

**Parish:** SUDBURY

**Location:** Caxton House, Milner Road, Chilton Road Industrial Estate, Sudbury, CO10 2XG

**Proposal:** Change of use of ground floor and part of first floor from B1 to Health and Fitness Centre (incorporating gymnasium (D2) and Beauty Therapist (sui generis).

**Applicant:** Mr Alastair Campbell

**Case Officer:** Graham Chamberlain

**Date for Determination:** 20/11/09

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**This application has been reported to Development Committee as representations have been received which are contrary to the recommendation of Officers and the proposal is equal to or above the scale of two dwellings.**

#### **THE SITE**

1. The site comprises of a large industrial unit within the Chilton Industrial Estate. The building is located approximately 1751m from the town centre. The building is clad in metal sheeting on a light brick plinth. The building is utilitarian in appearance. When the application was submitted in September 2009 the unit was a vacant B1 premises with 14 associated parking spaces. The floor space was approximately 1000sqm including a mezzanine floor.
2. The Health and Fitness Centre (HFC) opened in January 2010 and is unauthorised and the site now comprises of the Health and Fitness Centre with 32 parking spaces. The mezzanine floor has been extended to provide additional floor space (this does not require permission).
3. The surrounding area is industrial in character with Build Base and Travis Perkins flanking the site and another unauthorised gym 'Mwah' located to the east (this is subject to a separate enforcement investigation).

#### **THE PROPOSAL**

4. The proposal is for the continued use of the building as a Health and Fitness Centre (HFC). The HFC opened in January 2010, although this application was submitted in September 2009.
5. The proposal incorporates a gym measuring 850.05sqm (including an extension to the mezzanine floor) and a beauty therapy area measuring 26.22sqm. 206sqm will be retained as B1 Office use and sub let.
6. The proposal is for around 40 fitness stations (a piece of equipment is a 'station'). Gyms in Suffolk tend to range from 20 to 100 stations. The number of stations is similar in scale to the gym at the Kingfisher Leisure Centre. The proposed HFC requires additional space for fitness classes and martial arts training. The minimum amount of floor space needed to provide 40 stations is 464sqm, but to enable the provision of a better 'training experience' 650sqm is the desired floor space. The proposal exceeds this due to the martial arts training area.

7. The proposal has rationalised the parking layout to provide an additional 18spaces, an increase from 14 to 32. The existing entrance and exit is used.
8. A number of minor external alterations are proposed such as fire doors.
9. The application is supported by a
  - Design and Access Statement
  - A PPS6 Assessment assessing 'need' and a sequential assessment
10. The applicant's case is summarised as follows,;-
  - Sudbury is due for significant growth due to the Chilton development as set out in Policy CP01 of the Local Plan
  - PPG17 states that sport and recreation underpins peoples quality of life
  - Babergh has a high proportion of the population taking part in moderate exercise for at least 30mins 3 times a week (16.3% of the population)
  - A report commissioned by Sport England regarding sports provision in Suffolk (Creating an Active Suffolk - SCC Facilities Strategy 2009 -2016) found a latent demand in Babergh for Health and Fitness Centres. The report identified that a lot of the provision in the district was within schools and therefore was not open to the general public at all times for 'pay and play'.
  - Sudbury has five HFC compared to Bury St Edmunds which has 9 with 4 of these having over 50 stations
  - The requirement for a gym of between 460sqm - 650sqm results in there being no other sequentially better site. The proposed location is the only suitable location available.
  - There is no scope for disaggregation, given the nature of a Gym it all needs to be in one place, people can not stop a work out to move to another premises.
  - The Yellow Dot Sports Club has closed leaving a gap in provision.
  - Sudbury is below average in terms of leisure provision
  - Gyms on the outskirts of a town are common place e.g. Xpect in Braintree, Top Notch in Colchester and LA Fitness in Bury
  - The proposal is unlikely to have significant impact on the Kingfisher site as no Swimming Pool is proposed.
  - The new HFC will provide a dedicated mixed martial arts area which is not provided anywhere else in the town
  - The government has a target to increase sports participation by 1% per annum
  - The building has been empty for a long time and will be brought back into use.

