



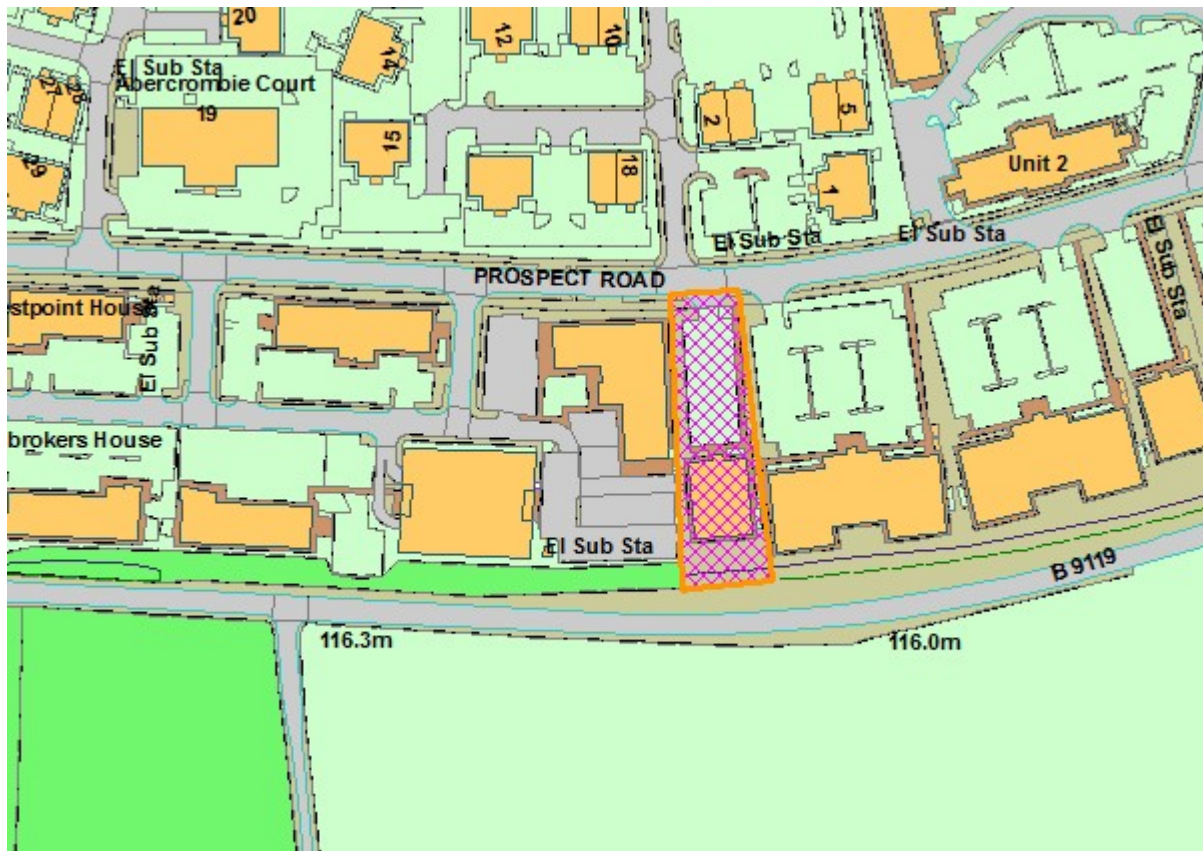
## Garioch Area Committee Report – 01 November 2022

Reference No: **APP/2022/1574**

**Full Planning Permission for Change of Use of Office (Use Class 4) to a Gym (Use Class 11) at Pavillion 1, Aspect 32, Arnhall Business Park, Westhill**

**Applicant: Specialist Valve Services Ltd**  
**Agent: Halliday Fraser Munro**

Grid Ref:	E:383296 N:806045
Ward No. and Name:	W13 - Westhill and District
Application Type:	Full Planning Permission
Representations:	0
Consultations:	5
Relevant Proposals Map Designations:	Westhill Settlement; Designated BUS site
Complies with Development Plans:	No
Main Recommendation:	Grant



NOT TO SCALE

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## 1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1c of Part 2C Planning Delegations of the Scheme of Governance as the application for development is a departure from the Development Plan and is recommended for approval.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

