

**PLANNING
COMMITTEE**

13th July 2016

Planning Application 2016/140/FUL

Change of use to a Health & Well-being Training and Performance Centre (D2 use)

**Former Dawson Tyre Services, 4A Imex Spaces Business Centre, Oxleasow Road,
East Moons Moat, Redditch, B98 0RE**

Applicant: Mr Duncan Davis
Expiry Date: 12th August 2016
Ward: WINYATES

(Site Plan attached)

The author of this report is Steven Edden, Planning Officer (DM), who can be contacted on Tel: 01527 548474 Email: steve.edden@bromsgroveandredditch.gov.uk for more information.

Site Description

The site is located in a Primarily Employment Area within an Industrial Estate at East Moons Moat. Access to the Imex Business Centre is via Oxleasow Road. The existing unit is a small metal clad Industrial Unit and is currently unoccupied.

The unit was formerly occupied by a B2 (General Industrial) user: Dawsons Tyre Services.

Proposal Description

This is a full application for the change of use of this vacant B2 unit to a D2 (Assembly and Leisure) use: specifically in this case for use as a 'Cross-Fit' gymnasium. The property measures 216 square metres in floor area.

Relevant Policies :

Borough of Redditch Local Plan No.3

CS.7 The Sustainable Location of Development
E(EMP).3 Primarily Employment Areas
E(EMP).3a Development Affecting Primarily Employment Areas
C(T).12 Parking Standards

Emerging Borough of Redditch Local Plan No.4

Policy 24 Development within Primarily Employment Areas

Others

NPPF National Planning Policy Framework

Relevant Planning History

None

**PLANNING
COMMITTEE**

13th July 2016

Consultations

RBC Development Plans

Comments summarised as follows:

This proposal is for a D2 use, which falls within an area designated for primarily employment use, and which would be more appropriately suited to a town centre location.

The NPPF at paragraph 24 states: *“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre...”*

The NPPF at paragraph 27 states: *“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors [NPPF para 26], it should be refused.”*

The applicant has not demonstrated that there are no suitable units within or adjacent to the town centre.

The following saved policies in Local Plan No.3 are appropriate to this application:

Policy E(EMP).3 – Primarily Employment Areas states: *“Within Primarily Employment Areas, as defined on the Proposals Map, development falling within Classes B1 (Business), B2 (General Industry) or B8 (Storage or Distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended), will normally be permitted... Non employment development will only be considered where:*

- i. it can be demonstrated that the site is not capable of being developed for employment use and that the loss of the site for employment use will not have an unacceptable impact on the supply of employment land in the Borough; or*
- ii. the use of the site for employment purposes raises unacceptable environmental or traffic problems which could be alleviated by alternative use or uses; and in all cases;*
- iii. the use is compatible with surrounding land uses in accordance with Policy E(EMP).3a (Development Affecting Primarily Employment Areas).”*

Policy E(EMP).3a – Development Affecting Primarily Employment Areas states: *“Development will only be permitted where it is compatible with the use of Primarily Employment Areas. Development will not be permitted where it would restrict the current or future use and/or development of Primarily Employment Areas for employment purposes or where the amenity of the new development would be compromised by its proximity to the Primarily Employment Area.”*

**PLANNING
COMMITTEE**

13th July 2016

The following Policy in Local Plan No.4 is appropriate to this application:

Policy 24 Development within Primarily Employment Areas states: *“Development will not be permitted where it would restrict the current or future use or development of Primarily Employment Areas (as defined on the Policies Map) for employment purposes. Non employment development will only be permitted when:*

- *such development would not cause or accentuate a significant shortage of land for employment use in the Borough or area concerned;*
- *it is no longer viable as an employment area either following a period of unsuccessful marketing or undertaking a viability assessment. Consultation must be undertaken with the Economic Development and Regeneration Service by the applicant to ascertain this; and;*
- *the site is no longer appropriate for employment use because of at least one of the following reasons and these problems are incapable of resolution in the foreseeable future:*
 - it impinges upon residential amenity;*
 - it causes substantial transport network, highway or traffic problems;*
 - it creates other adverse environmental effects; or*
 - technical reasons such as land stability or fundamental infrastructure problems.”*

Having regard to the above Policies, the Development Plans Team comment as follows:

Although the loss of this site for employment use would not have an unacceptable impact on employment land supply in the Borough, it is imperative that the compatibility of the proposed change of use with surrounding uses is taken into consideration.

In this instance it is considered that the proposed use would be incompatible in relation to the surrounding business uses and the types of vehicular movements these businesses create and no indication that there is sufficient segregation of parking within the unit's forecourt to alleviate pedestrian and vehicular conflict.

