

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/15/03324/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Change of use from Class B1 (Light Industry) to Class D2 (Assembly &amp; Leisure) to provide a gymnasium</b>
<b>NAME OF APPLICANT:</b>	<b>Mr B Jewitt</b>
<b>ADDRESS:</b>	<b>2 Pease Road, North West Industrial Estate, Peterlee, SR8 2RD</b>
<b>ELECTORAL DIVISION:</b>	<b>Shotton and South Hetton</b>
<b>CASE OFFICER:</b>	<b>Laura Eden laura.eden@durham.gov.uk 03000 263980</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site constitutes an existing industrial unit within Pease Road on the North West Industrial Estate. It was previously in use as a light industrial unit, however is currently vacant. This area is allocated as a general industrial estate by virtue of local plan policy 53.

### The Proposal

2. The application seeks full planning permission for the change of use of the premises from use class B1 (light industry) to class D2 (assembly and leisure). The applicant intends to open a gymnasium opening Monday to Friday 6am until 9pm and weekends from 8am until 3pm. There would be ten car parking spaces provided and an area to provide storage for up to 25 bicycles. No external changes are proposed.
3. The application is brought before members at the request of Councillor Huntington on grounds of number and concentration of other gyms in the surrounding area and the loss of an industrial unit.

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## PLANNING HISTORY

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4. A search of the Council's planning register reveals that there were no entries which would be relevant to this planning application.

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# **PLANNING POLICY**

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## **NATIONAL POLICY**

### National Planning Policy Framework

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'
7. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below
8. The following elements of the NPPF are considered relevant to this proposal
9. Part 1 - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
10. Part 2 - 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.
11. Part 4 – Promoting Sustainable Transport. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives
12. Part 8 – Promoting Healthy Communities. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

## **LOCAL PLAN POLICY**

### Easington Local Plan

13. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
14. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

15. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
16. Policy 37 - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).
17. Policy 53 - General industrial estates are designated for B1, B2 and B8 uses at Peterlee North East, Peterlee North West, Peterlee South West and Dalton Flatts, Murton. Retail will be allowed in accordance with policy 105.

## **RELEVANT EMERGING POLICY**

### The County Durham Plan

18. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the CDP can no longer carry any weight at the present time.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **INTERNAL CONSULTEE RESPONSES:**

19. Highways – No objection
20. Environmental Health – Due to the commercial nature of the site noise is unlikely to constitute a statutory nuisance therefore is not in a position to object
21. Policy – NPPF Annex 2 defines health and fitness as a main town centre use however paragraph 22 advises that due consideration needs to be paid to market signals and vacancy rates. On this basis it is acknowledged that an alternative non-industrial use could be justifiable in this instance.

### **PUBLIC RESPONSES:**

22. The application has been publicised by way of a site notice in addition to individual notification letters to neighbouring industrial units. A number of letters of objection have been received from three nearby gyms raising concerns relating to:
  - There are six other gyms within the Peterlee area including a number of the industrial estates which are sufficient to meet demand
  - Potential for a further gym to adversely impact on the existing business resulting in job losses

- Previous refusal for a new gym (DM/14/02586/OUT) and non-favourable pre-application advice given by the local planning authority.
- Lack of parking

In addition two letters of support have been received on the grounds of;

- That it would provide an up to date, modern gym to serve the expanding population of Peterlee
- New employment benefits
- Sustainable and well thought out layout.
- No perceived highways concerns
- Bring back into use an empty industrial unit.
- Security benefits through late night opening/added surveillance/an additional occupier

Furthermore a letter has been received from County Councillor Huntington. She advises that she has always been keen to promote a healthy lifestyle and greatly appreciates the importance of exercise in maintaining good health. However, on this occasion she has concerns regarding the number of gyms within close proximity to one another. On this basis she questions the sustainability of the site.

