring on and including 31 December 2022. Thereafter, the use hereby permitted shall take place only between the hours of 07:00-21:00 on Mondays-Fridays inclusive; 08:00-17:00 on Saturdays and 09:00 – 16:00 on Sundays/Bank Holidays, unless a further application for extended hours of operation has been submitted to and approved in writing by the local planning authority.

REASON: The local planning authority wishes to exercise control over the period of temporary unrestricted operation in the interests of gauging the effect on residential amenity in the locality.

4. No amplified music or speech shall be used in the premises unless first agreed in writing by the Local Planning Authority and which will only be given if the insulation

properties of the building and any proposed sound insulation provisions are considered to be adequate.

REASON: To protect nearby properties from excessive noise.

5. The use hereby permitted shall not commence unless the parking spaces indicated on the application drawings are available for use by this unit and shall be retained and marked as such for parking purposes thereafter.

REASON: In the interests of highway safety and to ensure parking is available to serve the approved use.

Informative:

National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.