

- a) **DOV/22/00781 - Change of use to gym (Use Class E(d)) in addition to existing non-food retail use, with external alterations to building (existing entrance lobby to be demolished) – Halfords Ltd, Granville Street, Dover**

Reason for report – Number of contrary views (9)

- b) **Summary of Recommendation**

Planning permission be granted, subject to safeguarding conditions.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010):

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM2 – Protection of Employment Land and Buildings

DM11 – Location of Development and Managing Travel Demand

DM13 – Parking Provision

DM20 – Shopfronts

National Planning Policy Framework (NPPF) (2021)

Paragraphs 7, 8, 11, 130, 197, 199, 202

National Planning Practice Guidance

National Design Guide (2021)

National Model Design Code (2021)

Kent Design Guide (2005)

SPG4 Kent Vehicle Parking Standards

Draft Dover District Local Plan

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (Regulation 19) the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF:

SP6 – Economic Growth

CC5 – Flood Risk

PM1 – High Quality Design

E2 – Loss or Redevelopment of Employment Sites and Premises

R2 – Sequential Test and Impact Assessment

R4 – Shop Fronts

T13 – Parking Provision on new Development

HE2 – Conservation Areas

d) **Relevant Planning History**

DOV/89/00491 – The erection of a Class A1 non-food retail warehouse including car service centre, car parking and access – Granted 17/05/1989

DOV/05/01118 - Change of use of car service centre (part) to non-food retail within use class A1 – Granted 12/01/2006

e) **Consultee and Third-Party Responses**

Environment Agency – As the proposal is for a change of use of an existing building with no increase in vulnerability classification or building footprint, no objection to the proposal.

Environmental Health – Primary concerns with the gym use are amplified music and impact noise from weights, together with noise from external fixed plant use. Noise breakout could affect adjacent residential properties and the adjoining commercial unit. In response to these concerns a thorough Acoustic Design Report was provided. Following review of the report, EH concur with its findings, and require the proposed development to accord with the recommended internal fit out and mitigation measures proposed. Provided these are adhered to, together with the inclusion of a relevant condition to mitigate any potential noise nuisance from the external plant, and the new external doors remaining closed at all times except for emergencies or operation purposes (in the case of the plant room), no objection is raised to the proposal.

Dover Town Council – Support

KCC Highways - The applicant has demonstrated parking provision for 62 vehicles which exceeds the minimum requirement of 50 spaces, this is based on unit size of the proposed gym. Confirms the surrounding roads to the proposed development have existing parking restrictions. Given the on-street parking restrictions controlling the ability to park on the highway it is not considered that parking associated with the development proposals will have an impact on highway safety.

Public Representations:

8 letters of objection and 1 letter of representation have been received in response to the proposal. The material considerations included within the letters of objection have been summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are non-material considerations and are not included below.

- Concern regarding the noise and disturbance impacts of the proposed gym, for example from air conditioning, noise of equipment, noise of cars and comings and goings. This will be detrimental to residential amenity in the surrounding area.
- There is limited parking in the vicinity of the site with associated parking pressure. The parking provisions for the proposed gym are insufficient and will add more pressure to the already busy roads in this area.
- There are 3 schools in this area and this road is already dangerous. This could get worse with the extra traffic associated with the proposed gym.
- It is important that only the car park is used by gym members with no parking in adjacent roads.
- There are already 4 existing gyms in Dover and another opening. The proposed gym is unnecessary.

- The unit is large and will necessitate a large number of members, many of who are likely to be young and gather in groups. The proposal could result in antisocial behaviour at the site and its vicinity, particularly given the proposed 24 hour opening.
- The space should be used for something that is more beneficial for the local community, such as children's indoor play or retail shops.
- The proposal could result in the closure of existing gyms in the town.

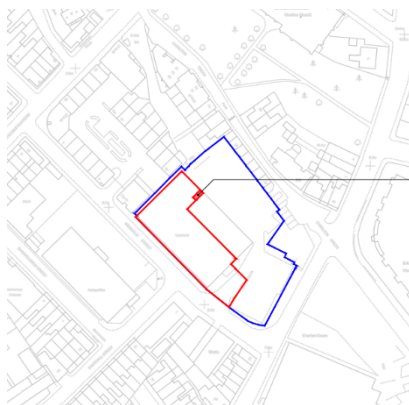
1 letter of representation has been received stating that they are happy that a company are looking at using this building, however, concerned about the associated noise and parking.

