Expiry Date – 4/6

Development Control – Delegated Officer Report

Application Number: AWDM/0460/19 Recommendation – Refuse

Site: Unit 6 Tungsten Buildings, George Street

Proposal: Change of use from office/light industrial to personal training studio (D2).

Neighbours checked: Y

Additional neighbour notifications: N

Date of Site Visit: 26/4

Site and Surroundings

This application relates to a ground floor B1 unit in a block of 12 two storey business units on the east side of George Street just north of the Brighton Road (A259) within the heart of Fishersgate. These units were created as part of a conversion scheme from an old B2 use in 2005. The current unit is vacant. Most, if not all other units continue to be occupied for B1 purposes. The site has a car park on its south side and there are two allocated parking spaces for this unit.

To the north and east of the site are more commercial units. To the west and further north are residential properties. Opposite the site on the north side of the Shoreham canal sits a large scale petrol storage site, Valero Energy Ltd, a designated HSE major Hazards site.

The site is not in a conservation area and is not listed.

Proposal

Planning permission is sought to convert this unit to a gym/personal training studio within use class D1. The unit has a floor area of 166 sqm. Maximum numbers on site at any given time is likely to be 15 clients and 5 staff. Proposed hours of opening are 6am to 9pm Monday to Friday and 7am to 4pm on Saturdays only.

Relevant Planning History

SW/83/04 - Removal Of Condition 9 (Restricting Working Hours) Of SW/46/04 (For Conversion To 12 Business Units). Granted 23.12.04

SW/46/04 - Conversion Of Vacant General Industrial Building Into 12 Business Units (Including Relocation Of Sub-Station). Granted 6.8.04

Consultations

Health and Safety Executive:

'Land Use Planning Consultation with Health and Safety Executive
Town and Country Planning (Development Management Procedure) (England) Order 2015
Planning application: AWDM/0460/19
Proposal: Change of use from office/light industrial to personal training studio (D2).
Location: Unit 6 Tungsten Building George Street Southwick Brighton West Sussex BN41 1RA.

Thank you for your email of 30 April 2019 seeking HSE's comments on this planning application AWDM/0460/19.

The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Distance (CD) of major hazard installations/complexes and major accident hazard pipelines. This consultation is for such a development which lies within the consultation distance of a major hazard site – Local Fuels Ltd (HSE Ref: H3693) – which is also a large-scale petrol storage site. As the proposed development for which permission is sought lies within the Development Proximity Zone (DPZ) of the Local Fuels Ltd site, this consultation has been considered using HSE's land use planning methodology (see http://www.hse.gov.uk/landuseplanning/methodology.pdf) and HSE circular SPC/Tech/Gen/43 – 'Land use planning advice around large-scale petrol storage sites' (see - http://www.hse.gov.uk/foi/internalops/hid_circs/technical_general/spc_tech_gen_43/index.htm).

HSE's assessment indicates that the risk of harm to people at the proposed development is such that ***HSE's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case.***

This advice is based on the details submitted with the planning application, which seeks permission for a change of use from office/light industrial to a personal training studio. The application form indicates that 6 people will be employed within the building, offering personal training sessions, semi-private personal training sessions, small group training sessions and physio facilities.

Paragraph 11 of Circular SPC/Tech/Gen/43 explains that the only developments which HSE would not advise against within the DPZ are those which meet the criteria for a Sensitivity Level 0 development which is regarded as not normally occupied. This proposal involves a sensitivity level 2 'indoor use by public' development within HSE's methodology which does not meet the criteria for a 'not normally occupied' development as set out in the above Circular.

Major hazard sites/pipelines are subject to the requirements of the Health and Safety at

Work etc. Act 1974, which specifically includes provisions for the protection of the public. However, the possibility remains that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity. Although the likelihood of a major accident occurring is small, it is felt prudent for planning purposes to consider the risks to people in the vicinity of the hazardous installation. Where hazardous substances consent has been granted (by the Hazardous Substances Authority), then the maximum quantity of hazardous substance that is permitted to be on site is used as the basis of HSE's assessment.

If you decide to refuse planning permission on grounds of safety, HSE will provide the necessary support in the event of an appeal.