#### **APPLICANTS STATEMENT:**

23. There is recent planning precedent in respect of change of use from category B1 to category D2 (also for use as a gymnasium) in respect of the premises trading as Gym 360 situated at Unit 11 Pease Road (CE/13/01432/FPA). Planning consent for such change of use of Unit 11 Pease Road was granted by the Planning Authority as recently as 2014. Unit 2 Pease Road, for which consent for the same change of use is also sought, is understood to be of the same size and commensurable in all other material respects to that of Unit 11 Pease Road; the operators of which premises it is duly noted are also objectors to this application.
24. The applicant has provided professional evidence to the Planning Authority from his land agent, Mr Dunnett of Bizspace, demonstrating that eight units located at Pease Road have been vacant for a minimum of eighteen months. There has been very little interest in any of the eight vacant units with the current designated category of use. Furthermore, vacancy rates at the Pease Road site are almost identical to those which existed when the aforementioned planning precedent was created. Mr Dunnett further noted the availability of additional units at the neighbouring Lister Road site which have also remained vacant for a considerable length of time.
25. The applicant notes that no objections have been raised by internal consultees as follows:

Area Planning Policy Team

'The Spatial Policy function acknowledges that in this instance an alternative use would be justifiable on the site'.

Environmental Health Response (Senior Environmental Health Officer)

'I am not in a position to object to the development in principle'.

Highway Authority (Principal Engineer)

The proposals would be deemed to be acceptable from a highways point of view'

26. 'The applicant submits that as operators of competitor businesses, the objectors seek to protect commercial vested interests rather than contend the planning merits of his own planning application. The applicant further respectfully submits that in determining the planning application, no material weight should be unduly attached to nearby objectors, which are purely on the grounds of perceived business impact. The National Planning Policy Framework (NPPF) explicitly encourages 'a strong, responsive and competitive economy' and seeks to 'promote competitive (environs) that provide customer choice' whilst simultaneously 'ensuring that markets remain attractive and competitive'. Competition and customer choice in this service sector is of benefit to users and the local community.
27. The applicant maintains that the proposed change of use largely accords with both local and national policy, is entirely consistent with The NPPF objective of promoting healthy communities and represents sustainable development. The starting point of The NPPF is the presumption in favour of sustainable development as the golden thread of decision making. The NPPF states that 'Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision'.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at [FPA](#)*

<HTTPS://PUBLICACCESS.DURHAM.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVE TAB=SUMMARY&KEYVAL=NWVPGFGDMRU00>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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28. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
29. The main considerations in regard to this application are the principle of the development, impacts upon surrounding land users, highways and objections received.

### Principle of Development

30. The application site is located on Pease Road within the North West Industrial Estate. Easington Local Plan Policy 53 identifies this area as a general industrial estate. Policy 54 of the Local Plan supports the development of B1 (business/light industry), B2 (general industry) and B8 (storage and distribution) and retail uses as permitted by policy 105 of the local plan. Such retail uses would include small scale developments to provide local services to meet the daily needs of workers on the estate and the ancillary sale of items manufactured on the premises or the same industrial estate.
31. Turning to the NPPF, the emphasis is on sustainability and supporting economic growth. The site is located within Peterlee, a main town within County Durham however it is situated within an employment area located a significant distance away from the main town centre. The NPPF seeks to support the vitality of town centres which should be developed to include leisure uses. When considering out of town proposals preference should be given to accessible sites that are well connected. It is considered that the proposed business could serve the needs of users of the estates. The site is located a short walk (4-5 minutes) from the nearest bus stop which connects to a number of adjacent residential areas. While it is considered that a gym would provide a facility for workers of the industrial estate, due to the scale of

the proposal and the target market referred to in the planning statement it is more likely to be aimed at a wider market. Furthermore, there are already gyms on the industrial estate that provide such facilities.

