

**Planning Committee 24<sup>th</sup> September 2024**  
**Report of the Head of Planning**

**Planning Ref: 24/00593/FUL**  
**Applicant: Mr Joshua Bull**  
**Ward: Ratby, Bagworth and Thornton**



Hinckley & Bosworth  
Borough Council

**Site: Units 1-3 The Sidings, Merrylees Road, Desford**

**Proposal: Change use of industrial unit (Class B2) to gymnastics club (Class E)**



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**1. Recommendations**

- 1.1. **Refuse planning permission** subject to:
- Planning reasons outlined at the end of this report.

**2. Planning Application Description**

- 2.1. This application is for the proposed change of use from the existing industrial unit (Class B2) to gymnastics club (Class E). The site includes internal changes to the layout to convert the unit to a gymnastics club, and retains the existing car parking and access afforded to the existing industrial unit. The external appearance remains wholly unchanged with the exception of a proposed advertisement which is not assessed under this application for full planning permission.

**3. Description of the Site and the Surrounding Area**

- 3.1. The site is located within the existing industrial area on Merrylees Road, Desford. The area comprises of a number of industrial and office units, located to the North of Merrylees Road on The Sidings.

- 3.2. The site is identified as a Class A employment site within Policy DM19 of the SADMP.

**4. Relevant Planning History**

- 4.1 None

**5. Publicity**

- 5.1 The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2 19 letters of support have been received in relation to the application. The main points of support have been summarised below:

- The gymnastic club's current site is too busy for vehicles
- The gymnastics club is paramount to children's fitness
- The proposal would improve the club's facilities and equipment
- Option for better SEN facilities and spaces
- Following the Olympics many more kids want to take part
- Sports coaching job opportunities
- Positive impacts in physical and mental health for children
- Lack of facilities within the area, this site is needed
- The current building on Merrylees isn't in use
- This is an exceptional circumstance (DM19)
- Positive community and economic impact
- This site provides improved car parking facilities to the existing gymnastics site
- The Council should support young entrepreneurs and support businesses

## **6. Consultation**

- 6.1. HBBC Pollution: No objections, opening hours need to be conditioned.
- 6.2. LCC Highways: No objections, subject to conditions.
- 6.3. HBBC Drainage: No objections.
- 6.4. HBBC Waste Management: No objections.
- 6.5. National Forest Company: No objections.
- 6.6. Environment Agency: No objections.

## **7. Policy**

- 7.1 Core Strategy (2009):
- Policy 17: Rural Needs
  - Policy 21: National Forest
- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM10: Development and Design
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
  - Policy DM19: Existing Employment Sites
- 7.3 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (December 2023)
  - Planning Practice Guidance (PPG)
  - National Design Guide (2019)
- 7.4 Other Relevant Guidance:
- Good Design Guide (2020)
  - Employment Land and Premises Study (2020)

## **8. Appraisal**

- 8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Planning balance

#### Principle of Development

- 8.2 The NPPF identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3 The development plan in this instance consists of the Core Strategy (2009), and the Site Allocations and the Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4 Policy DM19 of the SADMP relates to existing employment sites. The existing employment areas are identified on the policies map, and the site category is provided by the most up-to-date Employment Land and Premises Review.
- 8.5 The development site is identified as a Category A site and as such should be assessed accordingly. Policy DM19 states that the Borough Council will seek to retain sites classified as Category A sites in their entirety for B1, B2, and B8 employment uses. The development of non B class uses in Category A sites will only be allowed in exceptional circumstances. Proposals must demonstrate that they would not have a significant impact on the surrounding employment uses.
- 8.6 The proposal includes changing the used from the existing B2 use to a gymnastics club, which falls within Class E use, causing direct conflict with Policy DM19 of the SADMP and the loss of employment use within this Category A site.
- 8.7 During the course of the application the applicant has provided additional information responding to concerns raised regarding conflicts with Policy DM19. It is accepted that the use change is not likely to cause significant adverse impact on the surrounding employment uses, owing to the opening hours and the type of operation running outside of the typical business hours, which satisfies the latter part of policy DM19. However, the proposal would still lead to a loss of a building within employment use within a Category A employment site and therefore must demonstrate the bar of an exceptional circumstance.
- 8.8 The applicant has stated they have conducted “a comprehensive search for alternative locations that could accommodate the gymnastics club within the area”, the applicant has also contacted the Council to determine if there are any suitable locations. The applicant explains that a future building needs to be of suitable size, both in terms of its footprint and height. The applicant has provided details of other properties considered recently as copied below:

*“ Stapleton Garage unit ( Too far for customers, Attached to a petrol station- health and safety requirements not met)*

