



SEQUENTIAL TEST ASSESSMENT

PROPOSAL

Extension of existing first floor and single storey extension over vacant land to the south of the site

SITE

26 Muscle Unit Gym
Laxton Road
Athersley North
Barnsley
S71 3DH

CLIENT

Prepared for Rob Bowman
Taylor by
Benson Planning Studio

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01

Benson Planning Studio has prepared this document for Rob Bowman Taylor, 26 Muscle Unit Gym, Laxton Road, Athersley North to support a planning application for the erection of ground and first floor extensions at the site. The proposal also includes the provision of a café / restaurant within the premises.

Following the submission of the application, Barnsley Metropolitan Borough Council contacted the applicant and stated that;

'As the proposal includes two uses (gym extension and separate café/restaurant) which are listed as Town Centre uses in National Policy, and the site is outside of a Local Centre, a Sequential Test is required. The Sequential Test is required to consider if there is a Town Centre location that is suitable and available for the proposal, and if not, then consideration of edge of Centre locations is required. We would advise you to consider the suitable and available sites in all Centres / Edge of Centre Locations in the catchment of the gym and café. It is likely that these will include Barnsley Town Centre and the Local Centres of Athersley and Mapplewell'

Given that the proposal relates to the redevelopment of an existing business premises we do not believe that the proposal is subject of a Sequential Test. This is our principle stance, but in the spirit of working with the council we have undertaken a Sequential Test as requested.

This detailed Sequential Assessment has been prepared assessing a range of sites located within the areas as identified by the Council. All of the sites have been demonstrated to be unsuitable and / or unavailable to accommodate the proposed development even allowing for flexibility.

Planning Applications are to be determined in accordance with the policies in the Development Plan which comprises the Barnsley Local Plan.

02

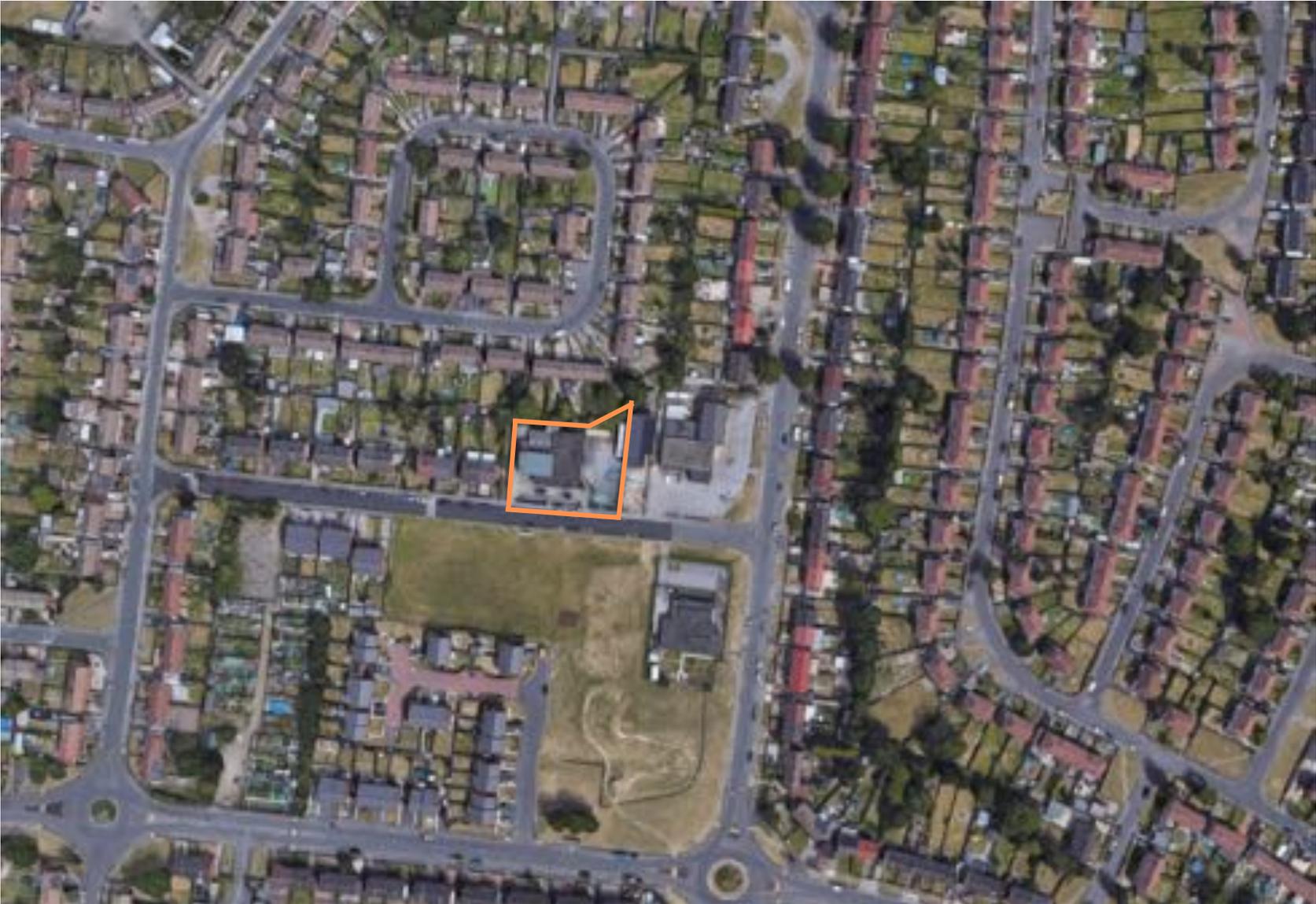
The application site is located on the eastern side of Laxton Road in an established residential estate of Athersley North. The main building is a part two and single storey building with a main entrance on the western elevation.

