

Reference:  
APP/18/01642

Area Team:  
Development  
Management Team

Case Officer:  
Mrs S Williams

Ward:  
Heswall

Location:  
Proposal:

UNIT 7, THE CURVE, 139 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Change of use of vacant existing retail Unit No. 7 (Class A1 use) at first floor level, to use as a health and fitness centre including gymnasium use (Class D2 use), to operate 24 hours a day 7 days a week. Including addition of roof mounted air conditioning units.

Applicant:  
Agent :

HW Fitness Ltd  
Berrys

Qualifying Petition: Yes  
Petition Number: Number of signatures:  
1 28  
2 116

Site Plan:



**Development Plan designation:**

Key Town Centre  
Primarily Residential Area

**Planning History:**

- Location: Italia Lighting, 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Advertisement Consent  
Proposal: Retention of a non-illuminated shop sign.  
Application No: ADV/94/05510  
Decision Date: 06/05/1994  
Decision Type: Approve
- Location: Former Kwik Save and Italia Lighting, 139-141 Telegraph Road, Heswall, Wirral, CH60 7SE  
Application Type: Full Planning Permission  
Proposal: Refurbishment and extension of existing retail units to provide 9no. retail units under use classes A1, A2, A3, A4 and B1, including demolition of existing first floor car park and construction of new extension  
Application No: APP/08/05912  
Decision Date: 01/08/2008  
Decision Type: Approve
- Location: First Floor, 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use from industrial printers to showroom for the purpose of displaying bathroom fittings.  
Application No: APP/88/05194  
Decision Date: 17/03/1988  
Decision Type: Approve
- Location: Vacant Shop, 139-141 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Application Type: Full Planning Permission  
Proposal: Erection of a rear fire escape and new access.  
Application No: APP/10/00183  
Decision Date: 01/06/2010  
Decision Type: Approve
- Location: The Curve, 139 TELEGRAPH ROAD, HESWALL  
Application Type: Full Planning Permission  
Proposal: Amendment to planning approval ref APP/11/01498 to create new shop entrance to sub divided unit (Amended Description)  
Application No: APP/13/01052  
Decision Date: 03/10/2013  
Decision Type: Approve
- Location: Unit 5, The Curve, 139 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Application Type: Advertisement Consent  
Proposal: 2 no. fascias installed on existing cladding panels.  
Application No: ADV/13/01041  
Decision Date: 16/10/2013  
Decision Type: Approve
- Location: The Curve, 139 TELEGRAPH ROAD, HESWALL  
Application Type: Advertisement Consent  
Proposal: Illuminated letters on building Fascia  
Application No: ADV/13/01163  
Decision Date: 23/10/2013  
Decision Type: Approve
- Location: First floor 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use from offices to health and fitness centre.  
Application No: APP/85/05365

Decision Date: 23/05/1985  
Decision Type: Approve

Location: Vacant Shop, 139-141 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Application Type: Full Planning Permission  
Proposal: Extension of time application for 2008/5912  
Application No: APP/11/00909  
Decision Date: 26/10/2011  
Decision Type: Approve

Location: Vacant Shop, 139-141 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use from A1 to use classes A1, A2 and A3 at ground floor and A1 and B1 at first floor, incorporating cosmetic external alterations including new windows/glazing to ground floor and new rain screen cladding to ground and first floor, as well as new external railings to existing first floor car park.  
Application No: APP/11/01498  
Decision Date: 13/02/2012  
Decision Type: Approve

Location: Vacant Shop, 139-141 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Application Type: Advertisement Consent  
Proposal: Erection of illuminated 3D signs.  
Application No: ADV/12/00752  
Decision Date: 02/08/2012  
Decision Type: Approve

Location: Vacant Shop, 139-141 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Application Type: Advertisement Consent  
Proposal: New back lit 3D signs consisting of individual white PPC Aluminium letters mounted on the cladding/fascia panels.  
Application No: ADV/12/01201  
Decision Date: 16/11/2012  
Decision Type: Approve