## 2. Background and Proposal

- 2.1 Full Planning Permission is sought for change of use of office (Use Class 4) to a gym (Use Class 11) at Pavillion 1, Aspect 32, Arnhall Business Park, Westhill.
- 2.2 The proposed site is situated at the southern edge of the settlement of Westhill, immediately to the north of the B9119 road. The site falls within an area of allocated BUS site, which is safeguarded for employment uses within the Westhill Settlement Statement under the Aberdeenshire Local Development 2017.
- 2.3 The site covers a rectangular area approximately 0.24ha in area. It contains an existing 2-storey modern office building measuring approximately 18.7m by 24.7m with a height of 10m. The building is located on the southern part of the site on elevated ground above the B9119 road and a large parking area on the north. The site is accessed directly off Prospect Road to the north. The area adjacent to the site is characterised by 2-storey modern office buildings in Arnhall Business Park, with the exception to the south of the site, which is open countryside.
- 2.4 The existing office building has been vacant in the past years. The proposal seeks planning permission for change of use from office (Use Class 4) to a gym (Use Class 11). Minor internal alterations including formation of changing rooms and fitness suites would be required for the proposed gym. No changes would be made to the external elevations of the building. The agent has submitted a Supporting Statement justifying the proposed change of use.
- 2.5 Relevant Planning History

APP/2006/4494  
Full Planning Permission for Erection of Office Buildings and Car Parking at Site B, Phase 2, at Arnhall Business Park, Westhill, granted 23 Feb 2007

APP/2005/3421  
Full Planning Permission for Site Preparation Works at Arnhall Business Park, Westhill, granted 28 November 2005

APP/2005/0768  
Full Planning Permission for New Access Road at Arnhall Business Park, Westhill, granted 11 November 2005

## 2.6 Supporting Information

Supporting Statement (Halliday Fraser Munro) received September 2022. The statement advises that the business park has a vacancy level of circa. 20-25% with potential tenants requiring smaller units than the offices as originally built. These factors support an alternative strategy for the leasing and use of the vacant units. The proposed gym would provide an ancillary use to the occupants of the business park.

Additional information (applicant email) received August 2022.

The applicant advises that the proposed operating hours of the gym would be Monday to Friday 0500-2200, Saturday and Sunday 0700-2100. The applicant also advises that the proposal will likely employ 10 staff (3 full time, 7 part time).

## 3. Representations

3.1 No valid letters of representation have been received.

## 4. Consultations

4.1 **Environment and Infrastructure Services (Contaminated Land)** states that there is no indication of any past use which might have caused contamination.

4.2 **Environment and Infrastructure Services (Roads Development)** has no objection to the proposal. The details of anticipated staff and participant numbers as well as proposed opening times provided by applicant is satisfactory. The existing parking provision will be adequate.

4.3 **Health and Safety Executive (HSE)** does not advise on safety grounds against the granting of planning permission in this case.

4.4 **INEOS FPS Ltd** consider the safety and engineering integrity of the INEOS FPS Pipeline will not be affected by this proposed development hence have no comment to make on this application.

4.5 **Scottish Water** has no objection to the proposal. The proposed development will be fed from Invercarnie Water Treatment Works, although the capacity cannot be confirmed currently. There is currently sufficient capacity for a foul only connection in the NIGG PFI Waste Water Treatment works to service the development.

## 5. Relevant Planning Policies

### 5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and

- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

## 5.2 Aberdeen City and Shire Strategic Development Plan 2020

The Strategic Development Plan was published in August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as published may also be a material consideration.

## 5.3 Aberdeenshire Local Development Plan 2017

Policy B1 Employment and business land  
Policy P1 Layout, siting and design  
Policy P4 Hazardous and potentially polluting developments and contaminated land  
Policy RD1 Providing suitable services

## 5.4 Proposed Aberdeenshire Local Development Plan 2020

Aberdeenshire Council on 5 March 2020 resolved to agree the Proposed Aberdeenshire Local Development Plan (LDP) 2020 as the 'settled view of the Council' on what the final adopted content of the LDP 2022 should be. The Proposed LDP 2020 is a material consideration in the determination of planning applications. The Planning Authority must therefore assess what weight it should have in the context of this particular application. The Reporter's Report of Examination of the Proposed LDP 2020 has now been published (24 June 2022). Notwithstanding, there is currently no authority to use the Proposed Local Development plan as a substitute for the Local Development Plan 2017. The weight that can be given to the phrase "settled view of the Council" can only be interpreted in the context of the publication of the Proposed Local Development Plan 2020 (March 2020). Even with the

certainty associated with the Reporter's Report it still remains only a material consideration in determining planning applications. However, consideration will be given on a case by case basis where the weight of the Reporter's Report should be given overwhelming significant weight when it is most advantageous to the applicant's proposals. SPP Paragraph 34 is of associated relevance.