Parking is provided within the site and there is lots of on street parking available.

To the south is a convenience store and to the west, an area of public open space.

The surrounding area is primarily residential with two storey semi detached properties prevailing.

Location Plan



Application Site

Aerial View



03

Reference	Proposal	Decision	Date
2016/0514	Change of use from training centre (D1) to a gymnasium on ground floor (D2) and fitness centre on first floor (D2)	Approved	28th June 2016
2018/1372	Erection of a detached two storey building containing a swimming pool at ground floor and a 2 bedroom apartment at first floor level	Approved	19th July 2019
2021/0178	Variation of condition 2 (approved plans) of planning permission 2018/1372 - Erection of a detached two storey building containing a swimming pool at ground floor and a two bedroomed apartment at first floor level	Approved	7th May 2021
2021/1553	Details of conditions 5 (external materials), 6 (hard and soft landscaping) and 7 (boundary treatments) of Planning Permission 2018/1372 - Erection of a detached two storey building containing a swimming pool at ground floor and a 2 bedroom apartment at first floor level	Approved	7th January 2022

04

The NPPF requires that a sequential approach to site selection is applied to proposals for new main Town Centre uses (such as retail or leisure) which are not located within an existing Centre. Paragraph 87 confirms that sites should be considered in the following order

1. Town Centre sites
2. Edge of Centre locations, with preference given to accessible sites that are well connected to the Town Centre
3. Out of Centre sites, with preference given to accessible sites which are well-connected to the Town Centre.

The Framework advises that planning policy should generally promote competitive town centres, and that in drawing up Local Plans, Local Authorities should, amongst other issues, allocate a range of sites to meet the scale and type of retail developments needed in Town Centres.

Paragraph 87 states;

'Local Planning Authorities should apply a Sequential Test to planning applications for main Town Centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main Town Centre uses should be located in Town Centres, then in Edge of Centre Locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should Out of Centre sites be considered.'

The Framework encourages economic growth and Paragraph 81 states;

'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.'

05

Before moving on to consider the specific methodology for the sequential assessment, it is important to consider the significant and pertinent case law and Secretary of State decisions which provide guidance and clarification on how the sequential test should be applied in respect of the need to demonstrate flexibility, the consideration of availability, and the requirement to consider the disaggregation of a proposed development.

While Case Law provides useful guidance in terms of the application of the Sequential Test, it is clear that the matter of flexibility and suitability is primarily a matter of planning judgement for the Local Planning Authority that should be considered in the context of the relevant circumstances relating to the development site and the development proposals.

It's important to give regard to relevant case law relating to sequential tests. In 2006, the courts held that it is not for the applicant to reduce or segregate their proposal so that it could be made to fit elsewhere stating:

The question is whether the alternative town centre site, in this case the existing Lidl site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit into the alternative site (Lidl UK GmbH v Scottish Ministers 2006)

It is therefore not for the applicant to adapt their proposal to fit a site, rather to consider other sites that are of a suitable size that fit the proposal.

In 2012, the courts confirmed that directing applicants to smaller town centre sites is inappropriate. The suitability is directed at the developer's proposal, not some alternative scheme:

The issue of suitability is directed to the developer's proposal, not some alternative scheme which might be suggested by the planning authority. To refuse an out-of-centre planning consent on the grounds that an admittedly smaller site is available within the town may be to take an entirely inappropriate business decision on behalf of the developer (Tesco Stores Ltd v Dundee City Council 2012)

This case also established that if a site is not suitable for the commercial requirements of the developer then it is not suitable for the purposes of the sequential test. This has been supported in a number of appeal decisions, generally confirming that in considering suitability the specific market that the applicant is seeking to serve and the requirements of the end user should be taken into account.

