



*St Edmundsbury*  
BOROUGH COUNCIL

# DEV/SE/18/029

## Development Control Committee 6 September 2018

### Planning Application DC/18/0863/FUL – 19 Hillside Road, Bury St Edmunds

<b>Date Registered:</b>	22.05.2018	<b>Expiry Date:</b>	17.07.2018
<b>Case Officer:</b>	James Claxton	<b>Recommendation:</b>	Refuse
<b>Parish:</b>	Bury St Edmunds	<b>Ward:</b>	Moreton Hall
<b>Proposal:</b>	Planning Application - Change of use from B1/B8 Business/Storage and Distribution to D2 Assembly and Leisure - Personal training and Martial arts unit		
<b>Site:</b>	19 Hillside Road, Bury St Edmunds, , Suffolk		
<b>Applicant:</b>	Mr Norm Willis		

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

#### **Recommendation:**

It is recommended that the Committee determine the attached application and associated matters.

#### CONTACT CASE OFFICER:

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**Background:**

**The application is before the Development Control Committee following consideration by the Delegation Panel. It was referred to the Delegation Panel at the request of Ward Councillor Peter Thompson (Moreton Hall).**

**Proposal:**

1. The proposal is for the change of use from B1/B8 Business/Storage and Distribution to D2 Assembly and Leisure - Personal training and Martial arts unit.

**Application Supporting Material:**

- Application form
- Parking plan
- Location plan
- Planning statement

**Site Details:**

2. The site consists of a single storey commercial unit with a floor space of approximately 111m<sup>2</sup>, with three car parking spaces associated with its use.

**Planning History:**

3. None relevant

**Consultations:**

4. Highways – No objections

Public health and Housing - No objections

Town Council – Neither Supports or objects the proposal.

Ward Member – Cllr Beckwith in support of application – classes will operate after 7pm when more parking available. Having a unit in use after normal working hours will bring security benefits to other units as they are quite distant from the main thoroughfare's of the estate

**Representations:**

5. Unit 4 Hillside Business park - Support

**Policy:**

6. The following policies of the Joint Development Management Policies Document, the St Edmundsbury Core Strategy 2010 & Vision 2031 Documents have been taken into account in the consideration of this application:

**Joint Development Management Policies Document:**

DM1 – Presumption in favour of Sustainable Development

DM2 – Development Principles

DM30 – Appropriate Employment Uses and Protection of Employment Land and Existing Businesses

DM35 – Proposal for main town centre uses.

DM43 – Leisure and Cultural Facilities

DM46 – Parking Standards

## **St Edmundsbury Core Strategy December 2010**

CS2 – Sustainable Development

CS9 – Employment and the Local Economy

### **Other Planning Policy:**

7. The NPPF was revised in July 2018 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater weight that may be given. The key development plan policies in this case are policies DM1, DM2, DM30, DM35, DM43, DM46, CS2, and CS9, and it is necessary to understand how the NPPF deals with the issues otherwise raised in these policies, and to understand how aligned the DM and Core strategy Policies and the NPPF are. Where there is general alignment then full weight can be given to the relevant policy. Where there is less or even no alignment then this would diminish the weight that might otherwise be able to be attached to the relevant Policy.
8. Policies DM1 and CS2 seek to deliver sustainable development and has a presumption in favour of that, the NPPF sets out in paragraph 10 that at the heart of that frameworks is the presumption in favour of Sustainable Development, therefore it is considered that policies DM1 and CS2 accord with the NPPF and can be afforded full weight.
9. Policy DM2 provides development principles to create places that respect local distinctiveness recognising and addressing the key features and characteristics of an area. Section 12 of the NPPF details advice on how to achieve well-designed places, with paragraph 127 subsection a) specifically identifying the need to ensure that planning policies secure development that *"...will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development"*. It is therefore considered that policy DM2 accords with the NPPF and can be afforded full weight.
10. Paragraph 80 of the revised NPPF, indicates that policies and decisions should help create conditions in which business can invest, expand and adapt, with significant weight being attached to the need to support economic growth and productivity. Noting the support offered within Policy DM30 to ensure wherever possible the protection of employment land unless otherwise shown to justified, officers are satisfied that there is no material conflict between Policy DM30 and the provisions of the 2018 NPPF, such that it is considered that full weight can be given to DM30.
11. DM35 requires proposals for main town centre uses (including D2 uses) that are not in a defined centre and not in accordance with an up to date Local

Plan must apply a sequential approach in selecting the site demonstrating that there are no suitable, viable and available sites in defined centres or edge of centre locations. In the NPPF paragraph 85, specifically subsection b requires planning policies to *"...define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre"*. Additionally paragraph 86 states *"...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"*. There is a strong and clear accordance between DM35 and paragraphs 85 and 86 of the NPPF and therefore it is considered that DM35 can be afforded full weight in the decision making process.

