

# **PLANNING COMMITTEE**

**10th June 2019**

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**Planning Application 19/00454/FUL**

**Change of use from Sui-Generis use to D2 assembly & leisure use**

**Unit 21 Lakeside Industrial Estate, New Meadow Road, Lakeside, Redditch B98 8YW**

**Applicant: Mr Haydn Moseley: Elite Fitness**  
**Ward: Lodge Park Ward**

**(see additional papers for site plan)**

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## **Site Description**

The site is located within a Primarily Employment Area within the Lakeside Industrial Estate. The premises are one of many modern, metal clad Industrial Units, accessed off New Meadow Road. The unit has been unoccupied since 23<sup>rd</sup> November 2018 but was formerly occupied by Lakeside Dog Day Care and Training (a Sui-Generis Use). A Sui-Generis use is a different or unique use or 'of its own kind' and doesn't fall within any of the categories set out within the Town and Country Planning (Use Classes) Order 1987 (as amended).

Unit 21 offers 264m<sup>2</sup> floorspace and is one of three units forming a short row, the others, completing the row, being Units 19 and 20 which have been occupied by the applicant, Elite Fitness since approximately July 2014.

A car parking area serving the units exists to the frontage.

## **Proposal Description**

This is a full application for the change of use of this vacant unit to a use falling within Class D2 (assembly & leisure) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

As stated above, the applicant, Elite Fitness occupy the adjacent Units 19 and 20.

## **Relevant Policies:**

### **Borough of Redditch Local Plan No. 4**

Policy 1: Presumption in Favour of Sustainable Development

Policy 24: Development within Primarily Employment Areas

Policy 30: Town Centre and Retail Hierarchy

Policy 43: Leisure, Tourism and Abbey Stadium

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## **Others**

NPPF National Planning Policy Framework (2019)  
SPG: Employment Land Monitoring

## **Relevant Planning History**

2013/163/COU:

Change of use from light industrial use to sui generis use for use as dog day care, dog training and dog training seminars, dog grooming and holistic care

Granted 10.09.2013 (Unit 21)

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2013/174/COU:

Change of use to Class D2 (Gymnasium)

Granted 06.09.2013 (Units 19 and 20)  
This application was recommended for refusal by Officers but the recommendation to refuse was overturned by the Planning Committee at that time who resolved to grant planning permission

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## **Other relevant history**

A similar application to that proposed here involving a change of use from B8 (storage and distribution use) to D2 (assembly and leisure) at Unit 5, Lakeside Industrial Estate was determined at the RBC Planning Committee of 18<sup>th</sup> March 2019 where the Committee resolved to refuse planning permission in accordance with the officers recommendation to refuse the application (reference 19/00097/FUL). The decision notice refusing planning permission is included as Appendix A to this report

## **Consultations**

### **Worcestershire Highways**

No objection

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### **Redditch Strategic Planning and Conservation**

Comments summarised as follows:

The site is located within a Primarily Employment Area, as identified on the Borough of Redditch Local Plan No.4 (BORLP4) Policies Map.

BORLP4 was adopted on 30th January 2017. Policy 24 Development within Primarily Employment Areas, Policy 30 Town Centre and Retail Hierarchy and Policy 43 Leisure, Tourism and Abbey Stadium are of particular relevance to this application and are discussed below.

#### Policy 24 Development within Primarily Employment Areas

The purpose of Policy 24 Development in Primarily Employment Areas is to ensure there is an available supply of employment land in the Borough and that Primarily Employment Land is protected from inappropriate development. Paragraph 24.2 states: “development will not be permitted where it would restrict the current or future use of development of Primarily Employment Areas for employment uses.”

This application is seeking a leisure use on the site and is therefore restricting the future use of the site for employment purposes. Whilst it is acknowledged that the most recent use of this unit was Sui-Generis, this unit gained consent in 2013 after the unit has been vacant for a period of 2 years and 5 months; meeting the requirements in the Employment Land Monitoring SPG for an alternative use to be considered. It is noted that this Sui-Generis use ceased approximately 6 months ago, and now that the unit is vacant again, it is possible that the land could revert back to an employment use (B1, B2, and B8). From a planning policy perspective this would be preferable.

#### Policy 30 Town Centre and Retail Hierarchy

The primary purpose of Policy 30 is to maintain the vitality and viability of Redditch Town Centre. This policy sets out the key aims and appropriate uses for the town centre and tiers within the Borough’s retail hierarchy. A key element of this is the shaping of development patterns to reduce the need to travel. The town centre is the preferred location for major retail developments and other uses that attract large numbers of people. This application seeks permission for what is considered to be a main town centre use in an out of centre location. While it is acknowledged that this application is an extension to an existing leisure facility, an increased leisure offer in this location would increase the number of trips to this out of centre location. The applicant has not provided evidence that a sequential test has been carried out to demonstrate there are no suitable locations available for this use as set out in Paragraph 86 of the NPPF.

#### Policy 43 Leisure, Tourism and Abbey Stadium

Policy 43 supports leisure proposals, including extensions and additions to existing facilities that are considered to be in sustainable and accessible locations, principally, Redditch Town Centre. The policy refers back to Policy 30 Town Centre and Retail Hierarchy and requires that the appropriate sequential assessments have been carried out in line with current guidance.

