

Potter Heigham – RV/24/2059 – Change of use of agricultural land and part of building, including external alterations, to fitness studio and car park (retrospective) without complying with condition 2 (opening hours) of appeal decision APP/Y2620/W/19/3229508 (NNDC ref. PF/18/1298) in order to extend the opening hours from 0615 - 1930 Mondays to Fridays to 0600 - 2000 Mondays to Fridays and 0800 - 1200 Saturdays at Glebe Farm, Marsh Road, Potter Heigham, Great Yarmouth

Minor Development

- Target Date: 14th November 2024

Extension of time: N/A

Case Officer: Colin Reuben

Full Planning Permission

RELEVANT SITE CONSTRAINTS

In an area designated as Countryside (not within a settlement boundary)

Settled Farmland (Landscape Character Assessment)

Flood Zone 2

Flood Zone 3

Flood Zone 3B (Indicative)

SFRA Flood Warning Area

RELEVANT PLANNING HISTORY

RV/23/0760

Refused

Variation of condition 2 of appeal decision APP/Y2620/W/19/3229508 [NNDC ref. PF/18/1298] (Change of use of agricultural land and part of building, including external alterations, to fitness studio and car park (retrospective) in order to extend the opening hours from 06:15 - 19:30 Monday to Friday to 06:15 - 21:00 7 days a week

APP/Y2620/W/19/3229508

Appeal Allowed

Appeal for PF/18/1298 - Change of use of agricultural land and part of building, including external alterations, to fitness studio and car park (retrospective)

PF/18/1298

Refused

Change of use of agricultural land and part of building, including external alterations, to fitness studio and car park (retrospective)

THE APPLICATION

The application seeks to vary the imposed opening hours (Condition 2 of appeal decision APP/Y2620/W/19/3229508 (planning application ref: PF/18/1298) of a previously approved (at appeal) fitness studio/gym by adding an additional 30mins of use on weekdays until 20:00pm (from 19:30pm), and to allow opening on Saturday mornings between 08:00am and 12:00pm. The studio, which is now long established, is positioned within a former agricultural building

forming part of a larger site containing a number of former agricultural buildings along with the main farmhouse, with surrounding agricultural land to the north, east and west. The site is reached via an access point onto Marsh Road, with residential properties along the southern side of Marsh Road. The site is located on the outskirts of Potter Heigham, north of the A149 with the main village centre located towards the south-west.

REASONS FOR REFERRAL TO COMMITTEE

At the request of Cllr H Blathwayt – if permitted this would ‘go against’ the Planning Inspectors’ specified conditions. This is a retrospective application, and the extended hours have been proven to increase traffic on this quiet country lane to the detriment of residents’ quality of life.

PARISH/TOWN COUNCIL

Potter Heigham Parish Council: Objection, raising the following matters:

- Poses significant risk to highway safety
- Detrimental impact on the environment
- Intrusion on right to peaceful enjoyment by residents/visitors
- Marsh Road and Church Road are wholly unsuitable for any regular material increase in traffic during the week and at weekends, the condition of these roads has not changed. Road is used by pedestrians/horses/dog walkers/ramblers/birdwatchers
- Business is now run with four trainers
- Highways has objected to the expansion of the hours and usage of the gym significant, concerns regarding the characteristics of Marsh Road
- Increase in opening hours will exacerbate the levels of risk, both physical and environmental, to all residents of Marsh Road and Church Road, and to pedestrians
- Marsh Road is unlit with no footpaths, the problem is exacerbated in winter months
- Mental and physical health of gym users has been prioritised over the mental and physical wellbeing of residents

CONSULTATIONS

Environmental Health (NNDC): No objection subject to conditions controlling amplified vocals/music.

Norfolk County Council (Highways): No objection.

REPRESENTATIONS

To date, 2 public objections have been received raising the following concerns (summarised):

- Concerns regarding use of Marsh Road, which is narrow, by gym users in relation to speeding/unsafe driving and associated behaviour. Road is used by walkers/horses/dogs/disabled people/wildlife
- Traffic volume from gym has increased, no longer one to one sessions, more classes and instructors
- Concerns regarding operation of Glebe Farm/associated buildings historically

HUMAN RIGHTS IMPLICATIONS

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the above matters, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER

The application raises no significant crime and disorder issues.

EQUALITY AND DIVERSITY ISSUES

The application raises no significant equality and diversity issues.

LOCAL FINANCE CONSIDERATIONS

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application.

Local finance considerations are not considered to be material to this case.