The Scheme of Governance reserves determination of planning policy to Full Council for resolution. As such until the Proposed Local Development Plan 2020 has been formally adopted by Full Council (as LDP 2022) can this be considered as the Council's 'settled view'.

It should be borne in mind that the LDP has been written to be implemented as a whole and not the selective use of agreeable parts.

On the 18 April with reference to the legislation the LDP 2017 becomes technically 'out of date'. Notwithstanding the Aberdeenshire LDP 2017 remains the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted. Currently Scottish Planning Policy (SPP) deals with this circumstance at Paragraphs 32 to 34. The policies of the LDP 2017 are reflective of the policy position within SPP. Both SPP and the National Planning Framework 3 are confirmed as significant influences on the content of the plan, as confirmed within Section 2 – 'Influences of the Plan'. In summary, when a development plan is more than five years old the presumption in favour of sustainable development is a significant material consideration, this must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits. All of these matters however are already embedded within the policies of the Local Development Plan 2017 and deemed robust in their consideration.

## 5.5 Other Material Considerations

None

## 6. **Discussion**

6.1 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. This must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits.

6.2 The development site is situated within a designated site for employment uses. The main planning issues to be considered in this application are the principle of the proposal, layout siting and design, the impact on the surrounding area, as well as access and servicing of the development.

### Principle of development

6.3 Policy B1 - Employment and business land, allows new employment uses on land allocated or identified in the plan for business as set out in the settlement statements in Appendix 8 of the Aberdeenshire Local Development Plan 2017. Existing land used for business, usually identified as BUS within

settlement statements, will be retained for this use unless there is a constraint on the site whereby there is no reasonable prospect of it ever becoming marketable for business development or it is poorly located for employment use. Employment and business land comprises of uses falling within Class 4 (Business), Class 5 (General industry) and Class 6 (Storage or distribution) of the Use Classes Order.

- 6.4 The application site is situated within an established business park in Westhill settlement. The existing 2-storey building was used as offices (Class 4 - business) but in recent years has become vacant. The change of the use from an office (Class 4 - business) to a gym (Class 11 - assembly and leisure), which is considered as non-employment use in policy terms, would not comply with Policy B1.
- 6.5 In support of the application the agent submits that there is no prospect of re-occupying the building as offices as it was originally built. This is due to constraints of the existing building and the conditions of current commercial property market. The agent advises of a high vacancy rate within Arnhall Business Park, likely demands for smaller units with more modern facilities, which the existing building is lacking. Therefore, an alternative use for the building has been sought by the applicant to provide an ancillary use to the occupants of the business park. The agent further submits that the proposed change of use requires minimal internal alterations and would be easily reverted to offices in the future if required.
- 6.6 Given the information provided by the agent, it can be concluded that the overall stock of commercial floor space within the business park currently is excessive to the market demand and that the oversupply would likely continue for several years. Removal of any floor space from the current market by change of use from Class 4 to other uses would not lead to a significant impact on the existing business park as a whole. Whilst it is important to retain employment uses of the site within the business park, the Planning Service considers that a flexible approach should be adopted to make use of the site, which has already been vacant in the recent years, as a positive response to the market changes. The proposed Class 11 use would also be complementary to the surrounding land uses and would not result in any conflict. Therefore, the Planning Service is of the view that the economic benefits of the proposal, which would secure a new tenant for the long-vacant premises for a commercial operation, provide reasonable and justifiable grounds for departing from Policy B1 of the Local Development Plan in this instance.

#### Layout Siting and Design

- 6.7 Policy P1 Layout, siting and design only supports development designs that demonstrate the six qualities of successful places, which includes that it is distinctive; safe and pleasant; welcoming; adaptable; efficient and well connected.
- 6.8 The proposed development would involve internal alteration works to facilitate functionality of a gym within an existing freestanding 2-storey modern office building. No works would be required to the exterior of the building. The Planning Service is satisfied that the proposal would have no impact on the appearance and character of the building and other properties in the vicinity and therefore complies with Policy P1.