A D2 use in this location is likely to compromise the day to day activities of existing and future business occupiers within this location, contrary to Policy E(EMP).3a of the Borough of Redditch Local Plan No.3.

The applicant has not provided evidence of an unsuccessful and appropriate marketing period for this property.

From a planning policy perspective, this application cannot be supported.

Highway Network Control

On my site visit, I noted that there were significant vehicle movements in the vicinity of the proposed site (on the forecourt area) mainly involving delivering goods vehicles and the unloading thereof.

These activities are not taking place within the highway and therefore could not result in a refusal on the grounds of Highway Safety, however, I do have concerns over the introduction of additional pedestrian movements in the area having regard to these existing activities.

**PLANNING
COMMITTEE**

13th July 2016

Worcestershire Regulatory Services

Comments summarised as follows:

The previous use of the unit was for a tyre sales and repair business and as such there is the potential for contamination. In accordance with the National Planning Policy Framework, it is important to ensure that the site is suitable for its proposed use taking account of ground conditions, pollution arising from previous uses and any proposals for mitigation including land remediation. The Framework also requires adequate site investigation information be prepared by a competent person. As little information is known or has been provided on this site, a Phase I study is recommended. Standard planning conditions to address this issue are recommended for inclusion in the case of planning permission being granted.

Public Consultation Response

1 representation received in objection

Comments are summarised as follows:

I have very serious concerns regarding the change of use on this Industrial unit in respect to safety. We run a cardboard box manufacturing business from Unit 3A Imex Business Spaces which is next door to Unit 4A. We have been manufacturing boxes in this unit for approximately 15 years. The nature of our business necessitates the unloading of large pallets of cardboard from 40ft articulated lorries from our board suppliers and deliveries of wooden pallets on a daily basis and also the loading of pallets of boxes onto independent carriers and also our own 7.5 tonne lorry daily.

Our forklift is operational for several hours a day and we are very concerned about the possibility of members of the general public walking across the frontage of our unit to gain access to Unit 4A as there are no dedicated pedestrian footpaths. As well as our lorry we have two vans parked outside and two large cardboard recycling skips.

We use the outside space of our unit all the time and work in progress necessitates us leaving pallets of board/boxes outside and stacks of empty pallets whilst we load/unload. As there is no dedicated footpath for pedestrians to walk on a big concern is people walking about in front of our vehicles and forklift whilst in use or walking from behind our parked vehicles into the path of delivery vehicles, our lorry and vans and the forklift. There is no designated car parking by the units and we fully utilise all the space outside our unit. The main car park which is outside the office block away from the units would entail walking past the front of our unit to gain access to unit 4A.

The unit to the other side, Unit 5A is a logistics company and is operational 24 hours a day, 7 days a week and has very busy periods with lorries lined up waiting to be loaded/unloaded with two forklift trucks. There is no space for car parking by their unit as they need 24 hour access. Their busiest periods are 5am to 9am and 5pm to midnight on a regular basis.

**PLANNING
COMMITTEE**

13th July 2016

We work until 7.30-8pm on a regular basis which would be incompatible with the proposed use of the unit in question. We have been made aware that some of the exercise classes will be held outside the unit on the yard and this is not a suitable environment as it has a very restricted width between the Unit 3A and Unit 5A and it would not be safe and likely to result in an accident. There would need to be some sort of safety barrier erected which would not be appropriate as the whole estate is open plan.

Assessment of Proposal

Principle of Change of Use

The National Planning Policy Framework defines Assembly and Leisure (D2 Class uses) as main town centre uses and comments that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Paragraph 24 of the NPPF comments that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.

The NPPF at paragraph 27 states that *“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors [NPPF para 26], it should be refused.”*

Policy CS.7 of the Borough of Redditch Local Plan No.3 echoes the NPPF stating that uses that attract a lot of people should be directed to the Town Centre where such uses are encouraged in principle, rather than an out of centre location such as the application site, which has relatively poor public transport links. The proposal is therefore considered to be unsustainably located and the applicant has not demonstrated that there are no suitable units of a similar size within or adjacent to the town centre.

The site is within an area designated as a Primarily Employment Area in the Borough of Redditch Local Plan No.3 where the primary aim of Policy E(EMP).3 is to maintain uses within Classes B1 (Business), B2 (General Industry) or B8 (Storage or Distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and to safeguard employment land.

The change of use of this unit from a former tyre sales unit (B2 use) to an Assembly and Leisure (D2 use) is generally at odds with the aims and objectives of both Policies E(EMP).3 of Local Plan No.3 and Policy 24 of the Emerging LP4.