**f) 1. The Site and the Proposal**

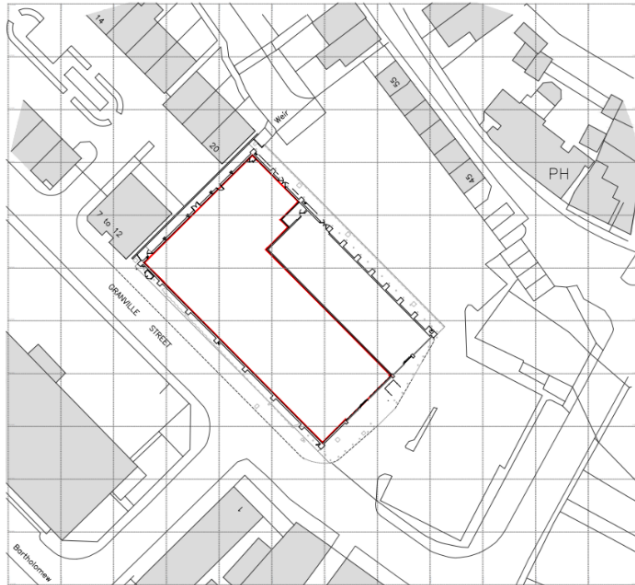
1.1 The application relates to an existing single storey, functional 'big box' commercial unit, which was formerly occupied by Halfords for non-food retail purposes. The unit previously formed part of a single larger unit, which was subdivided some time ago, with Carpetright formerly occupying the attached smaller unit. Both these units are currently vacant.

1.2 The building comprises a simple design and form, with a glazed front elevation and metal clad side elevation with brick elements and brick piers at intervals facing Granville Street, containing no openings, with car parking to the frontage of the building. The site is located on Granville Road, outside of the town centre approximately 650m from Dover Town Centre (an 8 minute walk), but in close proximity to other commercial uses and the main routes through the centre of town. Adjacent to the car park to the north is the River Dour which also forms the edge of the Charlton Green Conservation Area. To the south of the site on Granville Road are predominantly single storey commercial buildings, and the two storey Post Office depot. To the front of the site is the side elevation of Morrisons and the river Dour and soft landscaping, and to the rear of the site is predominantly residential terraced dwellings and flats.

1.3 Planning permission was recently granted under application DOV/22/01020 for the change of use of the adjoined former Carpetright unit to a veterinary surgery (Use Class E(e)) in addition to the existing non food retail use, including external alterations to the building. The location of the application building in relation to its surrounding built environment is included in Figure 1 and Figure 2 below.