32. The applicant has provided a sequential test in order to justify locating the gym on the North West Industrial Estate. The applicant has looked at Peterlee town centre and the sequential test concluded that there were limited commercial leases available within the Castle Dene Shopping Centre. Generally speaking the town centre comprises of smaller units whereby the floor space and ceiling height are not suitable for gym uses. Although two suitable units were available during his discussions with the letting agent, one was let and with the other the owner would only accept a large national chain store. These conclusions provided by the applicant are accepted as it is acknowledged that the nature of the use and the operational requirements of the business lend themselves to industrial units and it is accepted that units of this type are limited in the town centre. The applicant has therefore demonstrated that there would be not be an adverse impact upon the neighbouring town centre in terms of viability and vitality.
33. The saved local plan policy takes a more rigid policy approach which seeks to resist development on employment land other than for B1, B2 or B8 use, or otherwise specified retail proposals, as previously outlined. Paragraph 22 of the NPPF however advocates permitting alternative uses on sites allocated for employment land where 'no reasonable prospect' of that land being used for the intended employment use is evident. The guidance suggests that in such instances applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities. Although policy 53 is considered to be broadly compliant with the intentions of the NPPF, greater weight must be afforded to paragraph 22 in accordance with paragraph 215 of the NPPF, which deals with the weight that should be given to relevant policies.
34. The supporting information submitted also advises that 2 Pease Road is currently vacant and that the estate is suffering from a vacancy rate of 42% many of which are longer term 18 month vacancies. Furthermore many of the existing tenants have short six to twelve month lease agreements. This figure has not been verified however the case officer did note high occupancy rates when visiting the site and the estate generally. Furthermore, the site is designated as employment land and through the reintroduction of a business into the premises four new full-time and three part-time jobs would be created.
35. Although the NPPF defines health and fitness centres as a main town centre use, through the submission of the sequential test it has been demonstrated that no suitable premises were available. Although local plan policies seek to protect employment land the NPPF through paragraph 22 requires a more flexible approach to decision making taking account of current market signals and the relative need for different land uses to support sustainable local communities. In this instance there are high vacancy rates within the estate and the units have been marketed for a lengthy period of time with no interest. The NPPF places a strong emphasis on sustainable economic development which this proposal is considered to represent through the creation of jobs, with a five year premises lease in what would otherwise have been an empty industrial unit. On this basis the proposed development is considered to be acceptable in accordance with the NPPF Parts 1 and 2.
36. It is noted that objectors have raised concerns with regards to a previous decision and advice offered by the local planning authority with regard to new gyms within Peterlee's industrial estates. Each application does have to be considered on its

merits and it is considered that there are clear differences between the former developments and the one brought before members through this application. Both the previous application and enquiry related to the creation of brand new units rather than existing vacant premises. Furthermore, colleagues within the policy section were liaising with the person who submitted the enquiry to try and overcome the policy concerns that had been identified, however in the intervening period another party secured a deal on the available site. Accordingly, the new build gym enquiry could be taken no further.

#### Impacts upon surrounding land users

37. The NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. At a local level policy 35 of the Easington Local Plan requires proposals to have no serious adverse effect on the amenity of existing land users in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
38. It is not considered that the proposed use would give rise to adverse neighbouring amenity issues. There are no window openings within the building nor are any external alterations proposed therefore privacy and visual intrusion are not a concern. Industrial estates by their nature are busy therefore it is not considered that the proposed use would lead to traffic generation that would be detrimental to the surrounding units. Although the applicant has specified his intended hours of operation it is not deemed necessary to impose restrictions relating to hours of operation given the character of the surrounding area. It is not considered that the existing users within the estate would have a significant adverse impact upon the proposed gym use, given the nature of the nearby uses. It is also relevant to note that the applicant has chosen this particular location, and in addition, some of the gym activities would take place outside of the normal operating times of adjacent premises.
39. Officers in the environmental health section were consulted on the proposal and requested the submission of additional information in relation to noise generation and how this would be operationally and structurally addressed. Although the applicant has specified noise management measures (low tempo music, speaker placement etc.) rather than noise insulation measures, colleagues still maintain concerns regarding the potential for noise breakout. Notwithstanding this, due to the site being located within a commercial area noise is unlikely to constitute a statutory nuisance or give rise to amenity impacts. As such, they would not object to the development in principle. Officers note the industrial nature of the surrounding area, that there are no residential properties in the vicinity, there is a gym operating within the same estate about which no known noise complaints have been received and furthermore no objections have been raised from neighbouring units in this regard. On this basis it is not considered that noise associated with the development would be significant enough to justify refusal of the planning application.