*Desford road (Poundstretcher) Taken on by another Business, Has other space available but Height restrictions make it unsuitable; also in a Cat A Industrial unit by Borough wide policies map [Site Allocations & Development Management Policies DPD | Hinckley & Bosworth Borough Council \(hinckley-bosworth.gov.uk\)](#)*

*Building at the school (Cost is to high – business plan available to see from 2021 upon request).*

*Peckleton industrial park – We have been in contact with the team involved in renting out the units here but no suitable options have come available for the past 4 years.*

*We have also looked further afield to see if there is possibility to move our location, all viable units are too far from our customers and we would loose too many members.*

*Griffen park – over 2 million sqft of warehouse space is being built in Desford none of which are a suitable size for a gymnastics centre”.*

- 8.9 It is understood that searches have been ongoing for a number of years however no details of any earlier searches have been submitted.
- 8.10 The application states that the gymnastics centre will address a gap in local amenities by providing a dedicated space for the community and specific groups such as children with SEN needs. Furthermore that there are employment benefits through the use of the site as a gymnastics centre. Whilst this may be the case, the existing business fulfils this function at present and it has not been robustly demonstrated that the business needs to be located on the site proposed and there are not other, more sustainable locations where the use could operate without leading to the loss of employment space on a Category A employment site.
- 8.11 In reaching this recommendation officers have considered the approved change of use of No.25 Merrylees Industrial Estate from light industrial to a dance studio under application 19/00176/FUL. The application was approved by planning committee in June 2019, with the decision citing the exceptional circumstances of the applicant. Each case must be assessed on its own merits, especially where exceptional circumstances are raised as they are specific to the requirements of an applicant. Whilst application 19/00176/FUL was approved, it highlights the potential incremental loss of dedicated employment space across the site and the need for ensuring that the exceptional circumstances test is met.
- 8.12 In this instance, the proposal would lead to the development of non B class uses (office, light industrial or storage uses) on a category A site and it has not been demonstrated that this is an exceptional circumstance. The proposal is therefore not in accordance with Policy DM19 of the SADMP, and is therefore recommended for refusal on this basis.

#### Design and Impact upon the Character of the Area

- 8.13 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale,

layout, density, mass, design, materials and architectural features.

- 8.14 The character of the area is defined by large scale industrial units, with car parking afforded to each unit. The proposed change of use is not proposing significant external alterations and as such would not create any detrimental visual impacts to the locality. The proposal includes internal changes which would not be considered to cause any impact on the character of the area and as such is considered to be in accordance with Policy DM10 of the SADMP.

#### Impact upon Residential Amenity

- 8.15 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.16 The development site is not located within a reasonable distance to neighbouring residential development. Given that the site is a significant distance from residential development, and given the industrial nature of the site, the application for the conversion of the unit to a gymnastics club is not considered to cause detrimental impacts to neighbouring residential amenity.
- 8.17 As such it is considered to be in accordance with Policy DM10 of the SADMP.

#### Impact upon Parking Provision and Highway Safety

- 8.18 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the SADMP requires new development to provide an appropriate/justified level of parking provision.
- 8.19 Leicestershire County Council have been consulted as part of this proposal and have confirmed that they do not think that the proposal is unacceptable. It was confirmed that the number of trips to the site when comparing against the previous industrial use, would not be intensified. It was also confirmed that the existing access and parking arrangements would suitably serve the proposed new use at the site and as such it is considered acceptable, in accordance with Policy DM17 and DM18 of the SADMP and Policy T1 of the DNP.

#### Planning Balance

- 8.20 Whilst it is acknowledged that the proposal is broadly in line and consistent with Policies DM10, DM17 and DM18 of the SADMP, the proposal as a whole is not in accordance with Policy DM19 relating to existing employment sites.
- 8.21 The proposal does not sufficiently demonstrate itself as an exceptional circumstance by which the loss of the existing B class use at the site would be outweighed by the proposal's accordance with the other SADMP policies. As such the proposal is recommended for refusal.

### **9. Equality Implications**

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## **10. Conclusion**

10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is refused.

## **11. Recommendation**

11.1 Refuse planning permission for the following reason:

1. The development does not sufficiently justify itself as an exceptional circumstance by which the loss of a B class use within a Category A employment site should be lost. It is therefore considered that the proposal is contrary to, and in conflict with, Policy DM19 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

### **a. Notes to Applicant:**

1. This application was assessed by the documents submitted by the Applicant that were received by the Local Planning Authority, as follows:

- Application Form (submitted: 26.06.2024)
- Design and Access Statement (submitted: 26.06.2024)
- Transport Statement (submitted 05.08.2024)
- Parking Provision Statement (submitted 05.08.2024)
- Unit Layout Plan (submitted: 26.06.2024)
- Site Location Plan (submitted: 26.06.2024)
- Exceptional Circumstances Document (submitted 01.09.2024)