Location: Unit 4, The Curve, 139 TELEGRAPH ROAD, HESWALL, CH60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use to D1  
Application No: APP/13/01051  
Decision Date: 03/10/2013  
Decision Type: Approve

Location: 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Advertisement Consent  
Proposal: Two illuminated advertisements.  
Application No: ADV/86/06193  
Decision Date: 02/09/1986  
Decision Type: Returned invalid

Location: 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Full Planning Permission  
Proposal: To use first floor as a restaurant.  
Application No: APP/86/06899  
Decision Date: 15/01/1987  
Decision Type: Refuse

Location: 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use of former offices to restaurant.  
Application No: APP/85/07125  
Decision Date: 06/02/1986  
Decision Type: Refuse

Location: First Floor, 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Full Planning Permission

Proposal: Change of use from vacant office to restaurant.  
Application No: APP/85/07009  
Decision Date: 16/01/1986  
Decision Type: Refuse

Location: First floor 139, Telegraph Road, Heswall. L60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use of former first floor drawing office to snooker hall with licensed bar.  
Application No: APP/85/05351  
Decision Date: 18/04/1985  
Decision Type: Refuse

Location: 1st Floor of Co-op ,139 Telegraph Road ,Heswall,Wirral,L60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use of first floor to retail sales  
Application No: APP/84/24548  
Decision Date: 09/04/1984  
Decision Type: Withdrawn

Location: 139 Telegraph Road ,Heswall ,L60 7SE  
Application Type: Full Planning Permission  
Proposal: Change of use of part of first floor from retail to office  
Application No: APP/79/13233  
Decision Date: 18/10/1979  
Decision Type: Conditional Approval

#### **Appeal Details**

Application No	APP/86/06899
Appeal Decision	Dismissed
Appeal Decision Date	10/12/1987

#### **Summary Of Representations and Consultations Received:**

##### **1.0 WARD MEMBER COMMENTS**

1.1 No comments received.

##### **2.0 SUMMARY OF REPRESENTATIONS**

###### REPRESENTATIONS

Having regard to the Council's Guidance for Publicity on Planning Applications, 24 notifications were sent to adjoining neighbouring properties and a site notice was displayed near the site. At the time of writing this report 26 objections have been received along with a qualifying petition of 143 signatures. Under the scheme of delegation, the application must be heard at Planning Committee.

Concerns can be summarised as:

1. The premises will be open 24 hours a day - will impact on residents in Castle Drive and The Mount;
2. Late night noise and light from the premises;
3. Very few members using the gym throughout the night, why is there a need to be open 24 hours;
4. Adverse effects on the amenity of local residents;
5. Severe parking congestion along Castle Drive;
6. Noise and disturbance from engine and door slamming resulting in loss of amenity to residents;
7. Expect residents to have to suffer disturbance every night of the week at all times is unacceptable;
8. 3rd gym within the same small area is unnecessary;
9. Highway safety issues;
10. Cars using the elevated car park with bright lights shining into habitable windows/gardens;
11. Visitors leaving and arriving throughout the night would chat outside;
12. Traffic control up the ramp would mean cars reversing into main road is a car was coming down the ramp.

###### CONSULTATIONS

**Highways** - Supports the application in principle, however have raised some concerns relating to additional parking. Comments are attached to the file and will be discussed in more detail throughout the report.

**Environmental Health** - have raised no objection subject to a good scheme of sound insulation being submitted.

### **3.1 Site and Surroundings**

3.1.1 The application site is located within Heswall Key Town Centre. The building is surrounded by various commercial uses. Lloyds bank is located to the east, an opticians to the north and a bar to the south east.

3.1.2 South of the application site is land designated as a Primarily Residential Area, as such the car parking area is accessed from Castle Drive. There is a new build dwellinghouse 1a Castle Drive and a two-storey residential building 10-12 The Mount which is located directly opposite the carpark. The side elevation of 10-12 The Mount contains clear glazed windows.

