

WEST DUNBARTONSHIRE COUNCIL**Report by Strategic Lead - Regulatory****Planning Committee: 30th September 2020**

DC20/116: Erection of outbuilding for use as a commercial gym to operate a personal training business at 5 Gilmour Avenue, Hardgate, Clydebank, by Miss Caroline Jones.

1. REASON FOR REPORT

- 1.1** The application raises issues of local significance and is subject to a number of representations. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Refuse** planning permission for the reasons set out in Section 9.

3. DEVELOPMENT DETAILS

- 3.1** The application site relates to a semi-detached two-storey dwelling located in an established residential area and is surrounded by residential properties. This is with the exception of part of the southern boundary of the application site with the land beyond comprising of a vacant area that previously accommodated a domestic shed and garage allotment. The rear garden area of the property is grassed and relatively flat. It is surrounded by a low perimeter fence on the southern and eastern boundaries. There is no boundary treatment in place between the rear garden of the application site and the adjoining property. The property has no in-curtilage parking spaces or a vehicular driveway.
- 3.2** Planning Permission is sought for the erection of an outbuilding to be located within the rear curtilage of the above property for use as a commercial gym to operate a personal training business. The outbuilding would be of pitched roof construction and measure 3.5 metres in height (approx.), 2.4 metres in depth (approx.) and 10 metres in length (approx.) It would be positioned along the rear boundary line of the applicant's curtilage and would have a footprint of approximately 23 square metres. In terms of its appearance it is proposed to be finished in timber weather boards with a black felt roof. The design of the outbuilding includes the provision for two single windows and a door on the west elevation (which faces into the garden and towards the rear elevation of the applicants property).
- 3.3** The applicant seeks to operate a gym for a personal training business on a 35 hours per week basis, spanning over a 5 day period. The hours of operation

proposed will be 9.30am – 6.30pm Monday, Tuesday and Thursday (with a 2 hour afternoon break each day) and 9.30am – 1.30pm Wednesday and Friday. The applicant advises that they are the only member of staff associated with the proposed use and that they themselves will facilitate and conduct the 'One on One' personal training sessions. Each session would take approximately 60 minutes with each individual client, with this being extended to 75 minutes if a consultation is included. The applicant proposes to construct two parking spaces to the front of the property and also refers to availability of on street parking to support the use.

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Roads Service have no objections subject to the provision of two parking spaces.
- 4.2** West Dunbartonshire Council Housing Services as landlord for the application site have advised that they would not support the proposed parking within the site as it is associated with a proposed commercial business.
- 4.3** West Dunbartonshire Council Environmental Health Service have no objections subject to the use operating in accordance with the submitted supporting information.

5. REPRESENTATIONS

- 5.1** Seventeen letters of representation have been received in response to this application. These comprise of four letters of objection from properties neighbouring the site and thirteen letters of support from the wider area. A summary of the points raised in the representations are as follows:

Points of Objection:

- Excessive noise levels and noise disturbance from the proposed use.
- Lack of parking provision (including any in-curtilage parking) to accommodate and support the use.
- Lack of parking will exacerbate an already prevalent issue on Gilmour Avenue.
- Impact on privacy and overlooking
- Objection to the fact that the use has been operating unauthorised from the applicants property and garden for a number of months prior to the submission of the application.
- Inappropriate for such a commercial business and use to operate from a residential area and environment.
- Potential for the use to intensify and operations to increase in the future.
- Scale and massing of outbuilding is obtrusive and excessive for a residential area

- Outbuilding is too close to neighbouring residential boundaries.
- Neighbouring gardens at lower gradient than applicants meaning outbuilding will create issues in terms of overshadowing and loss of light to neighbouring garden ground and properties.
- Inability for the Council to control and restrict the number of clients using the facility at any one time.
- Inability for the Council to control and monitor noise levels from the facility.
- Security issues and concerns regarding additional footfall of strangers and users of the facility into a residential area.