If nevertheless, you are minded to grant permission, your attention is drawn to Section 9, paragraph 072 of the online Planning Practice Guidance on Hazardous Substances - Handling development proposals around hazardous installations, published by the Ministry for Housing, Communities & Local Government. This requires a local planning authority to give HSE advance notice when it is minded to grant planning permission against HSE's advice and allow 21 days from that notice for HSE to consider whether to request that the Secretary of State for Housing, Communities & Local Government call-in the application for their own determination.

The advance notice should be sent to HSE's Major Accidents Risk Assessment Unit, CEMHD5b, Redgrave Court, 1.2 Merton Road, Bootle, Merseyside L20 7HS or by email to luppadhici5@hse.gsi.gov.uk.'

Highways: '*The Local Highways Authority (LHA) has been consulted on this application at Unit 6 Tungsten Building to change the use of the unit from B1 Office to D2 Leisure/ Gym use.*

The LHA requested additional information on 30/04/2019 relating to the existing parking arrangements, use of sustainable transport and anticipated numbers of clients/movements associated with this use. The applicant has submitted details answering these queries.

From observation of the most recent and up to date mapping data, the LHA has observed that there have been no highways collisions or personal injury claims at the point of access to the associated parking area to show an existing concern with the current arrangement.

The applicant has outlined that the same parking arrangement as has served the offices will be used to serve the gym. These two parking spaces have been said to be allocated to staff only for the 166sqm unit. When considering the existing use the WSCC Parking Standards outline for B1 developments under 500sqm, that 1 space per 25sqm should be provided as a maximum standard. This results in the current maximum demand of 6.6 parking spaces (rounded to 7). For a D2 use class the parking demand is 1 space per 22sqm, therefore generating the requirement for 7.5 parking spaces (rounded to 8.)

The development therefore would likely generate the requirement for a single additional space which would be accommodated on the wider network. It would not be considered

that the demand for one additional on street parking space over the current arrangement would generate a severe material increase.

Junction protection is present on the junction from Mill Road onto Fishersgate Terrace. Smaller roads surrounding the development are subject to on street parking and this does cause a narrowing of the carriageway; however this does encourage vehicles to proceed cautiously whilst anticipating conflict with oncoming vehicles or cars adjoining from side routes. This is an existing practise and has functioned for some time with no known safety concern.

When considering the suitability of this proposal, the LHA must also consider the sustainable nature of the site location. Fishersgate railway station is located a short 5minute walk from the site and regular bus services operate along the nearby A259 facilitating travel to Brighton, Littlehampton, Worthing and Goring-by-Sea.

Based upon the above considerations, the LHA raises no severe highways safety concerns with the proposal.'

Environmental Health: No objection.

Representations

Objection received from occupiers of Unit 5 as follows:

Noise and disturbance to adjoining business and residential neighbours.
Increase in parking. This block was not designed for large amounts of people or noise pollution.

Objection from local resident of Gordon Road as follows:

Parking in the area is a nightmare Monday to Friday between 7.30am and 5.30pm as a result of these offices. A gym use would worsen this.
There are 2 gyms within walking distance already.

Letter of support from Unit 3, leaseholders of the application site.

This unit has been vacant since January and is proving difficult to let. If the application is refused it will be furnished for B1 purposes and could accommodate between 15 and 20 desks. We do not think the proposed use will exacerbate the local parking situation. We would support users being encouraged to cycle or use public transport. The personal training approach of the gym differs from the other local gyms nearby.

Relevant Planning Policies and Guidance

The National Planning Policy Framework 2019
Adur Local Plan 2017 Policies 1, 2, 4, 15, 25, 28, 32, 33 and 34
Supplementary Planning Document - Demonstrating Genuine Redundancy of Employment Sites March 2019

Planning Assessment

Principle

This site is a former B1 office building, vacant since January of this year, in a building of 12 business units over two floors. The site is not in a designated employment site. Policy 25, protecting employment uses, therefore applies. A recently adopted Supplementary Planning Document – Demonstrating Genuine Redundancy of Employment Sites also applies.