#### Highways

40. The highways officer has assessed the proposal and notes that there are ten car parking spaces in front of the unit's western elevation that could be available to users of the proposed gymnasium. It also would appear that two further spaces could be provided if the main roller shutter door associated with the premises was not open. Furthermore, this area of the industrial estate also benefits from what appears to be additional shared car parking located between Units 4 and 5 which is approximately 60 or so metres away from Unit 2 which should be capable of accommodating up to twenty or so vehicles.

41. The applicant has specified the opening hours of the business as being 6am until 9pm Monday to Friday and 8am until 3pm Saturdays and Sundays. It is anticipated that the peak hours of operation for the business would be early mornings, evenings and weekends when the adjacent businesses would most likely be closed therefore additional parking would most likely be available in the surrounding area. Furthermore, space would be included within the unit for the storage of 25 bicycles to encourage sustainable modes of transport.
42. On this basis the proposal is considered to be acceptable from a highways perspective and would comply with policies 35, 36 and 37 of the District of Easington Local Plan.

#### Neighbouring objections

43. Objectors to the scheme have raised a number of points of objection many of which have been covered elsewhere in this report.
44. Objectors' main concerns relate to the existing number of gyms in the Peterlee area and that the introduction of a further establishment may have an adverse impact on the existing fitness based businesses. In this case officers consider that the principle of development is acceptable and in accordance with policy. It would up to the market to decide whether there was capacity for a further gym within the area. As one supporter mentioned, Peterlee is benefitting from new large scale housing development which could create extra demand for such facilities. Potential business competition would not provide a justifiable reason for refusing planning permission.

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## **CONCLUSION**

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45. The NPPF places a strong emphasis on sustainable economic development which this proposal is considered to represent. Although gym uses should normally be accommodated within town centres, supporting information has been submitted to demonstrate why this was not possible. Although local plan policies seek to protect employment land the NPPF requires a more flexible approach to decision making taking account of current market signals. In this instance there are high vacancy rates within the estate and the units have been marketed for a lengthy period of time with no interest. The site is designated as employment land and through the reintroduction of a business into the premises four new full-time and three part-time jobs would be created.
46. It is considered that the site has the potential to be developed without causing an adverse impact to the amenity of adjacent users and would not lead to highway safety issues. As a result, it is considered that the proposal is in accordance with the intentions of the National Planning Policy Framework and saved Policies of the current Local Plan. Whilst objectors' concerns are appreciated and duly noted it is not considered they would amount to reasons to refuse planning consent.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the following conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.



Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved documents. Application Form, location plan, design and access statement and proposed floor plan received 27/10/2015, Supporting information relating to noise management received 25/11/2015

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved Policies 1 and 35 of the Easington Local Plan.

3. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), the premises shall be used as a gym only and for no other purpose, including any other activity within the same class of the schedule to that Order.