Points of Support:

- Business and use promotes health and wellbeing.
- Business and use will have benefits in terms of promoting physical exercise and mental health.
- This will provide a service that will positively impact the local community.
- The outbuilding and gym will be soundproofed to mitigate noise.
- As the business will only have one client at a time the lack of in-curtilage parking will not be an issue.
- Current parking and traffic issues are caused by the nearby school and Goldenhill Clinic and this proposal would have a limited impact on this.
- Most clients using the facility can either walk or use public transport, limiting the amount of vehicle trips.
- The proposed studio will provide a safe, welcoming and therapeutic environment for clients as opposed to a commercial gym which can be intimidating and uncomfortable.
- The proposed location of the gym in the outbuilding will make for a more sterile and clean environment.
- More businesses will need to operate from home
- the proposed use is compatible for a residential area given limited numbers of clients

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Local Plan 2010

- 6.1** Policy GD1 seeks to ensure that all new development is of a high quality design, of an appropriate and compatible land use and that it respect the character and amenity of the surrounding area. Policy H5 seeks to ensure that the character and amenity of existing residential areas are safeguarded where new development is proposed. The criteria relevant to these considerations includes a need for proposals to reflect the character of the surrounding area in terms of its scale, design, density and materials, the requirement to avoid development that would adversely effect on local amenity (including parking). The proposed use by virtue of its residential location and setting would not

constitute a compatible use and it has the potential to adversely impact the character and amenity of an established residential area. The proposals are therefore contrary to Policy GD1 and H5 with the reasons for this outlined in more detail in Section 7 of this report.

- 6.2** Policy LE7 specifically addresses business development in mixed use or residential areas. This policy sets a requirement that any such commercial or business uses can only be supported in residential areas where it is robustly justified that the residential amenity of the surrounding uses will not be adversely affected or compromised by the proposals. The proposals are also contrary to this policy and this is considered in more detail in Section 7 below.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan (LDP1) Proposed Plan

- 7.1** On 27 April 2016, the Planning Committee took a final decision not to accept the Local Development Plan Examination Report recommended modification in respect of including the Duntiglenan Fields site in Clydebank as a housing development opportunity, and therefore, as a result of the Scottish Ministers' Direction, the Local Development Plan has remained unadopted but continues to be a material consideration in the determination of planning applications.

- 7.2** The application site is located within an established residential area. Policy BC4 states development that would potentially significantly harm the residential amenity, character or appearance of existing neighbourhoods will not be permitted. Similar to Policy LE7 of the Adopted Plan (2010), Policy DS1 of this plan states that all development should avoid unacceptable impacts on adjoining uses including those of noise, vibration, invasion of privacy and traffic implications. The proposals are considered to be contrary to the applicable policies and this is discussed further in Section 7 below.

West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

- 7.3** The modified Plan and associated documents was approved by the Council on 19 August 2020. The Council has now advised the Scottish Ministers of its intention to adopt the Plan. Local Development Plan 2 is therefore the Council's most up to date policy position and is afforded significant weight in the assessment and determination of planning applications.

- 7.4** Policy SC1 'Sequential Approach Proposals' sets a hierarchical direction for the preferred location of retail, commercial and leisure proposals, and other key town centre uses. This policy requires any such uses (including commercial gyms and personal training business uses) to align with the sequential approach and network of centre hierarchy defined by the plan. Policies SC1 and SC3 direct such uses to be located firstly within town centres, thereafter edge of town centre commercial centres, other edge of town centre sites and out of centre sites (which are accessible to public transport). Other sites will only be considered where it is demonstrated that by virtue of that location they are serving a specific neighbourhood, community or catchment which is best served more locally. The proposal is to introduce a gym business for personal training purposes use into an established

residential area. It has not been sufficiently evidenced that any consideration has been given to those sites or locations set out in the hierarchy of the plan and which are preferred for these types of uses. Equally, insufficient evidence or justification has been provided to justify a site specific locational need for the use in the domestic location as proposed. The proposals are therefore contrary to Policy SC1 and SC3.