Under the terms of the above policies, non-employment development within Primarily Employment Areas will only be considered where it can be demonstrated that the loss of the site will not have an unacceptable loss on the supply of employment land within the Borough, the site is no longer viable as an employment area and the site is no longer appropriate for employment use having regard to residential amenity considerations, highway safety, other adverse environmental effects, or other technical reasons.

**PLANNING
COMMITTEE**

13th July 2016

It is unclear as to precisely how long the unit has been vacant although Economic Development colleagues inform your officers that the unit is unoccupied and has been on the Council's (Economic Development) database for around 6 months. Policies which exist require an applicant to demonstrate that for a period of no less than 2 years and 3 months, the property has been marketed for employment (B1, B2, B8) use without success before alternative uses can be considered. Economic Development colleagues confirm that the unit has been vacant for less than this required period and your officers have confirmed that no evidence has been advanced with this application to demonstrate an unsuccessful and appropriate marketing period for this property.

Compatibility of Uses

Policy E(EMP).3a of LP3 requires that proposed land uses be compatible with the use of Primarily Employment Areas. Development is not permitted where it would restrict the current or future use and/or development of Primarily Employment Areas for employment purposes or where the amenity of the new development would be compromised by its proximity to the Primarily Employment Area.

Your officers agree with the comments received from the RBC Development Plans team, Highway Network Control and the representation received, all of whom raise serious concerns regarding compatibility of uses.

The site is in a location made up of 20+ small industrial units. The nature of the proposed use would be incompatible in relation to the surrounding business uses and the types of vehicular movements these businesses create, such as forklift truck, delivery and HGV movements. Your officers consider that there would be a conflict between these vehicular movements and pedestrians wishing to access the D2 use. The very nature of such a high number of businesses in this location compounds the level of associated vehicular movements. There is no indication that there is sufficient parking within the forecourt of the proposed unit to accommodate sufficient levels of parking to alleviate a conflict between pedestrians using this facility and surrounding vehicular movements. There is also no indication that the unit's forecourt will be segregated from the adjacent forecourts to improve customer safety.

Your Officers consider that a D2 use in this location would compromise the day to day operating activities of the existing and future business occupiers within this Business Centre. Furthermore, the applicant refers to outdoor running activities within their supporting statement. Whilst it is stated that peak operating hours would be from 6pm onwards, there is no indication that there will be no outdoor activities during the 6am to 6pm operating period, which would give further cause for concern between pedestrian and vehicular conflict.

Conclusion

To conclude, the proposed use would be more appropriately suited to a town centre location. The applicant has not satisfied the NPPF's sequential test and demonstrated that there are no suitable units within or adjacent to the town centre.

The proposal would be incompatible in relation to the surrounding business uses and the types of vehicular movements these businesses create.

**PLANNING
COMMITTEE**

13th July 2016

There is no indication that there is sufficient parking or segregation within the unit's forecourt to alleviate pedestrian and vehicular conflict.

A D2 use in this location would compromise the day to day activities of existing and future business occupiers within this location, especially day to day activities which take place outside of the business units.

The applicant has not provided evidence of an unsuccessful and appropriate marketing period for this property to demonstrate that the unit could not be used for appropriate (B1, B2 or B8) type employment uses.

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be REFUSED for the reasons below:

1. The proposed change of use to D2 would result in a loss of land designated for employment (B1, B2, B8) purposes. In the absence of any justification for this loss, the proposal is considered to be contrary to Policy E(EMP)3 of the Borough of Redditch Local Plan No.3 and Policy 24 of the emerging Borough of Redditch Local Plan No.4.
2. The proposed use would be incompatible with the use of existing neighbouring businesses' set within this Primarily Employment Area contrary to the provisions of Policy E(EMP)3.a of the Borough of Redditch Local Plan No.3 and Policy 24 of the emerging Borough of Redditch Local Plan No.4.
3. The applicant has failed to satisfy Paragraph 24 of the National Planning Policy Framework which requires that a sequential test be applied to planning applications for main town centre uses that are not in an existing centre. The creation of a D2 use in a location outside the town centre in an area poorly served by public transport would be likely to generate a significant quantity of unsustainable trips in private vehicles contrary to Policy CS7 of the Borough of Redditch Local Plan No.3 and the provisions of the NPPF.

Informatives

- 1) The Local Planning Authority is aware of the requirement in the NPPF and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to applications.

The application was not considered to be acceptable having regard to the Planning Policy Framework which exists. The applicant however considered that the proposals should be considered as submitted.

**PLANNING
COMMITTEE**

13th July 2016

2) The development is hereby refused in accordance with the following drawings:

Site Location Plan, scale 1:1250

Block Plan, scale 1:500

Applicants written supporting statement

Procedural matters

All applications for Assembly and Leisure (Class D2 use) are reported to Planning Committee for determination.