Reason: In the interests of ensuring the vitality of town centres in accordance with Part 2 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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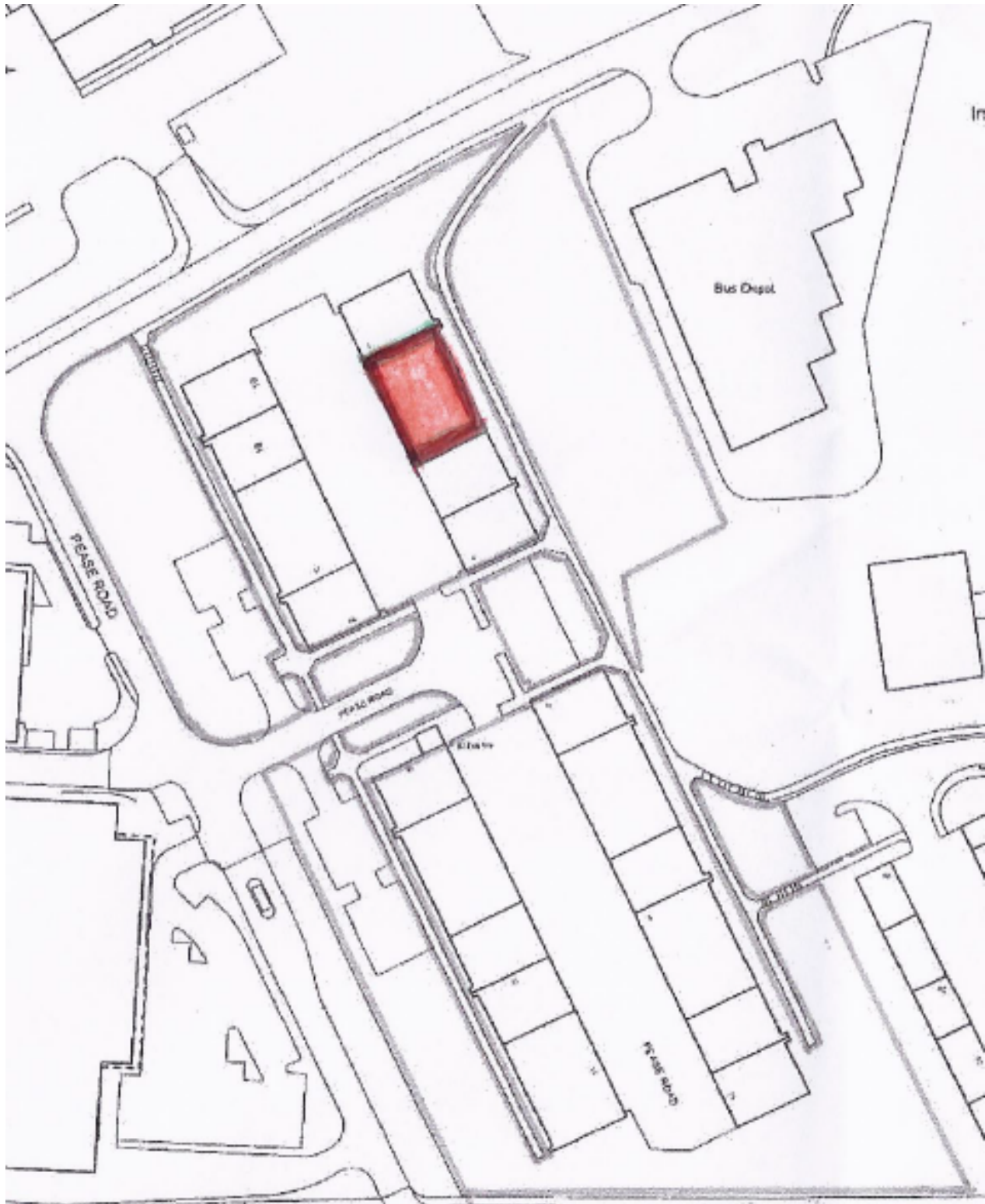
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Drawings
- Design and Access Statement
- Supporting Statement
- National Planning Policy Framework
- Easington Local Plan 2001
- Consultation Responses



**Planning Services**

**Change of use from Class B1 (Light Industry) to Class D2 (Assembly & Leisure) to provide a gymnasium  
2 Pease Road, North West Industrial Estate, Peterlee, SR8 2RD**

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**Comments**

**Date. 12 January 2016**

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