## **RELEVANT HISTORY**

11. No relevant history. The previous use of the site was as a B1 unit. It is not clear how long the unit had been empty for before the current HCA use began.

## **NATIONAL GUIDANCE**

12. **PPS1** Delivering Sustainable Development
13. **PPS4** Planning for Sustainable Economic Growth

## **PLANNING POLICIES**

14. The Development Plan comprises the East of England Plan, adopted 2008, saved policies in the Suffolk Structure Plan, adopted 2001, and the Babergh Local Plan (Alteration No. 2) adopted 2006. The following policies are relevant to this proposal:

## East of England Plan - 2008

- ENV7 – (Quality in the Built Environment)
- SS1 – (Achieving Sustainable Development)

## Babergh Local Plan (Alteration No.2) 2006

- CN01 – (New Development)
- EN09 – (Conservation of Energy/Sustainable Construction)
- HS02 – (Housing in villages)
- TP15 – (Parking)
- EM01 – (General Employment)
- EM09 – (Leisure and Sports at Employment Sites)

**The relevant documents can be viewed via the internet. Please see Page 3 for details.**

## CONSULTATIONS

15. PC - Chilton Parish Council - No objection.
16. TC - Sudbury Town Council - Approve
17. Local Highway Authority - No objection subject to Conditions
18. Planning Policy Team - Initial comments (pre PPS4)

*'Based on the location, type and nature of the development proposed, the applicant would need to submit a PPS6 assessment (and sequential approach) to support their application. Although the applicant provides some information in terms of PPS6, it does not address the requirements in PPS6, notably quantitative need, the sequential test and impact on the town centre. Also the Hamilton Road Quarter/Sudbury Town Centre site (SD06) would potentially be quite a good location for this type of use so they should include this site in their sequential test.'*

19. In light of the above further information was received in November 2009 from the applicant. Following the introduction of PPS4 further comments were requested from the Policy Team.

*'The terms of our saved Local Plan Policy SP03 apply, together with Policy EC17 of new PPS4'*

*This means that the applicants need to:*

- *Provide evidence that they have sought to follow the sequential approach to site selection (see PPS4 Policy EC15) and I would expect this part of their evidence to be thorough*
- *Show evidence on town centre impacts (see PPS4 Policy EC16)*

*'The applicants have assessed PPS4 too narrowly. The impact on Kingfisher need to be considered. But in any case they need to look at town centre impacts more widely; could the proposal have impacts more widely by attracting people / visitors away from the centre that could / would otherwise be drawn to it if the proposal was located there – i.e. it is not just about their very narrow view on impacts on comparable facilities*

*We also have town centre health information available to view in our town centre health check report from mid 2008. This shows that whilst the centre was / is doing quite well on overall health, there is no room for complacency and in particular it faces very stiff competition from larger centres fairly nearby that are within reasonably easy travelling distance of Sudbury and its catchment area and therefore represent its effective competitors. Most of these are very much larger too (Bury SE, Braintree, Colchester, Ipswich)*

*The requirement to consider need now rests with us as LPA in our role of preparing new Plans and this is an area of work that we have not yet done but will be doing soon. For the purposes of this application, we will perhaps have to leave that part of things aside but it seems relevant and applicable, especially where a proposal like this arises for a town centre use well outside a town centre.*

20. Contaminated Land Officer - No objection

*Community Safety & Leisure Manager (commenting on the impact on Kingfisher and Need) (summarised), 'South Suffolk Leisure (the trust that runs the Kingfisher Leisure Centre) did commission a demographic study a few years ago to ascertain the level of 'latent demand' for a Gym in Sudbury. That study did suggest such a demand could be tapped, however this was some time ago now and a number of things have changed, not least of which is the economic situation. The study is SSLs not ours and therefore not in our gift to disseminate, in any case it was commissioned for a specific commercial purpose and would therefore be confidential There is also an issue about what market any new facility might aim for. If the applicant has to demonstrate need, we consider that there are a range of providers in the area and therefore the need for further facilities is not clearly made. However if the applicant can provide sound research to suggest such a need or that a potential latent demand does exist the case should be examined on its merits.'*