In respect of the specific point on the need to consider disaggregation, the identified decisions clearly highlight that in determining whether this is required it is important that careful consideration is given to the specific circumstance of the development site and development proposal. However, what is clear is that there is no policy requirement to consider the disaggregation of schemes within the NPPF or PPG and this should only be considered where there are specific circumstances which require it.

In terms of availability, whether a site can be considered to be available, or available within a reasonable period, is a matter of planning judgement based upon the specifics of the proposed development and the complexities of the scheme.

Annex 2 of the NPPF confirms that, for retail purposes, 'Edge of Centre' applies to a location that is well-connected to, and within 300m of, the Primary Shopping Area. For all other main Town Centre uses, it indicates that 'Edge of Centre' comprises a location within 300 metres of a Town Centre boundary.

As the site is located around 775m walking distance from Athersley defined Primary Shopping Area (via Wakefield and Newstead Road), it occupies an Out of Centre location in Retail Policy terms.

The NPPF states that applicants and local authorities should demonstrate flexibility on issues such as format and scale. In this context, where alternative sites are to be considered, their suitability should be assessed in terms of their physical capability to accommodate the form of development proposed in the application, having demonstrated flexibility. This approach is consistent with recent High Court decisions.

The NPPF provides an opportunity to clarify the Government's position on disaggregation when applying the Sequential Test. The NPPF does not mention disaggregation and, consistent with recent High Court judgements and the Rushden Lakes Secretary of State decision, only reiterates the need for flexibility in terms of scale and format.

A recent Inspector and Secretary of State call-in decision at Cribbs Causeway (October 2018) also deals with disaggregation. The Inspector (at paragraphs 567 to 568) confirmed that, whilst disaggregation was adopted in past Policy, this was not embodied in either the Framework or the Planning Practice Guidance. Although the Inspector also referred to other appeal decisions in Hull and at Tollgate Village that adopted disaggregation, she concluded that the findings were case specific and not specifically endorsed by the Secretary of State. The Inspector went on to conclude at Cribbs Causeway that 'as a general principle, an approach that involves disaggregation does not seem to fit well with the Aldergate Properties or Warners Retail judgments.'

Methodology

This statement has been written in accordance with both Chapter 7 of the NPPF, "Ensuring the vitality of town centres" and the Barnsley Local Development Plan 2019.

The following sets out the methodology and approach used in the application of the sequential test for the proposed development having regard to the requirements of the NPPF, Local Plan Policy TC1 and the various case law and decisions referred to.

- The following matters are considered in turn
- Locational requirements and area of search
- Identification of sites
- The proposed development (Site requirements & flexibility)
- Availability

Locational requirements and area of search

As already highlighted, the NPPF requires the consideration of 'suitability' through the Sequential Test. The consideration of whether or not a site is suitable relates, in part, to whether or not a sequentially preferable site would be able to meet and serve the same market as the application proposals. This will therefore influence the area of search for any Sequential Assessment. Put simply, if a site or location would fail to serve the same market as the application proposals / site then it cannot be considered suitable and therefore cannot be considered as a suitable and available sequentially preferable site through the sequential test. It is therefore necessary to consider the market that the proposed gym and café will serve.

Taking into account the detailed assessment of provision of gyms in the area, as well as local geography, the primary catchment area for the users is 5 minute drive or 20 minute walk.

Paragraphs 86 - 91 of the NPPF require that where sequentially preferable sites are available, they should be considered for development. It should be demonstrated, and sound reasoning given, that such sites are either not suitable, not available or are not viable.

1. Suitability - The suitability of each site to accommodate the development proposal
2. Availability - Whether the site is available (or is likely to become available within a reasonable period of time - NPPF 2021), with specific reference to the potential for acquisition
3. Viability - The extent to which the site would provide a genuine and viable trading location for the applicant

The Council have stated that the areas of search should be Barnsley Town Centre and the Local Centres of Athersley and Mapplewell. As the map clearly shows there are a plethora of gyms in the Barnsley area and those identified do not show the full extent of just how many there are further afield. That said, the proposal in its entirety is seeking consent to extend an existing gym premises and the proposed food provision is ancillary to the main use and would be used primarily, if not exclusively, by gym members only.