### **3.2 Proposed Development**

3.2.1 The proposal is for the change of use of vacant retail unit No.7 at first floor level to use as a health and fitness centre including gymnasium, operating 24 hours a day 7 days a week. The proposal also includes roof mounted air conditioning units.

### **3.3 Development Plan**

3.3.1 The application site is located within land designated as Heswall Key Town Centre in Wirral's Unitary Development Plan, the building is currently vacant, with its last known use to fall under class A1. National Policy NPPF - Requiring Good Design, SH1 - Criteria for Development in Key Town Centres is directly relevant in this instance.

3.3.2 Policy SH1 - Criteria for Development in Key Town Centres permits uses falling within Use Classes A1, A2, A3 and D1 together with other uses appropriate to a town centre location including cinemas, theatres and taxi businesses, subject to a range of criteria, including that the proposal does not generate excessive amount of traffic, is not detrimental to the character of the area (through choice of materials, design, siting and scale) and does not cause nuisance to neighbouring uses or lead to loss of amenity, as a result of noise and disturbance.

### **3.4 Other Material Planning Considerations**

3.4.1 The National Planning Policy is also relevant. This states; The purpose of the planning system is to contribute to the achievement of sustainable development, ensure the vitality of town centres and secure economic growth in order to create jobs and prosperity.

### **3.5 Assessment**

3.5.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Design;
- Highways;
- Ecology; and
- Amenity

#### 3.6 Principle of Development:

3.6.1 The site is located within the Key Town Centre of Heswall and although Policy SH1 does not provide for D2 uses, given that this is a first floor use and that health and fitness centres are also now included in the definition of Main Town Centre uses in the NPPF glossary, as such the principle of the development is deemed acceptable subject to the policies outlined above.

#### 3.7 Design:

3.7.1 The proposal would sit within the footprint of the vacant building. External alterations have recently been granted planning permission under ADV/19/00156 which involved various illuminated fascia signs.

#### 3.8 Highways:

3.8.1 Head of Environment & Regulation (Traffic and Transportation Division) has stated they

support the application in principle, however have raised some concerns relating to additional parking, which may impact on the residential street (mainly Castle Drive) with respect to on street parking. There are already parking restrictions in operation on Castle Drive which restrict parking between 8am and 6pm Monday to Saturday. Additionally, there are bollard's located within close proximity to the entrance of Castle Drive which also restrict parking. It was suggested a condition to be added which would see the existing parking monitored and if it becomes an issue, include a provision for the developer to contribute to an amendment of the existing parking restrictions to 24 hours Monday-Sunday. However, the LPA is not convinced that such a condition would be reasonable unless it had a set trigger as there is the potential for such a condition to be unresolved and may not be reasonable. The Council's Traffic and Transport Division suggested we secure the amendments to the parking restrictions as a section 106 agreement. Again, this would not be reasonable to monitor the parking through a section 106 agreement due to the site being located within a Key Town Centre and already providing off street parking for the proposal. Following on from these discussions, it should be noted that no formal objection on highway grounds has been received.

3.8.2 Concerns have been received from local residents (mainly on Castle Drive) relating to the possible noise and disturbance of parking arrangements during the night time. As stated above, Castle Drive already contains suitable parking restrictions which protect local residents of such comings and goings during daytime early evening times. It should also be noted that the dwellinghouse located on Castle Drive contain provisions for off street parking and therefore it is highly unlikely that driveways will be restricted by customers visiting the Town Centre. The agent has been made aware of such concerns and has since provided further information.

3.8.3 The information provided (relating to night time usage) demonstrates that customer parking demands can be accommodated by the existing car park, without the need to overspill onto the surrounding streets. As a result, it is highly likely that users would park on surrounding residential streets during the night time hours when there will be adequate on-site parking available.