21. Economic Development Officer -

*'I have had a trawl through the commercial agents site, I can't find anything in the town centre or on the outskirts suitable for a gym use, the larger units vacated by M&S and Woolworths are now occupied, there is a couple of small retail units in North Street and Friars Street but nowhere near the size. The former Hitchcock provision and cafe premises you mentioned would be too small. There are some units on the main industrial area but to consider these would of course present the same issues the current location does.'*

## **REPRESENTATIONS**

22. Four letters of objection raising the following points,

- The proposal will put other gyms out of business.
- No need for the facility given the existing provision
- Patronage would be diluted which will put other gyms out of business
- Concerned regarding migration of clients from Kingfisher

## **PLANNING CONSIDERATIONS**

### **Background**

23. The application was original submitted in September 2009, prior to the opening of the gym. The intention of the applicant was to gain planning permission prior to the HFC opening. The needs assessment originally submitted with the application raised a number of questions, the main one being that the need had not been quantified. The needs assessment had relied on national trends, anecdotal evidence, district wide

evidence and qualitative information. The need identified in *Creating an Active Suffolk - SCC Facilities Strategy 2009 -2016* was a latent need which referred more to the way facilities were provided and operated rather than the overall quantity. Officers therefore requested further clarification regarding the 'need' for the facility in terms of additional provision for Sudbury and whether a HFC of the scale proposed is needed. Officers also questioned the methodology for the sequential assessment.

24. In the interim, the government cancelled PPS6. This had significant implications for the assessment of the application.
25. The requirement to demonstrate need was removed. The onus is now for LPA's to assess the needs of a town and set this out in the LDF. Applicants would be required to undertake impact tests and sequential assessments for town centre uses outside of a town centre.
26. The applicant is of the opinion that an impact assessment is not necessary and would be disproportionate to what is proposed. The applicants 'rolled over' their original sequential assessment as such a submission is still required in PPS4.
27. The application has therefore been assessed against PPS4 rather than PPS6, which has been superseded. Although need can be a material consideration (as in any application), there is no requirement for the applicant to demonstrate there is a need for the proposal. The key tests are whether there would be a 'significant adverse impact' on the town centre and whether all sequentially better sites have been considered before the application site. If there is no significant adverse impact on the town centre then in essence PPS4 leaves the market to determine the need for the facility.

#### **Principle of Development**

28. The principle of the development turns on whether the proposal, being a town centre use, is acceptable outside of the town centre.
29. Policy EM09 of the Local Plan states that proposals for sporting and leisure uses will be permitted at General Employment Areas (such as the Chilton Estate) if the applicants can demonstrate a need for the facility and that the proposed facility can not be located in the town centre, or edge of town centre. The policy states that permission will only be granted for proposals if the
  - The proposal offers a significant level of employment
  - That it would not take up excessive land area
  - It represents a sustainable use for the location involved.
30. The purpose of the Policy is to direct 'town centre uses' towards the town centre as this will attract visitors to the town centre, which will safeguard its vitality and viability. If town centre uses leak out of the town centre then trips will not be combined and the use of the town will become fragmented. This could result in the need to travel further and more often by car and erode the vitality and viability of the town centre. This approach was borne out of PPS6. PPS6 required applications for town centre uses outside of town centres to demonstrate a need for the proposal and then demonstrate that it could not go in the town centre by undertaking a sequential assessment.
31. As discussed above, PPS6 has been cancelled and is now superseded by PPS4. PSS4 has not retained the 'need' test. This has been replaced by a more robust impact test. The sequential assessment has been retained in PPS4. PPS4 is therefore the main Policy document relevant to the consideration of this application as the Policies in the Local Plan do not take this guidance into consideration.