RELEVANT POLICIES

North Norfolk Core Strategy (adopted September 2008)

SS 1 - Spatial Strategy for North Norfolk

SS 2 - Development in the Countryside

EN 2 – Protection and enhancement of landscape and settlement character

EN 4 – Design

EN10 – Development and flood risk

EN 13 – Pollution and hazard prevention and minimisation

CT 5 – Transport impact of new development

CT 6 – Parking provision

Material Considerations:

National Planning Policy Framework (NPPF) (2024)

Chapter 4 – Decision-making

Chapter 6 – Building a strong, competitive economy

Chapter 8 – Promoting healthy and safe communities

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

North Norfolk Emerging Local Plan

The Council's Emerging Local Plan was subject to a further round of examination in April 2025 and, following receipt of the Inspector's letter dated 08 May 2025, subject to completion of required Main Modifications, six-week public consultation and completion of any additional

modifications, the plan is expected to be found sound and adopted in Autumn 2025. At this stage, whilst the Emerging Local Plan is capable of attracting some weight for decision making purposes, this would be considered “limited” at this stage and, in any event, there are no specific proposed new policies that would lead to a materially different planning outcome than the policies within the existing Core Strategy documents.

OFFICER ASSESSMENT

Main issues for consideration:

- 1. Principle of Development and Site History**
- 2. Residential Amenity**
- 3. Landscape Impact**
- 4. Flood Risk**
- 5. Highway Safety and Parking**
- 6. Other Material Considerations**

1. Principle of Development and Site History

The site comprises of a single storey building formerly used for agricultural purposes and now operating as a fitness studio/gym – this use was allowed at planning appeal (ref: APP/Y2620/W/19/3229508) following the Council’s refusal of planning application ref: PF/18/1898.

The appeal decision imposed two planning restrictions, the first of these being in regards to the approved plans, and the second of these restricting the hours of use of the gym – both conditions are listed below:

1) The development hereby permitted shall be carried out in accordance with the following approved plans: 7956 02 site location plan; 7956 03 elevations and plans.

2) The building subject of this approval shall be used as a fitness studio only and for no other purpose and shall not be open to customers outside the following times: 0615 – 1930 Mondays to Fridays.

The current application seeks to vary the imposed opening hours by adding an additional 30mins of use on weekdays until 20:00pm, and to allow opening on Saturday mornings between 08:00am and 12:00pm. As originally submitted, it was also proposed to extend the opening hours by an additional 15mins early morning (to 06:00) however the applicant agreed to remove this from the proposal.

The application does not propose any external alterations to the existing building and accordingly, there are no design considerations under Policy EN 4. The only matters for consideration under this application are the extended hours of use and any associated impacts, in particular relating to amenity and highway issues.

2. Residential Amenity

Policy EN 4 of the adopted Core Strategy is clear in stating that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers. In addition,

Policy EN 13 requires all development proposals to minimise, and where possible reduce, pollution including noise pollution, with proposals only being permitted where they do not have an unacceptable impact on general amenity and the health and safety of the public

As stated above, the application proposes two amendments to the opening hours, the first of these being the addition of 30mins of use in the evening, up to 20:00pm. It is recognised that this may lead to a modest additional degree of use later into the evening, however, given the very limited extent of this additional use and the separation distance of the gym to the nearest properties on Marsh Road, it is considered that an extra 30mins of use at this time would not give rise to any significantly detrimental impact upon the amenity of neighbouring properties, no more so than the existing hours and certainly not to an extent that would warrant refusal of the application.

The second amendment is to allow the use of the gym on Saturday mornings between 8:00am and 12:00pm. This will represent a clear increase in use, with a likely associated increase in vehicular use of the site and Marsh Road (which is also discussed below). In terms of amenity, there may be additional noise and disturbance arising from this, however, the test is whether this would be to an extent that would be considered 'significantly detrimental'. In this respect, the hours proposed are not wholly unreasonable – although cars will be arriving before 8am, it is not considered that this would generate a level of activity/noise that could be considered as significantly detrimental, no more so than on a weekday at present, and is not wholly dissimilar to other rural roads that may have a mix of both residences and businesses, whilst further taking into account the former agricultural use of the site. Furthermore, the Council's Environmental Health Officer has no overriding objections subject to conditions limiting the use of amplified music.

Accordingly, on balance, Officers consider that it cannot reasonably be concluded that the proposed additional use would give rise to a significantly detrimental impact, in terms of noise and disturbance, upon the amenity of nearby residents. As such, subject to conditions, the proposed development complies with the requirements of Core Strategy Policies EN 4 and EN 13.

3. Landscape Impact

As stated above, no further external alterations are proposed to the building. This being the case, it is considered that the proposed variation would not give rise to any increased wider landscape impact. As such, the proposed development complies with Core Strategy Policy EN 2.

4. Flood Risk

The Planning Inspector has previously accepted the development in relation to flood risk. It is considered that the proposed extended hours of use would not raise any additional impacts in terms of flood risk to the site. Accordingly, the proposed development complies with Core Strategy Policy EN 10.