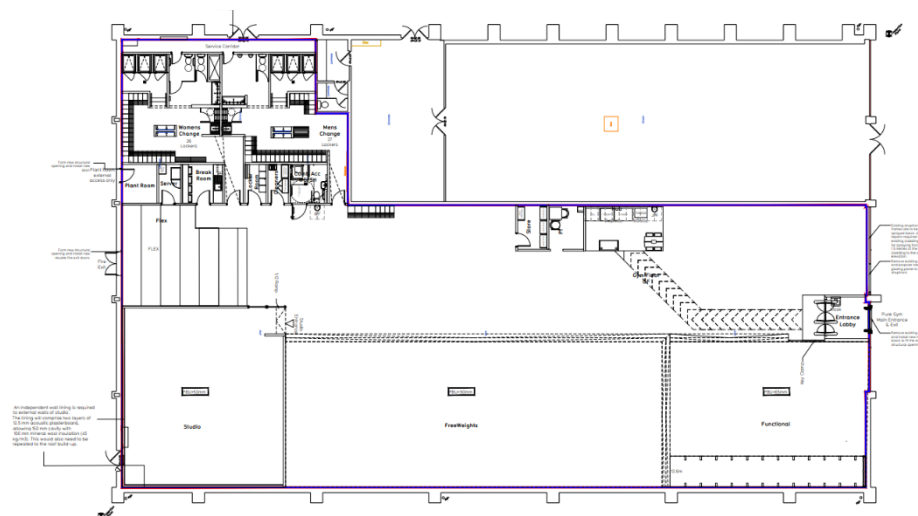


**Figure 1: Site Location Plan**



**Figure 2: Proposed Block Plan**

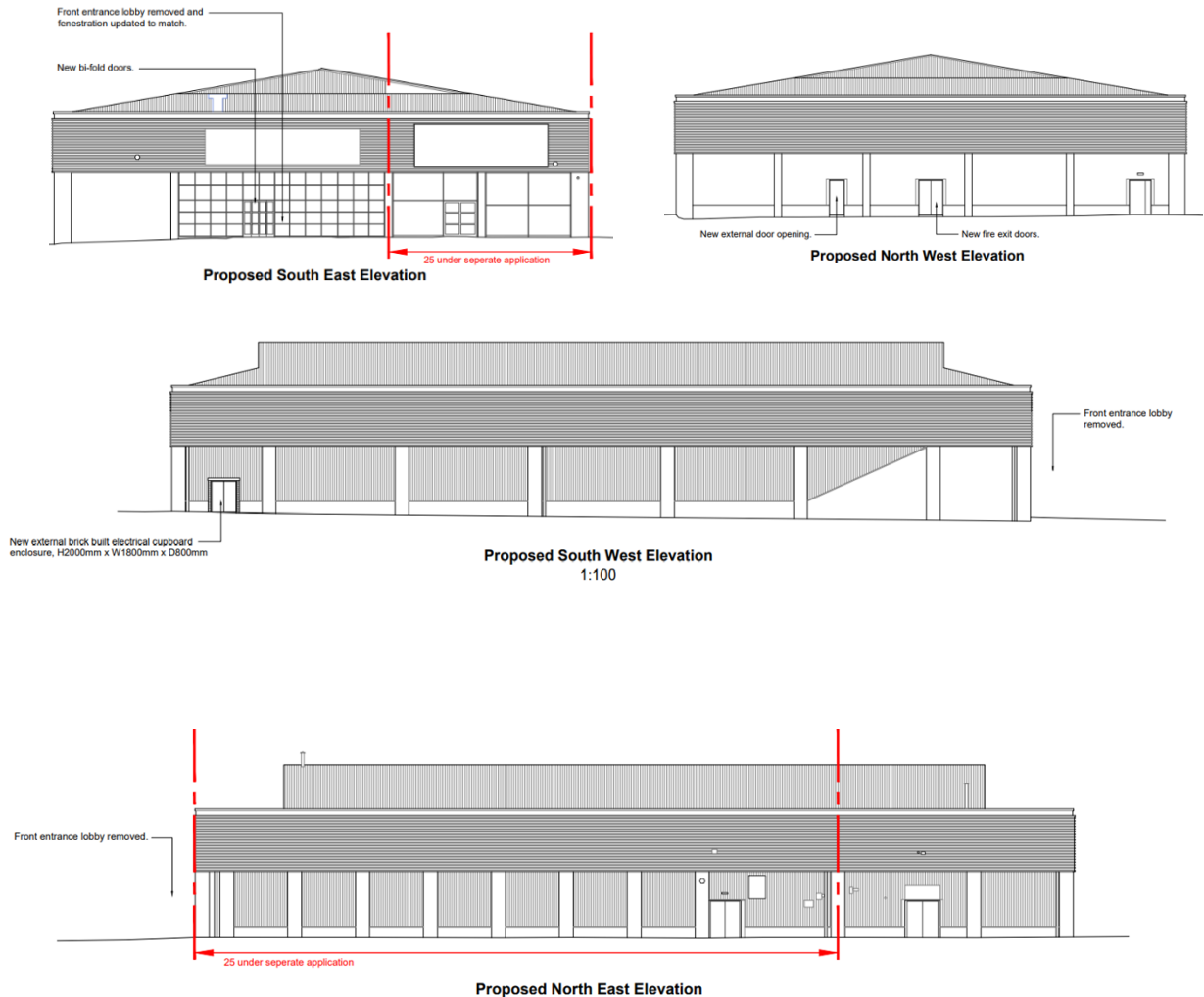
- 1.4 The application proposes the change of use of the existing non-food retail use to a gym (Use Class E(d)) in addition to the existing non-food retail use, together with external alterations to the building. The proposed change of use would not normally require planning permission as it falls within Use Class E, however the former planning permission restricted the use of the building to non-food retail, and for no other purpose. As such the proposed change of use requires permission as sought. There are currently no restrictions on the existing non-food retail use of the unit to operate 24 hours a day, and the gym proposes to continue this, with 24 hour proposed opening times. The proposed gym would form a low cost gym offering a range of cardio-vascular and resistance equipment, together with studio/spin classes, and the intention is for the unit to be occupied by Pure Gym. The interior proposes a predominantly open plan layout, with a separate studio room, changing rooms and other associated ancillary rooms/storage spaces. The internal layout is detailed in Figure 3 below.