32. In Paragraph 4 of PPS4 the government has defined what constitutes 'economic development'. This includes:-
- The B Use classes, (light and general industrial uses)
  - Public and community uses
  - Main town centre uses.
33. The policies in PPS4 also apply to development which achieves at least 1 of the following
- Provides employment opportunities
  - Generates wealth
  - Produces or generates an economic output or product
34. Paragraph 7 sets out what the main town centre uses are, and therefore what types of development the town centre policies within the PPS apply to ,
- Retail development (including warehouse clubs and factory outlet centres)
  - Leisure, entertainment facilities, and the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, night-clubs, casinos, health and fitness centres, indoor bowling centres, and bingo halls)
  - Offices, and
  - Arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)
35. The proposal therefore falls under the definition of economic development and is a defined town centre use. However it is located outside of the town centre (the town centre is defined in the Local Plan).
36. PPS4 Policy EC17 applies to the consideration of planning applications for development of main town centre uses not in a centre and not in accordance with an up to date development plan. Consequently Policy EC17 applies to the consideration of this application.
37. Policy EC17 states that planning permission should be refused where,
- The applicant has not demonstrated compliance with the requirements of the sequential approach (Policy EC15 of PPS4 and the sequential assessment is discussed below)
  - There is clear evidence that the proposal is likely to lead to significance adverse impacts as set out in Policies EC10.2 and EC16.1 of PPS4.
38. Policy EC16 sets out what is required by way of an impact assessment. Policy EC10 refers to all economic development.

39. These impacts are set out in the table below

Policy EC10.2 (all proposals for economic development should be assessed against these)	Policy EC16.1 (where an impact assessment is required, the impact assessment needs to include an assessment against the following)
<p>Whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change<sup>14</sup></p> <p>The accessibility of the proposal by choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured<sup>15</sup></p> <p>Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions</p> <p>The impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives</p> <p>The impact on local employment.</p>	<p>The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal</p> <p>The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer</p> <p>The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan</p> <p>In the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy</p> <p>If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floor space) in relation to the size of the centre and its role in the hierarchy of centres</p> <p>Any locally important impacts on centres under policy EC3.1.e (need to have been identified/defined)</p>

40. An impact assessment prepared by an applicant would therefore need to identify the impact of the proposal and would demonstrate whether or not there would be a 'significant adverse impact' in light of what is set out in Policies EC16.1 (and EC10.2 which applies to all economic development proposals)

41. Policy EC14 explains when an impact assessment is required. An assessment is required for planning applications for retail and leisure development

- When the development proposed is over 2,500sqm gross floor space
- Where there is a local floor space threshold set out in an up to date development plan requiring an assessment
- Para EC14.5 of PPS4 states that in the interim, before development plans are revised to reflect PPS4, an assessment of impacts as set out in Policy 16.1 is necessary below 2,500sqm of floor space (when not in an existing centre) where the proposal is 'likely to have a significant impact on other centres'