- 7.5** Policy H4 focuses on the safeguarding of amenity in existing residential areas to protect, preserve and enhance their residential character and amenity. As part of this, the policy specifies a presumption against the establishment of non-residential uses within, or in close proximity to, residential areas which potentially have detrimental effects on local amenity. Similarly to policy H4, Policy CP1 states that new developments must respond to their local context and must protect and enhance the amenity of existing communities and neighbouring development sites. The proposed use is not compatible with the residential area and it has the potential to adversely impact upon existing residential areas and properties surrounding the site. Therefore the proposal is contrary to Policy H4 and CP1.
- 7.6** Policy ENV8 seeks to ensure that developments do not have a significant impact on established residential areas and properties by way of noise pollution. Where required proposals that have the potential to impact, they will require to demonstrate that their impact is not significant and provide adequate mitigation where necessary. Policy CON1 relates to transport matters and requires all developments to comply with national, regional and local transport requirements. The proposals are contrary to both of these policies, with the reasons for this outlined in more detail in Section 7 of this report.

Principle of Development and Site Selection

- 7.7** The applicant has provided statements in support of the proposal which set out the proposed days and hours of operation as outlined in section 3.3 above and advises that sessions with clients would be one to one only. In attempt to address noise concerns, the applicant states that the proposed outbuilding would be constructed to include some measures to help attenuate noise such as insulation, noise block sheets and rubber floor mats; music would be played from a mobile phone only; there would be no heavy weight training equipment. The applicant also states that there is a requirement to have the business operate from their property because the personal training business will provide a mental health and wellbeing focus that requires a quiet environment that can be provided from the location and cannot be provided from a commercial setting. Two car parking spaces are proposed to be constructed within the site and the applicant also states that on street parking on Gilmour Avenue can be used and on particularly busy days, clients can park at the nearby Hardgate shops. It is also anticipated that local clients would walk to the application site.
- 7.8** The supporting statement provided by the applicant does not provide sufficient justification for the acceptability of the use at this location. The

business is to be operated from the rear garden within an established residential area. This does not represent a suitable or appropriate location for a gym/ personal training business use. The relevant policies of LDP2 specifically direct gym and personal training type business uses to town centres as the most preferred location with out of town and mixed use locations considered favourably in that order thereafter. The supporting information submitted does not sufficiently demonstrate and evidence that the range of other more suitable locations within the Council area have been considered or why they have been discounted as unsuitable to accommodate the proposed use. The relevant policies of the Adopted and Proposed Plans do allow alternatives to town centres and out of town mixed use areas to be considered only where it has been sufficiently demonstrated and evidenced as the most appropriate site to be able to serve a specific neighbourhood, community or catchment which is best served more locally. In this case however, it has also not been demonstrated why the proposed use requires to be specifically located within the grounds of the applicants home. The principle of the proposed use at this location is therefore not considered acceptable when considered against the relevant policies of the Adopted and Proposed Plans.

Compatibility of Use and Impact upon Residential Amenity

- 7.9** In cases where sufficient justification is provided to evidence a site specific locational need and that other appropriate and more preferred sites have been sufficiently discounted, there is still a requirement that businesses and uses proposed within a residential area can only be supported where it is has been satisfied that the residential amenity of that area will not adversely affected or compromised.
- 7.10** The gym for a personal training business is not considered to be compatible with the residential nature of the application site and surrounding area. The site is in close proximity with neighbouring residential properties and there is no existing boundary treatment to the adjoining neighbours garden. The proposed use would be operational including more footfall over 35 hours, five days per week. This increased activity would be more than what would be typically expected for a residential property and have an adverse impact on adjacent properties. It would also create potential for noise generation through the increased activity, use of equipment, playing music regularly and increased traffic. The case presented does not sufficiently demonstrate that these matters can all be adequately mitigated. It is therefore considered that the proposal would be out of keeping and harmful to the residential character and amenity of the area and contrary to the relevant policies of the Adopted and Proposed Plans.