3.8.4 The agent has stated '*with regard to usage levels outside of these hours, whilst inevitably higher, is still relatively modest with number not exceeding 19 users during peak hours. Since the site has 14 spaces, any overspill will be limited. Since the site is located within the town centre, users will be able to benefit from excellent public transport links as well as the ample amount of free (albeit time restricted 1 hour) parking within the wider town centre without the need to park on residential streets. It is also important to note that the core hours of the gym are 5 am – 9 am and 5 pm – 8 pm and that these hours are largely outside of the town centre core hours. In light of this, there will be adequate parking available to accommodate any overspill from the gym car park without adversely effecting local residents. It is also relevant to note that this is a town centre location which is highly accessible by alternatives modes of travel and that there will be a small element of users who will walk to the site.*

*'Whilst the applicant is confident that there is sufficient parking available on site and in the wider town centre, without the need to park on surrounding residential streets, he has agreed to introduce on site signage requesting that customers do not to park on surrounding residential streets. This issue could also be covered off in user inductions to reinforce the matter'.*

3.8.5 In this instance, the Council is satisfied that the proposed site provides adequate parking areas for the visiting customer. Additionally, it has been noted that the site is located within a key Town Centre and therefore is easily accessed by the use of public transport/walking. The evidence provided confirms that less than 1% of members workout after 23:00 hours and before 05:00 hours. On this basis the level of activity throughout the night is considered within reasonable limits which should not be detrimental to local residents.

3.9 Ecology:

3.9.1 There are no Environmental/Sustainability issues relating to these proposals.

3.10 Amenity:

3.10.1 As the site is located within a Key Town Centre, naturally, the building is surrounded by other late night uses such as bars/clubs and fast food takeaways, were it is likely a larger number of groups would congregate outside such businesses. In this instance, it is considered that proposed gym would not result in noise and disturbance or any other issues of antisocial

behaviour which can be associated with other late night uses. Customers will arrive in an orderly manner, usually be themselves. This will reduce the likelihood of the potential of excessive noise from people talking and will likely leave quickly afterwards. The core hours of the gym are typically before and after work with the clientele tending not to loiter outside the premises.

- 3.10.2 It is accepted that customers are likely to use the carpark area provided to the rear of the site and there may be some engine noise from their comings and goings. However, given the evidence provided (that there will be a limited number of customers using the gym after 23:00 hours) it is unlikely that this use would result in a detrimental change to the character of the area and would cause an unacceptable level of disturbance to local residents.
- 3.10.3 Given the limited number of customers using the gym after 23:00 hours, it is unlikely that this would result in large numbers of people congregating in this area at any one time. As a result the noise and disturbance created is likely to be limited and is unlikely to be any more significant than that would result from other late night uses within the immediate surrounding area. Given the background traffic noise on Telegraph Road and The Mount, it is considered that in this respect the proposal would be unlikely to significantly increase the noise and disturbance experienced by local residents.
- 3.10.4 Overall, as a result of the nature and scale of the proposal the noise generated within the building is unlikely to be excessive. In this instance the objections received do not warrant a refusal. It is deemed that the noise generated by the proposal would be unlikely to cause a disturbance to the immediately adjacent neighbours.

#### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal will result in a development which has a positive impact upon the local community and does not harm the amenities of neighbouring properties or the character of the area. The proposal will bring a vacant building back into use. The proposal is therefore considered to comply with Wirral Unitary Development Plan Policy SH1 and the National Planning Policy Framework.

**Recommended Decision:**                      **Approve**

#### **Recommended Conditions and Reasons:**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
**Reason:** To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 6th February 2019 and listed as follows: plan/drawing numbers 0104-PL01, 0104-PL02, 0104-PL03, 0104 PL04 Revision 2, 0104 PL05/a Revision 2, 0104 PL05 Revision 2 and 0104-PL06 (date 2018).  
**Reason:** For the avoidance of doubt and to define the permission.
3. Prior to first occupation the applicant shall submit a good scheme of sound insulation to provide protection against both airborne and impact noise created in the premises.  
**Reason:** In the interests of residential amenity having regard to Wirral Unitary Development Plan Policy SH1.

**Last Comments By:** 08/03/2019  
**Expiry Date:** 03/04/2019