**Figure 3: Proposed Internal Layout**

- 1.5 The proposed external alterations to the building includes the demolition of the existing entrance lobby, and the installation of bi-folding doors to the front

elevation of the building to provide the main entrance. An external brick built electrical cupboard enclosure is proposed to be sited in front of the south west side elevation, adjacent to Granville Street. No external alterations are proposed to the north east side elevation. A pair of fire doors roughly to the centre and a further door serving the proposed plant room to the east are proposed to be inserted to the rear elevation. The proposed elevations are included in Figure 4 below.



**Figure 4: Proposed Elevations**

1.6 The application is supported by a Planning Statement, a Transport Statement and a Flood Risk Assessment. Further information and clarification has been provided through the application process in response to Environmental Health's comments and concerns in the form of an Acoustic Design Report and a plan of the proposed internal layout.

## **2. Main Issues**

2.1 The main issues for consideration are:

- The principle of the development
- Impact on visual amenity

- Impact on residential amenity particularly regarding noise and disturbance
- Highway safety and amenity

## **Assessment**

### Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan unless material considerations indicate otherwise.
- 2.3 The site lies within the urban boundaries of Dover. Policy CP1 seeks to direct the location and scale of development in compliance with the settlement hierarchy, with Dover forming the major focus of development in the district. Policy DM1 permits development within the settlement boundaries. Policy DM2 seeks the protection of employment land and buildings and states permission for changes of use of buildings last in use for employment purposes will only be granted if the buildings are no longer viable or appropriate for employment use. Policy DM11 seeks to manage travel demand and locate development within sustainable locations. There are no policies within the current development plan which directly relate to the creation of commercial development within the settlement confines. The National Planning Policy Framework (NPPF) proactively encourages sustainable economic growth. The proposed gym use would constitute a main town centre use, and the NPPF requires the LPA to apply a sequential test to planning applications for main town centre uses which are not located within an existing centre, with main town centres uses directed to town centres, and then edge of town centre locations.
- 2.4 Policy SP6 of the Draft Dover District Local Plan supports economic growth within the district, including the retention of existing commercial/business land and premises. Policy E2 seeks to restrict the loss of existing employment sites and provides specific criteria which allows for acceptable loss. Policy R2 sets out that development for retail uses or main town centre uses which are not located within the boundaries of Dover, Deal or Sandwich Town Centres, and are not supported by other policies in the plan, are only permitted if a sequential assessment has been carried out that demonstrates that no suitable sites are available, with preference given to sites which are well connected to the town centre; and the proposal will not have a significant adverse impact on investment of the vitality and viability of the town centre. These policies have moderate weight given the stage of the Draft Local Plan and the limited unresolved objections.
- 2.5 The application seeks the change of use of the building to a gym (Use Class E(d)) in addition to the existing non-food retail use. The proposal will therefore reinstate the commercial use and employment purposes of the vacant building. The application site is located within the urban confines of Dover, outside the town centre, but within close proximity of similar commercial development, the main routes through town and several bus stops and is therefore considered to be suitably sustainably located.
- 2.6 The proposed use forms a main town centre use and therefore the application of a sequential test is required in accordance with paragraph 87 of the NPPF and the emerging Policy R2 of the Draft Dover District Local Plan. The application is supported by a sequential test, which has been carried out on the basis of

meeting the requirements of the intended operator, for a low cost 24 hour gym operation, with the floor area, car parking and servicing arrangements of the unit forming the most relevant requirements. The sequential test outlines that there are 3 vacant units which fall within the identified minimum and maximum floor area for the operational requirements, which includes the application building. These relevant units, a possible amalgamation of adjoining units, and the leisure allocations of Dover Waterfront are considered and assessed in turn. The sequential test concludes that the other relevant units are not suitable for the development, with the application building being the next most suitable location for the requirements of the operator. The test further states that the site is located within a highly accessible location, approximately 650m from the town centre/an 8 minute walk, in an established commercial area and concludes that the application site is the most sequentially preferable location for the development proposal. The proposed application and conclusion of the submitted sequential test is considered to be suitable and acceptable, and no objections are raised on this basis.