### Access and Servicing

- 6.9 Policy RD1 Providing suitable services only allows development that provides adequate road, waste management, water or waste water facilities, connections and treatment as appropriate.
- 6.10 The existing parking spaces and access arrangements would be utilised. The information provided by the agent regarding anticipated staff and participant numbers and opening hours is accepted by Roads Development. The proposal would be serviced by the existing public water and sewer networks. Scottish Water has no objection to the application. The Planning Service considers that infrastructure provisions for the proposal are satisfactory and the proposal meets requirements of Policy RD1.

### Contaminated land

- 6.11 Policy P4 Hazardous and potentially polluting developments and contaminated land states that the Planning Service will refuse development if there is a risk that it could cause significant pollution, create a significant nuisance, or present an unacceptable danger to the public or the environment.
- 6.12 Environment and Infrastructure Services (Contaminated Land) states that there is no indication of any past use which might have caused contamination. Health and Safety Executive (HSE) and INEOS FPS Ltd have no objection to the proposal on safety and engineering integrity grounds. The Planning Service considers that the proposal complies with Policy P4.

### Other issues

- 6.13 In terms of assessment against the Strategic Development Plan, due to the small scale of this proposal the proposed development is not considered to be strategic or regionally significant, or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.

### Conclusion

- 6.14 The policies contained in the Local Development Plan 2017 remain compliant with the principles of sustainable development as guided by the SPP and therefore provide an appropriate basis for the determination of this application.
- 6.15 In conclusion, the proposed development for change of use from Class 4 to Class 11 within a designated employment site fails to comply with Policy B1 Employment and business land of the Aberdeenshire Local Development Plan 2017. However, material considerations indicate that there is no prospect of the site being used for a Class 4 use in the near future. The economic benefits by way of securing a new tenant for the long-term vacant office building provide reasonable and justifiable grounds as a departure from Policy B1.
- 6.16 It is considered that a flexible approach should be adopted in this instance for this proposal to accommodate the proposed Class 11 use. The proposal

complies with other relevant policies of the local development plan, as the building appearance would remain in keeping with the character of the locality and the infrastructure provisions are acceptable to the scale of the development. The Planning Service therefore is able to support this application as a departure from the local development plan, accordingly, approval is recommended.

- 6.17 In assessing the proposed development against the wider policies of SPP and the LDP 2017 and any other material considerations, there were no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal.

## **7. Area Implications**

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

## **8. Implications and Risk**

- 8.1 An integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.
- 8.4 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

## **9. Departures, Notifications and Referrals**

### **9.1 Strategic Development Plan Departures**

N/A

### **9.2 Local Development Plan Departures**

Policy B1 Employment and business land

- 9.3 The application is a Departure from the valid Local Development Plan and Strategic Development Plan and has been advertised as such. No representations have been received and the period for receiving representations has expired.
- 9.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.



- 9.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

## 10. Recommendation

### 10.1 GRANT subject to the following conditions:-

01. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.

Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

02. For the avoidance of doubt the 31 car parking spaces as shown on the approved block plan shall be retained as laid out for the lifetime of the development.

Reason: In the interests of road safety and to meet the Council's standards as contained in the Aberdeenshire Local Development Plan as to ensure the development is provided with an adequate access and means of parking.

03. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order amending, revoking or re-enacting these Orders, the use of the premises hereby approved shall be used only as a gym, the purpose hereby approved and shall not be used for any other purpose within Use Class 11 without the express grant of planning permission from the planning authority.

Reason: To enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area.

### 10.2 That the Committee agree the reason for departing from the Aberdeenshire Local Development Plan 2017

The proposed development is considered an acceptable departure from Policy B1 Employment and business land of the Aberdeenshire Local Development Plan 2017, as the submitted information can justify the change of use of the site to Class 11 use in which there is no prospect of the building to be used as offices in the near future due to lack of demand and oversupply of office space within the designated BUS site in Westhill. The proposal complies with all other relevant policies, as the development would be in keeping with the character of the locality and the infrastructure provisions are acceptable to the scale of the development.

The proposed development accords with the Scottish Planning Policy principles of sustainable development. This carries significant material weight lending itself to an approval.

In assessing the proposed development there were no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal.

**Alan Wood**

**Director of Environment and Infrastructure Services**

**Author of Report: Timothy Xu**

**Report Date: 07 October 2022**