5. Highway Safety and Parking

Marsh Road, which serves the site, is single-track road with grass verging, no footpaths nor

formal passing places and a lack of lighting. It is recognised that the Highway Authority objected to the original application (ref: PF/18/1298) on highway safety grounds, citing the restricted width of Marsh Road and substandard surrounding road network, the potential likelihood of vehicles meeting and having to reverse/manoeuvre, and the potential for conflict with other vulnerable road users. This would be exacerbated by the increase in vehicular use of the road. However, the Planning Inspectorate disagreed, stating in paragraph 6 of the appeal decision, that "...the amount of additional traffic that this small fitness studio is likely to generate would not support a conclusion that this use is unacceptable on highway safety grounds". Furthermore, the Inspector concluded that there were insufficient grounds for the provision of 2no. off-site passing places along Marsh Road.

After an initial site visit concluded by the case officer for the current application, a further more recent site visit was conducted, at the request of the Parish Council, to further assess the level of traffic using Marsh Road as a result of the gym. This visit occurred early morning – it was observed that between 12-14 vehicles were heading towards, and leaving from, the direction of the gym during the time of the visit (though it cannot be certain whether these were all associated with the gym or whether some were residents), and it was noted that a couple of these vehicles did appear to be driving at speed. In addition, there is also evidence of wear and tear being caused to the grassed roadside verge. In line with residents' concerns, there is no dispute that the gym has increased vehicular use of Marsh Road, noting the frequency of classes and the possible increase in staffing numbers since the original appeal decision.

The current application, by extending the use to Saturdays, has the potential to result in further vehicular use of the road and thereby exacerbating the existing impacts. However, the impact would be arguably no different to the use on weekdays which has already been accepted by the previous Planning Inspector, except for perhaps a small increase in the potential for conflict between road users owing to being the weekend. Having been consulted on the current application, no objections have been raised by the Highway Authority.

The Local Planning Authority have to acknowledge that the use of Marsh Road may increase as a result of this application but, with no objection from the Highway Authority, and given the conclusion drawn by the previous Planning Inspector, it is considered that refusal of this application on highway safety grounds cannot be reasonably justified, although the concerns of local residents are noted.

The proposed variation would not require any further alterations to parking provision on site, nor are any proposed. Accordingly, the proposal complies with Policy CT 6.

On the basis of the above, Officers consider that the Local Planning Authority cannot reasonably refuse the application under Policy CT 5 based upon an additional 30mins of use in the evening, nor use on Saturday mornings.

Other Material Considerations

Concerns have been raised in regards to the growth and diversification of the gym since 2018, with more staff members/instructors and a wider range of fitness classes being offered (from what was initially proposed as a small women's only gym), including a potential class for children (as per the gym website), which objectors have argued significantly changes the considerations under this current application compared to what was proposed and allowed in 2018. However, on these matters, it is again reiterated that the Planning Inspector imposed

only two conditions – those relating to the approved plans and opening hours. This being the case, no restrictions were imposed either on staffing numbers, or on the type or number of classes on offer. It is therefore considered that there are insufficient grounds to add any significant weight towards refusing the application on these matters. This must also be weighed against the social and economic benefits of the business, noting that it has grown and adapted its offer to become successful and offer a service to the local community. Again, objectors consider that the needs of, and success of, the business are being prioritised over the health and wellbeing of nearby residents, but this is not the case – the Local Planning Authority must consider the application with all factors being weighed in the overall planning balance.

Furthermore, concerns have been raised in regards to driver behaviour relating to gym users. This is not a material planning consideration and beyond the control of the Local Planning Authority – this would be a matter for other authorities to investigate if necessary.

Finally, concerns in regards to the gradual creep of extended opening times are also noted, however, the Local Planning Authority can only consider the application before it and what may have occurred previously, but not what might happen in the future, although these concerns are of course understood.

Planning Balance and Conclusion

This is a finely balanced decision, taking into account the concerns raised by local residents and the Parish Council, consideration of the overall potential impacts of the increased use, as well as the benefits of the gym. It is considered that there may well be a modest increase in impact upon residential amenity and the use of Marsh Road and it is not contested that the nature of the gym use, regarding staffing numbers and class variety, may have changed/diversified since 2018. However, as stated above, no objections have been raised by either the Council's Environmental Health team or the Highway Authority. The potential additional impact upon amenity is not considered to be at a level that could be considered as significantly detrimental. In addition, it is considered that the increase in use of Marsh Road on Saturday mornings, given the previous Inspector's decision and with no highway objection, does not give sufficient enough reason to refuse the application on highway safety grounds. Finally, the benefits/success of the gym to the local community must be factored into the decision and are capable of attracting modest positive weight.

It is therefore concluded that, on balance, subject to conditions the proposed variation is considered to be acceptable and compliant with the relevant Development Plan policies as outlined above.

RECOMMENDATION:

APPROVAL subject to conditions relating to the following matters:

- Revised opening hours
- Restriction on amplified music externally

Final wording of conditions and any other considered necessary to be delegated to the Assistant Director – Planning