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### **National Planning Policy Framework**

The National Planning Policy Framework states that planning policies and decisions should recognise that town centres are at the heart of communities and take an approach which supports their viability and vitality. In addition to the Local Plan policies above, national policy states that applications for main town centre uses that are neither in an existing centre nor in accordance with an up-to-date plan should have a sequential test applied. This has not been provided by the applicant.

In conclusion, this application is not considered to be in accordance with planning policies at a local or national level. There is no evidence that any supporting information has been submitted alongside the application which would justify allowing this intensification of a main town centre use in an out of centre location and therefore from a planning policy perspective this application cannot be supported.

### **Public Consultation Response**

No comments received

### **Assessment of Proposal**

The key issue for consideration in this case is the principle of the change of use from the existing 'Sui-Generis' use to a leisure (D2) use. As stated above, a Sui-Generis use is a different or unique use or 'of its own kind' and doesn't fall within any of the categories set out within the Town and Country Planning (Use Classes) Order 1987 (as amended). Examples of Sui-Generis uses could include, amongst others: a scrap yard or a car show room. Many Sui-Generis uses sited within defined employment areas are compatible within such locations since they provide employment opportunities and are unsuited to many Town Centre or residential locations. When application 2013/163/COU (as referred to above under relevant planning history) was under consideration, your officers concluded that the location of Unit 21, within an established Industrial area would be an appropriate location for the proposed dog training facility having regard to associated issues relating to the use chiefly in terms of noise disturbance and potential for the use to impact upon residential uses.

### **Principle of Change of Use**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require applications for planning permission to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. This is reaffirmed under Paragraph 2 of the National Planning Policy Framework.

The Development Plan for Redditch Borough Council is the adopted Local Plan No.4. Policies relevant to this application include Policies 24, 30 and 43.

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The site is within an area designated as a Primarily Employment Area in the Local Plan where the primary aim of Policy 24 is to maintain uses within Classes B1 (Business), B2 (General Industrial) or B8 (Storage and 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 to a D2 (Leisure) use is therefore at odds with the aims and objectives of Policy 24.

Policy 24 comments that non-employment development within Primarily Employment Areas will only be considered where it can be demonstrated that (i) the loss of the site would not cause or accentuate a significant shortage of land for employment use in the Borough or area concerned. As a Unit measuring less than 300 square metres in area, your officers consider that the proposals would not cause or accentuate a significant shortage of land for employment use. Part (ii) of the Policy only permits non-employment uses (as per the application proposal) where the site or unit is no longer viable as an employment area either following a period of unsuccessful marketing or undertaking a viability assessment. No viability assessment has been submitted and no evidence of appropriate marketing for 'B' Class uses has been advanced with the application.

Your officers have noted that the Units last tenant, Lakeside Dog Day Care and Training vacated the Unit as recently as 23<sup>rd</sup> November 2018. The Councils Employment Land Monitoring SPG requires sites to be unoccupied for a minimum period of 2 years and 3 months which the Councils Economic Development Unit suggests reflects a reasonable period of time to attract a genuine new employment opportunity.

Given the limited vacancy period there is nothing to suggest to your officers that an employment user would not find such a unit attractive if appropriate marketing were to be carried out.

If parts (i) and (ii) above cannot be satisfied, the applicant is required to demonstrate that the site is no longer appropriate for employment use. Whilst some of the units within Lakeside Industrial Estate are occupied by non 'B' Class users, many, including for example 'Kwik Fit' (Unit 1), Alliance Electrical (Unit 13), Stanton Automotive (Unit 9 and 10) and Unit 16 (Mr Tyre), do fall within the B1, B2 or B8 category and therefore it is considered that the unit in question would be appropriate for employment use in the future.

The proposed (D2 Leisure) use is defined as a 'main town centre' use as far as the NPPF is concerned (Annex 2, Glossary: Page 68 to the Framework). Policy 30 (Town Centre and Retail Hierarchy) of the Borough of Redditch Local Plan directs leisure uses to the Town Centre.

The NPPF comments under Paragraph 86 that:

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*'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered'*

Paragraph 87 to the Framework comments that applicants should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre sites are fully explored. Paragraph 90 goes on to comment that where an application fails to satisfy the sequential test it should be refused.

No sequential testing has been carried out by the applicant and your officers know there to be a number of units of the size sought by the applicant (between 250 to 300m<sup>2</sup>) in sequentially preferable locations within the Town Centre which would be easily accessible by sustainable means (walking, cycling etc) and also by those who are unable to drive by car to those sites. Your officers have been provided with a list of a number of currently available units by the Kingfisher Shopping Centre's Manager which includes suites within Cannon Newton House amongst others, which would appear to be suitable in terms of size to meet the applicant's requirements.

### Conclusion

It is considered that this proposal should be resisted in the interests of retaining such units for 'B' Class occupiers. Further, in the absence of information advanced with this application regarding sequential testing of alternative Town Centre sites, your officers have concluded that the proposal would be unsustainably located and would conflict with the policies of the development plan and the provisions of the NPPF which is a material consideration in making planning decisions.

### **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 24 of the Borough of Redditch Local Plan No.4.
2. The applicant has failed to satisfy Paragraph 86 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 Policies 30 and 43 of the Borough of Redditch Local Plan No.4 and the provisions of the National Planning Policy Framework.

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**Procedural matters**

All applications for Assembly and Leisure (Class D2 use) fall outside the scheme of delegation to officers and are reported to Planning Committee for determination