42. The Council has no local floor space threshold and the proposal is under 2,500sqm; therefore the first two criteria above are not relevant. The applicants have undertaken a sequential assessment but are of the opinion that an impact assessment under the third criteria above is not necessary as it would not be proportionate to the application.
43. The key issue therefore is whether or not an impact assessment is necessary and whether or not the sequential assessment submitted is robust. Judgments about the extent and significance of any impacts should be informed by the development plan and recent local assessments such as a town centre health check or a town centre or retail strategy.
44. Consequently, the key test in establishing whether an Impact assessment is necessary is what evidence there is that the proposal 'is likely to have a significant impact on other centres'.
45. PPS4 does not explicitly define what a 'significant impact' is. The onus is on the LPA to identify what is 'significant' and set a threshold in the LDF based on evidence. In the interim the requirement for an impact assessment is judged case by case following a scoping exercise.
46. The companion guide to PPS4 sets out a number of tests (in Paragraph 7.4) to assist the scoping of proposals and the setting of local thresholds (in LDF's) for impact assessments. When scoping the proposal to ascertain whether an impact test is necessary, Officers are of the opinion it is sensible to apply these tests so as to form a view with regards to whether an impact test is required. These tests are as follows,
47. In setting local thresholds, LPA's should consider the following
- the scale of known proposals relative to town centres;
  - the existing vitality and viability of town centres;
  - the cumulative effects of recent developments;
  - the likely effects on a town centre strategy and the impact on any other planned investment.
48. The scheme has been scoped against these criteria below,
- The scale of known proposals relative to town centres** - the main health and fitness facility in Sudbury is the Kingfisher Leisure Centre which is located just outside of the town centre. Consequently the town centre is served by a large leisure facility. Sudbury is not in a situation where there are a number of large health and fitness centres outside of the town centre which could cumulatively impact on its viability upon which the proposal could have a cumulative impact. The proposal is not disproportionate in scale to the gym at the Kingfisher Leisure Centre or the town centre as a whole e.g. the proposal is not for a large leisure complex which would compete with the town centre.
- The existing vitality and viability of town centres** - if Sudbury Town Centre was failing, then the proposal could compound this. It would then be reasonable to conclude the development would likely have a significant impact and therefore an impact assessment would be required. A relatively healthy centre should be able to take a smaller town centre use outside of the town centre. In any instance the sequential assessment will ensure that the town centre has been considered first.
49. The Sudbury Market Town Health Check undertaken in 2008 demonstrated that the town centre is 'healthy'. This is significant, as PPS4 explains that an impact assessment may be required for proposals under 2,500sqm if the proposal is large compared to a nearby centre, or likely to have a disproportionate effect or 'tip the balance' of a vulnerable centre. Sudbury town centre can not be described as

vulnerable in light of the health check; therefore it is unlikely this proposal will 'tip the balance'. It is acknowledged that the health check was undertaken prior to the recession, but it is the most up to date evidence available.

**The cumulative effects of recent developments** - there are no recent developments relating to Health and Fitness provision. In fact a recent study has shown that since the closure of the Red Dot facility there is a latent demand for Health and Fitness facilities as many of the existing facilities are at schools and therefore have access issues. Officers have not included in this assessment, the unauthorised gym 'Mwah'.

**The likely effects on a town centre strategy and the impact on any other planned investment** - The main issue to consider here is the Bus Station redevelopment within the town centre. This site falls under Policy SD06 as a redevelopment area. Leakage of facilities away from the town centre makes it less likely that this site would be brought forward. However, this site is not currently available on a piecemeal basis and the development brief has not been finalised. On balance, this site is not a genuine opportunity at the moment for the applicant.

50. In light of this scoping there is little evidence to suggest that the proposal is likely to have a significant impact on the town centre (in the same way a retail development may). Furthermore, the steer in PPS4 is that only 'occasionally' will it be necessary to require an impact assessment below the 2500sqm threshold. Consequently, Officers have concluded that an impact assessment is not required in this instance. Therefore the proposal should be judged on its merits against the criteria in Policy EC10 of PPS4 and in light of a sequential assessment as required by Policy EC15 of PPS4.

#### **Assessment against Policy EC10 of PPS4 (and EM01 of the Local Plan)**

##### **Whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change.**

The applicants have not discussed this in their statement. The use of the building would remain flexible; it could easily be converted back to a B1 use, or another use, if required in the future. The parking provision and location away from the town centre is not a necessarily a sustainable form of development as it would promote travel by car. The parking provision is however, significantly below the maximum standard (see below) The applicant has argued that the facility will serve people working in the estate and residents in the area. The development is below the trigger for renewable energy generation on site (1000sqm) and there are no other specific requirements to meet. On balance, Officers are of the opinion that there is no harm.

##### **The accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured**

Chilton is located on cycle networks and there are bus stops within the estate. The facility would be within walking distance of some residential properties nearby. The properties in Newton Road are within 400m of the site - a comfortable walking distance. Given that there are no sequentially more suitable sites, the location is considered well sited for the proposed use and level of activity.