Parking and Traffic Impacts

- 7.11** There is currently no provision for parking within the application site. The Roads Service have advised that two parking bays would be required; one for staff parking and one for client parking. The applicant has provided a plan as part of the application annotating two in-curtilage parking bays to the front of

the property. Whilst this would in principle satisfy the Roads Service requirements, the Council is the landlord for the applicants property and the Housing Service have advised that they would not support the formation of the proposed parking area as it is associated with a commercial business. On this basis, it is unlikely that the parking proposals could be implemented and therefore the two parking bays as required by the Roads Service cannot be achieved. The applicant has indicated that on street parking could be achieved but this is not sufficient to address the Roads Service comments as the applicant has no control over on street parking. The applicant has also suggested that clients could park at the nearby Hardgate shops or walk to the site however this cannot be controlled and these considerations do not outweigh the Roads Services requirement for parking to be provided within the site.

Other Matters Raised in Representations

- 7.12** Whilst the letters of support refer to a host of health and wellbeing benefits and incentives to the local and wider community and public are noted and acknowledged, these benefits do not outweigh the impact that the proposal would have on the residential amenity of the immediate area. The representations also raise the role of the Council to support economic growth and enable businesses such as this to set up and grow and this is acknowledged. However, the Council also has a role to safeguard residential amenity and to direct business uses to the most appropriate areas as identified in the Adopted and Proposed Plans. Any direct or indirect benefits gained from the introduction and operation of this commercial use would at the same time compromise the amenity of the established residential area and the proposals cannot therefore be supported at this location.
- 7.13** With regard to the matters raised in the objections relating to the ongoing unauthorised operation of the gym and personal training use from the applicants property, this is being pursued separately by the Council.

8. CONCLUSION

- 8.1** The proposed outbuilding which is proposed to be used as a commercial gym is not an appropriate form of development at this residential location and it is contrary to the policies of both the Adopted and Proposed Local Plans. No site-specific locational need for the development has been established and there is a lack of justification to demonstrate that the use could not be accommodated in other more suitable, available town centre and other commercial areas.
- 8.2** The site is situated in an established residential area and the commercial use by virtue of its nature, characteristics and associated activities will have an adverse impact upon residential amenity and would be out of keeping and harmful to the established residential character of the area including neighbouring residential properties to the site.

9. REASONS FOR REFUSAL

1. The proposal is contrary to Policies LE7 and GD1 of the Adopted Plan (2010), Policy BC4 of the Local Development Plan 1: Proposed Plan and Policies CP1 and H4 of Local Development Plan 2: Proposed Plan (LDP2 2018) as the proposed gym for personal training business is considered to be incompatible and will adversely impact on the amenity of the surrounding residential area by virtue of noise, increased footfall and activity and disturbance beyond what would ordinarily and typically be considered acceptable for an established residential area and environment.
2. The proposals are contrary to Policy SC1 and SC3 of Local Development Plan 2: Proposed Plan (LDP2 2018) as the proposals fail to sufficiently demonstrate and evidence any reasonable assessment and consideration of available town centre sites and locations and other alternative preferred sites within the West Dunbartonshire area to sufficiently discount their suitability in favour of the proposed residential setting as proposed.
3. The proposal is contrary to Policy GD1 of the Adopted Local Plan (2010) and Policy CON1 of Local Development Plan 2: Proposed Plan (LDP2 2018) as the proposed gym for use as a personal training business would adversely impact upon and exacerbate existing on street parking.

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Date: 30th September 2020

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Appendix: None

Background Papers:

1. Application documents and plans
2. West Dunbartonshire Local Plan 2010
3. West Dunbartonshire LDP - Proposed Plan
4. West Dunbartonshire LDP - Proposed Plan 2
5. Consultation responses
6. Representations

Wards affected: Ward 4 (Kilpatrick)