- 2.7 Overall, the proposed change of use will reinstate a commercial and employment use to the application building and is compatible with the majority of the applicable policies within the current development plan and the emerging Draft Dover District Local Plan. The application proposes a main town centre use in an out of town centre location, however it is considered that the submitted sequential test in relation to this development is passed and the proposal is acceptable in this regard. The proposal would also accord with the approach and overarching principles of the NPPF. The development is therefore considered to be acceptable in principle, subject to the consideration of all other material planning considerations.

#### Visual Impact

- 2.8 The application building forms part of the subdivided 'big box' single storey commercial building which is set under a low pitched roof, of a simple design, with forecourt parking to the frontage. The application proposes external alterations to the building, including alterations to the shopfront.
- 2.9 As the site is located adjacent to a Conservation Area the Local Planning Authority must have regard for Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of the area. Policy DM20 states that alterations to existing shopfronts will only be given if the proposals respect the composition, materials and detailed design of the building and the context provided by the street in which they are located. Policy R4 of the emerging Draft Dover District Local Plan continues this approach. Policy PM1 requires all development to achieve a high quality of design, which promotes sustainability and fosters a positive sense of place.
- 2.10 The proposed external alterations are relatively minor in scope. The glazed entrance porch proposed to be removed is not considered to be a key feature of the building, nor of architectural merit, and the proposed flush shop front would accord with the adjoining shopfront. The proposed replacement bi-folding doors are suitably compatible with the existing glazed shopfront and will be fitted within a cohesive opening to the existing glazed pattern. The proposed external brick built electrical cupboard enclosure to the south west side elevation is a compact, ancillary structure which is suitably discreetly located and would not encroach upon the adjacent pavement. The proposed double external fire doors and door to the proposed plant room to the rear elevation would have limited visibility by

virtue of their position and the limited separation to the adjacent buildings, and would form minor additions to this elevation. The change of use of the building to a gym in addition to the existing non-retail food use would provide a fitness/leisure element to the existing commercial use which is not considered to significantly alter, or be out of character with the site or wider locality, particularly given the mixed commercial and residential character of the area and proximity of the application building to surrounding large commercial units. The development is therefore considered to be acceptable in terms of the character and appearance of the area and would not result in harm to the setting of the adjacent Conservation Area, in accordance with Policy DM20 of the Core Strategy, Policies R4 and PM1 of the Draft Dover Local Plan and the National Planning Policy Framework.

#### Impact on Residential Amenity

- 2.11 Section (f) of Paragraph 130 of the NPPF identifies that development should ensure a high standard of amenity for existing and future users. The use of the site as a 24 hour gym has the potential to generate adverse noise and disturbance to surrounding adjacent neighbouring properties from traffic movements, amplified music, vibrations from weights and associated activity. Concern regarding this has been raised by several members of the public and local community who have commented on the application. The nearest residential properties to the application building are located to the rear (north) of the site, with limited separation distance of approximately 3m between the rear elevation of the application building and their side elevations. The location of the application site in relation to its surrounding built environment is shown in Figure 1 and 2 below.
- 2.12 The submitted planning statement recognises the potential noise and disturbance impacts of the proposed use and details mitigation measures to address this such as studio activities/exercise classes limited to 06:00-22:30, together with their experience of the operation of similar Pure Gym units in residential areas. This details that whilst the gym would operate on a 24 hour basis, in practice there are usually very few visitors during the overnight period, and these visitors would be able to park close to the gym within the frontage car park, with the noise level generated at a level which would not have an adverse effect on the existing noise climate. The statement further advises that a detailed acoustic assessment is undertaken for each new site.
- 2.13 The application site is located in a mixed commercial and residential area, in close proximity to main routes to/from town, with an established existing degree of vehicular movements, activity and associated noise and disturbance. The main entrance and car park is located to the front elevation/frontage which will be the location and focus of the majority of external activity associated with the proposed use. The nearest residential properties are located to the rear of the application building, with the application building providing a barrier to this car park/frontage area. Immediately adjacent to the frontage parking area is existing commercial development, the remainder of the car park for the two units, Granville Street and Bridge Street, and the River Dour/landscaping, which will provide a buffer of non-residential development and uses which will limit the impact of the activity and vehicular movements associated with the proposal upon the surrounding residential neighbours. The application building and car park is an existing commercial unit and the former non-food retail use would have had associated activity and noise and disturbance impacts and it is necessary to consider the proposal in the context of this. There were no opening hour