##### **Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions**

The design changes are minimal and are not considered harmful.

##### **The impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives**

The proposal has utilised a redundant industrial unit, which in part helps with economic regeneration. The proposal will encourage a more active lifestyle and will provide the residents of Sudbury with a greater choice of facilities for recreation. This helps with social inclusion. The business philosophy of group classes and their aim to get people back into sport, and the nutritional advice given, all assist in promoting a healthy lifestyle.

**The impact on local employment.**

The HFC will provide 9 full time jobs and 6 part time jobs. This is not the best use of the site as a B2 or B1 use may employ more, however this level of employment is not insignificant.

51. Following the assessment above, Officers are of the opinion that there are no significant adverse impacts when the proposal is assessed against Policy EC10 of PPS4 and EM01 of the Local Plan.

**Sequential Assessment**

52. The sequential assessment undertaken is quite simplistic but on balance, it is sufficient to demonstrate that there are no other sequentially better locations which are suitable, viable and available. The main points are as follows:-
- There are 15 locations within the town centre which would provide the level of accommodation required (as set out in the Experian Town Centre Study).
  - All these locations currently provide retail space. The Market Town Health Check demonstrates that retail space is important to the viability of Sudbury.
  - One of the 15 sites recently became available (the Woolworths site), but this has been occupied by Iceland.
  - The applicants assessed 6 town centre sites. None of these sites were considered suitable as they were too small and arranged over a number of levels (and would therefore not be practical for a gym use). These sites are therefore not suitable.
  - There are no opportunities for disaggregation. This would significantly add to cost (providing lockers, showers etc) which would push membership prices up past what is viable. Furthermore a gym use does not lend itself to disaggregation.
  - The applicants have mentioned the SD06 regeneration area (including the bus depot); however it is questionable how viable this is at the moment due to the uncertainty and time scales. Furthermore it is currently not available.
53. The applicants have only assessed the town centre. PPS4 requires a sequential assessment which also looks at edge of centre (300m from the defined town centre). Officers have liaised with the Economic Development Team regarding the sequential assessment. The Economic Development Team has confirmed that there is limited supply of sites of the size proposed in or on the edge of the town centre. Furthermore, the preference would be for large retailers to be directed to the larger sites within the town centre as this will result in greater retail footfall which will then attract other larger retailers. In light of the lack of supply of sites in the town and edge of town centre, and the desire for retail uses in the larger premises, Officers, in consultation with the Economic Development team has recommended that the sequential assessment is, in this instance, acceptable.

**Highways and Parking**

54. Policy TP15 requires all types of development to adhere to the relevant parking standards.

55. The maximum parking standard for this type of development is 87 spaces (1 space per 10sqm of public area). This is however a maximum standard. Given the proximity to bus stops, and the ability to walk and cycle a lower level of provision is acceptable. The Local Highway Authority has raised no objections.
56. A condition is recommended to require the provision of cycle stands.

## **CONCLUSION**

57. In summary, the proposal does not require an impact test following the scoping exercise. There is no clear evidence to indicate that the use would likely have a significant adverse impact on the town centre. The sequential assessment has, on balance, demonstrated that there are no sequentially better sites. When assessing the proposal on its merits against policy EC10 of PPS4, and Policy EM01 of the Local Plan, no significant adverse impacts have been identified. There is no harm to the amenity of the area or highway safety. The application is therefore recommended for approval.

## **REASONS FOR APPROVAL**

58. Subject to the attached conditions, the development will have no significant adverse impact on the town centres vitality and viability, highway safety, the character of the area, the street scene or neighbour amenity. The proposal would benefit the community by promoting a healthy lifestyle and offering a choice of facility. The proposal therefore adheres to Policies CN01, EM01 TP15 of the Babergh District Local Plan Alt 2 (2006) and national guidance in PPS4, PPG17 and PPS1.

## **RECOMMENDATION**

- (1) That planning permission be granted subject to the following conditions
- As recommended by the Local Highway Authority (including the provision of cycle stands).