Protecting Employment Floorspace

The existing unit is vacant and has been since mid January of this year. Crickmay advise that as sole agents they started marketing the property at the start of February and along with their website the property is advertised on P I Property; Costar; Estate Agents Clearing House; Zoopla: Movehut; Office Agents Society; Prime Location and 4Prop. A marketing board was also erected at the premises along with details circulated to Crickmay's database of applicants having previously registered a requirement of this nature. In addition local agents were contacted as they may have clients seeking accommodation of this nature.

Up to April of this year Crickmay have had a total of 7 enquires with interested parties from B1 operators as well as two D2 operators. Two viewings have been undertaken, including the applicant, with no further interest expressed by the other party.

Adopted Policy 25 seeks to protect all employment floorspace fo B class purposes. It states:

'For sites not listed above, the conversion or redevelopment of land or buildings, currently or last in class B1, B2 or B8, for other uses will only be approved where:
(i) The loss of a small proportion of employment floorspace would lead to a significant upgrade of the remaining employment floorspace; or
(ii) It can be satisfactorily demonstrated that the site or premises is/are genuinely redundant and that no effective demand exists or is likely to exist in the future to use the land or buildings for B class uses.

This should include the length of time the property has remained vacant, the attempts made to sell/let it, and the demand for the size and type of employment premises in the area.'

This is supported by and expanded on in the recently adopted SPD (March 2019) Demonstrating Genuine Redundancy of Employment Sites. This states that:

The Council will normally expect employment land and premises to be actively marketed for at least 12 months (small sites) and 18 months (large sites). It may be necessary to review the effectiveness and quality of the marketing strategy every 6 months.

This application was made within 2 months of marketing commencing. It is not clear whether marketing has continued since the current application was made. The application therefore fails to comply with the requirements of policy 25 and the SPD.

It is accepted that the proposed use will create some employment (application quotes 6 persons) but it is not expected to be at the level of B1 floorspace. The applicant has not provided any other information to support the need for this particular unit to convert to gym space. We do not know how long he has been looking for space in the Fishersgate area or what other floorspace has been seen. There is no clear evidence to support an exception to the policy in this case.

Hazard

Across the road is the large scale petrol storage site, Valero Energy Ltd, a designated HSE major Hazards site. It is within the Development Proximity Zone of this site. The Health and Safety Executive has objected to the proposal. They advise that the only development they would advise against within the DPZ are those which meet the criteria for a Sensitivity Level 0 development which is regarded as not normally occupied. This proposal involves a sensitivity level 2 'indoor use by public' development within HSE's methodology which does not meet the criteria for a 'not normally occupied' development as set out in paragraph 11 of Circular SPC/Tech/Gen/43

Policy 34 of the Adur local plan states that *'Development should not result in pollution or hazards which prejudice the health and safety of the local community and the environment, including nature conservation interests and the water environment.'*

The development is therefore considered to be contrary to policy 34.

Noise and Disturbance

The comings and goings associated with the proposed use will not be unduly disturbing to adjoining neighbours. Noise from within the building has the potential to disturb business above and to the west. No information about associated noise levels or acoustic properties of the unit have been supplied.

Highways

The unit has 2 designated parking spaces within the car park. There is also a small cycle shed outside the unit. It is within walking distance of Fishersgate station and local bus routes. It is in an accessible location. On street parking is difficult in the immediate environs but it is anticipated that users of the gym will live or work within walking distance. The Highway Authority does not object to the proposal.

Recommendation: REFUSE for the following reasons:

1. It has not been demonstrated that this B1 floorspace is genuinely redundant. Use as a gym would therefore result in the loss of a viable business premises to the detriment of the local economy contrary to policy 25 of the adopted Adur Local Plan and

Supplementary Planning Document **'**Demonstrating Genuine Redundancy of Employment Sites' adopted March 2019 and the NPPF.

2. The proposed change of use to a gym for 'indoor use by the public' increases the risk to public health from the adjacent major hazard site – Local Fuels Ltd. The proposal is therefore contrary to Adur Local Plan policy 34 and the National Planning Policy Framework.

Informative

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Is recommendation contrary to any representations? Yes.

Case Officer signed:	MOK	Date: 31.5.19
Authorised and signed by:	Peter Barnett	Date: 3 June 2019