restrictions on the former use, however it is likely that these were largely limited to sociable hours. It is considered that the proposed activity and vehicular movements related to the comings and goings of users of the proposed gym would be largely comparable to customers of the former retail unit during sociable hours.

- 2.14 In relation to the proposed 24 hour opening hours, it is considered likely that the users of the proposed gym at night would be limited and would park in close proximity to the proposed gym within the frontage car park, in accordance with the applicants assessment and details of their experience of existing operations. It is considered that this would result in limited noise and disturbance impacts, particularly given the position of the frontage car park and entrance in relation to surrounding residential properties. Given the location and context of the application site and the nature of the surrounding environment, in close proximity to main routes to/from town, and the presence of adjacent commercial units with associated activity, the former use of the site and the likely limited use of the proposed unit during unsociable hours, it is not considered that the external activity associated with the proposal would result in undue harm to the residential amenity of adjacent neighbours.
- 2.15 Environmental Health have reviewed the proposal and raised that their primary concerns are noise breakout and the impact on nearby residential dwellings. It was requested that the proposed acoustic assessment was provided up front for review to provide sufficient information to fully assess the proposal. In response to this, an acoustic assessment for the proposal has been submitted. This proposes a series of mitigation measures to address potential noise and disturbance impacts at the nearest residential receptors such as works to the external doors to minimise noise breakout, areas for noise generating activities contained within internal separating walls and located away from both the shared wall with the adjoined unit and the external walls to the north and north east, and where this cannot be achieved, the provision of wall lining to provide sufficient noise insulation. Following further environmental health comments, an additional plan showing the proposed internal layout and design of the lobbied entrance has been provided.
- 2.16 Environmental Health have confirmed that they agree with the findings of the submitted acoustic assessment, and accept the proposed internal layout and design, with the addition of noise insulation lining to be provided to the ceiling of the studio in addition to the walls as proposed. Subject to the implementation and maintenance of the recommended mitigation measures and internal fit out as set out within the Acoustic Design Report, the external fire doors and external door to the plant room remaining closed except for emergencies/operational purposes respectively and a condition restricting the noise levels of the proposed plant, then no objections are raised to the application by Environmental Health. These requirements will be secured by relevant safeguarding conditions should permission be granted. As such, the proposed development is considered to incorporate sufficient mitigation measures, within the context of the location and environment of the development to prevent unacceptable harm to the residential amenity of surrounding neighbours.
- 2.17 The proposal proposes minimal external alterations to the application building, and there are not considered to be any adverse impacts to residential amenity of adjacent neighbours deriving from the design changes. 2No. additional door openings are proposed to be inserted to the rear elevation. In accordance with the submitted acoustic design report, all external doors will be made good and

lobbied, and these doors will remain shut except for emergencies or operational purposes (in the case of the plant room) which will be infrequent. These restrictions and requirements would be secured by condition. As such, the provision of the additional doors is not considered to result in significant harm to residential amenity.

- 2.18 The proposed development is therefore considered to be acceptable in terms of the residential amenity of adjacent neighbours, in accordance with paragraph 130 of the NPPF.