06

As previously stated, it is our belief that the Councils need and desire for a Sequential Test should not be applied here despite the Councils reiteration that the proposed development is a 'Town Centre Use.' While there is no disputing this, the applicant is extending an existing property which houses a well established and respected business in the area. Applying the standards strictly, and if other sites are available, could have serious adverse social and economic implications for the applicant and the gym users alike. This could lead to an abandoned building (application site) and given the applicant has invested significant sums in the business, this is not something anyone wants. Gyms generally have car parks attached and plenty of on street parking because members visit them directly and very few use public transport which lessens the search area and likely availability of sites for such a use. Some gyms, like the application site, are located within residential areas which enables members to walk. While the proposal does include a café, this is an integral part of the gym and will be aimed at members but will not discount local people from visiting. Many gyms have their own cafes as an integral part of their business model and serve healthy snacks and drinks. Penalising the applicant for trying to enhance their business would be poor on the Councils part especially in these difficult economic times.

Athersley

This Centre contains the Roundhouse Medical Centre, a Poundstretcher, Co Op and some two storey buildings which have smaller commercial units. The Centre is situated on Laithes Lane and Wakefield Road.

- One premises has been identified as for sale which is a former Betfred Bookmakers but at only 111m², fails to meet the special requirements of the applicant.

Mapplewell

This Centre is much larger than Athersley and is centred primarily on land to the south of Blacker Road and Towngate and to the east of Darton Lane. Within the Centre is a Co Op, Village Hall, Medical Centre, Public House and smaller businesses within existing premises. Many of the smaller businesses occupy existing older building stock which would not be suitable for conversion or have the requirements of a gym with an integral café.

- Despite an extensive search, there are no properties available within this area.

Barnsley Town Centre

The map shows the area of Barnsley Town Centre which is taken from the Local Plan Policy Map. There are a number of sites available within the Town Centre but none are suitable for a number of reasons.

- 32 Peel Street is a former bar / club and is located on 3 floors. At 538m², it occupies a reasonable floor area but the complexities of converting such a building into an efficient gym would be difficult. Given that the proposal contains both a gym extension and a café, taken separately, the property would be too large for a café to accommodate. That said, and as previously stated, the café will operate as part of the gym and not as a standalone business.
- 'Labels for less' located on Market Street is 130m² and would be too small to accommodate the proposed use.
- A Photo Shop at 39m² is considered too small for such a proposal.



Barnsley Town Centre

Within Barnsley Town Centre, there is already a large gym known as the 'The Gym Group' and it is not considered that any further gyms are required in the Town Centre. The images attached show the interior of the gym and what people expect from most modern day gyms and there is an absence of properties available to accommodate such businesses which such specific operation requirements.



07

Cafes within gyms are common place now and they tend to offer different food and beverage offerings than what you see in an everyday high street café. Many of the meals and snacks are specifically high protein which are aimed at gym users. As stated on several occasions within this Report, the proposed café will operate in an ancillary manner to the main gym use and not be a separate entity. Cafes as well as other uses such as barbers, beauty, massage and sports therapy are all things which are an integral part many modern gyms.



08

Planning policy requires a sequential test to be carried out to demonstrate that no alternative sites are available within the Town Centre or Edge of Centre which meet the requirements of the gym and ancillary café.

The NPPF seeks to ensure the vitality of Town Centres and states that planning policies should be positive, promote competitive town Centre environments and set out policies for the management and growth of Centres over the plan period. As part of this the NPPF states that local planning authorities should promote competitive town Centres that provide customer choice and a diverse retail offer which reflects the individuality of the Town Centres. Paragraph 87 of the Framework sets out the sequential test where proposed sites for the proposed use are outside of a Town Centre. The requirement is to undertake a sequential assessment of the proposal to determine whether there are any sequentially preferable sites.

Gyms generally require large open plan spaces which is why many are seen on retail parks which have units of such a size. The application site has evolved over time and provides all what is required to meet the needs of its membership but such are the demands on having the latest equipment and to compete with other businesses, there is an operational need to extend and remodel this building.

Deviation from the general business model parameters as identified will impact upon applicants business model and affect the ability to provide members with the full suite of facilities that needs to be provided in order to operate as a commercially viable business.

We recognise that the NPPF states that applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale and with that in mind we have considered whether there is the ability to reduce / remove some of the gyms operational characteristics and business model requirements whilst maintaining development viability. In this instance, the need to extend the building confirms the immediate requirement for larger premises and as confirmed, there are no available sites that can meet the requirements of the business.

By supporting this proposal, the proposed development would have a positive impact on the Development Plan Strategy by helping to support businesses in their efforts to expand and diversify.

The extension to the gym along with a new ancillary cafe would retain an active frontage and would help the socio – economic elements of the business and those who live in the area.

The proposal will have no significant adverse effect on Barnsley Town Centre or the functioning of the Local Centres of Athersley and Mapplewell, therefore accords with the Framework.

We trust in light of the sites considered in this assessment, officers will look favourably on the proposal for approval.



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