### Highways

- 2.19 The existing unit and adjoined unit are served by frontage parking and parking to the north east of the building which provides 63 parking spaces. The application is supported by a transport statement which considers the combined impact of the proposed change of use of the application building and the adjoined building which is subject of permission under reference DOV/22/01020. This transport statement concludes that there could be an additional 13 two way trips during the weekday morning peak hour, no material change during the weekday peak hour and a potential reduction on Saturdays. It is stated that there is unlikely to be a material change to the parking demand at the site and highlights the accessible location of the site.
- 2.20 The parking demand associated with the proposed use is considered to be comparable to the existing use, and is considered capable of being sufficiently accommodated by the existing parking provision to the forecourt/north east of the building. The site is located in close proximity to main routes through the town, several bus stops and is an approximately 8-10 minute walk from the town centre. The application building is therefore considered to be sited in a suitably sustainable location, and users of the proposed gym would not be reliant on the private car to access this facility. KCC Highways have reviewed the proposal and state that there are no highway implications from the proposal, with the existing parking provision sufficient to accommodate the proposed use, and the on-street parking restrictions controlling the ability to park on the highway, confirming that it is not considered that parking associated with the development proposals will have an impact on highway safety. We note the submitted transport statement and KCC Highways comments, and consider that the proposal is unlikely to result in an increase in vehicular movements or parking demand which would be detrimental to the surrounding highway network. The proposed development is therefore considered to be acceptable with regards to highway amenity and highway safety, in accordance with Policies DM11 and DM13 of the Core Strategy and the National Planning Policy Framework.

### Flood Risk

- 2.21 The application site is located predominantly within Flood Zone 2 and partially within Flood Zone 1, in close proximity to the river Dour. The proposed development has been supported by a Flood Risk Assessment. This identifies that uses falling within Use Class E as a less vulnerable use from a flood risk perspective, which constitutes appropriate development within Flood Zone 2. The development does not propose any increase in floor area or the footprint of the building and does not include any external alterations which would affect flood risk. The proposal falls within the definition of minor development and is therefore not required to be subject to the Sequential or Exception Tests. Given the proposed commercial and service use of the building, which will be an addition to the existing use, and that no changes are proposed to the size or floor

area of the building, the development is considered to have an acceptable impact with regards to the flood impacts, in accordance with the National Planning Policy Framework.

### 3. **Conclusion**

- 3.1 The application site is located within a mixed commercial and residential area, outside the town centre, but within an accessible location, in close proximity to other commercial uses and main routes to/from town. The proposed gym use in addition to the existing non-food retail use would reinstate a commercial and employment use to the vacant application building which is supported by applicable policies within the current and emerging development plan and the approach and overarching principles of the NPPF. The proposal would constitute a main town centre use, and the application is supported by a sequential test which is considered to be acceptable.
- 3.2 The proposed external alterations are minor in scope and are considered to be suitably compatible with the host property and the surrounding built environment. The proposed development has the potential for increased noise and disturbance, however subject to a number of conditions to control this impact which have been agreed in conjunction with Environmental Health, together with the location and context of the application site, and given the former commercial use of the building, it is considered that this increase would not be significantly harmful. The parking demand associated with the proposal is considered capable of being accommodated by the existing car parking provision and it is considered that the proposal is unlikely to result in an increase in vehicular movements or parking demand which would be detrimental to the surrounding highway network. Given the proposed use of the building, with no alteration to the building footprint, the proposal is considered to have an acceptable impact with regard to flood impacts. When considering the proposal, no adverse impacts of granting permission have been identified that would significantly and demonstrably outweigh the benefits of the proposal. The development is therefore considered to represent sustainable development in accordance with the applicable Local Plan Policies and the NPPF, and it is recommended that planning permission is granted.

### g) **Recommendation**

I PERMISSION BE GRANTED subject to the following conditions:

- 1) 3-year commencement;
- 2) In accordance with the approved plans and details;
- 3) Prior to the first use of the development, the mitigation measures and internal fit out recommended within the approved acoustic design statement, with the addition of sound insulated lining to the roof of the studio area as required shall be implemented and thereafter maintained;
- 4) Studio activities and exercise classes shall only be carried out between the hours of 06:00-22:30;
- 6) Noise resulting from the use of plant, machinery or equipment shall not exceed a level of 5dB(A) below the existing background level (or 10dB(A) below if there is a particular tonal quality) when measured according to British Standard BS4142-1990, at a point one metre external to the nearest noise sensitive premises;
- 7) The external rear fire escape doors and door to the plant room will remain closed at all times except for access/egress in an emergency or for operation purposes respectively;

8) The site shall be used for the particular use classes hereby permitted, namely Class E(a) non-food retail and E(d) indoor sport, recreation or fitness, and for no other purpose;

9) The parking area to the forecourt and north east of the application building within the blue line shall be provided for parking for the use hereby approved and the adjoined commercial unit and thereafter maintained for the lifetime of the development.

- II Powers be delegated to the Head of Planning and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

Case Officer

Jenny Suttle