12. DM43 seeks to deliver proposals for leisure and cultural facilities that are well connected to existing facilities or settlements in sustainable locations, which would not negatively impact on character of the local area, and would provide parking access to appropriate standards. There is no one paragraph within the NPPF which specifically tackles the same issue, however support is provided for the approach of this policy via several paragraphs within the framework. Paragraph 80 of the revised NPPF, indicates that policies and decisions should help create conditions in which business can invest, expand and adapt, with significant weight being attached to the need to support economic growth and productivity. Paragraph 127 subsection a) specifically identifying the need to ensure that planning policies secure development that *"...will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development"*. Paragraph 102 requires transport issues to be considered from the earliest stages, specifically stating in subsection c) that *"...opportunities to promote walking, cycling and public transport use are identified and pursued"*. Considering the cumulative requirements of each of those paragraphs policy DM43 can be reasonably afforded full weight in the decision making process as it also seeks to deliver proposal that are of the same standard.
13. Paragraph 105 of the NPPF allows local parking standards to be set, taking into account, inter alia, the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; and levels of local car ownership. The local parking standards adopted in West Suffolk reflect bespoke consideration by the Highway Authority of these matters, and officers remain of the opinion that the provisions of DM46 remain material, are otherwise aligned with the provisions of the NPPF, and that full weight can therefore be given to DM46 in consideration of this matter. As a consequence it is also considered that full weight can be given the provisions of criterion L of Policy DM2, noting the provisions of Para. 108 of the NPPF that seeks to ensure that safe and suitable access to sites can be achieved.
14. Policy CS9 sets out the requirements for the provision of employment and local economies, requiring all employment proposals to meet the criteria set out in CS2 which as detailed in this report is considered to fully accord with the NPPF. Section 6 of the NPPF sets out its approach to building a strong

and competitive economy, and paragraph 81 provides a framework around which those policies should be based. Subsections A and B require respectively policies to “*..set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration*” and “*...set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period*”. CS9 achieves both of those requirements through identifying areas within which to direct the expansion of local economies within the borough using the settlement hierarchy, and by requiring development to meet local needs. In addition paragraph 82 of the NPPF requires “*...Planning policies and decisions should recognise and address the specific locational requirements of different sectors*” which CS9 also achieves through identifying locations and by referring to local needs. It is considered that the cumulative requirements of those paragraphs identified in the NPPF are represented by CS9 and therefore that policy can be afforded full weight in the decision making process.

### **Officer Comment:**

15.The issues to be considered in the determination of the application are:

- Principle of Development – Change of use
- Highways safety

### **Principle of Development – Change of use**

16.The application proposal is for the change of use of an existing commercial building. Policy DM35 identifies several uses that are classed as main town centre uses, of which subsection iv specifically details (inter alia) leisure, culture and D2 uses. The use accords with the thrust of policy DM35; arts, culture, sport and recreation, however whether this is of a value that is inherent to the vitality of the main town centre is limited.

17.DM35 also requires that proposals for main town centre uses that are not in a defined centre and not in accordance with an up to date Local Plan must apply a sequential approach in selecting the site demonstrating that there are no suitable, viable and available sites in defined centres or edge of centre locations. Whilst it was confirmed by the applicant that searches for alternative properties has been completed, no evidence detailing those searches has been provided. Without this information the proposal creates a clear and significant conflict with DM35 and the Local Plan which seek to ensure delivery of development in appropriate locations.

18.Policy DM2 seeks to secure a well designed public realm creating a place where people want to live and work. The relevant sub-sections *h* and *l* have been included below.

*h - not site sensitive development where its users would be significantly and adversely affected by noise, smell, vibration, or other forms of pollution from existing sources, unless adequate and appropriate mitigation can be implemented.*

*l - produce designs, in accordance with standards, that maintain or enhance the safety of the highway network*

The proposed change of use and associated works to facilitate this change are not deemed to accord with the thrust of policy DM2. The proposal does not accord with sub-section *h* because it would introduce a personal training and martial arts unit onto a site which is currently being used predominately for B1 and B8 uses. By virtue of the nature of the surrounding businesses, constant access would be required on site to varying types of traffic.

19. Currently to the east of the site is a commercial car repair centre, and associated with these works would be levels of noise, smell, and vibration. The nature of these characteristics could affect the proposed use, through vibration and to an extent smell and noise. Smells associated with vehicle repair could be for example fumes from the storage and use of fuel and oil, fumes produced from welding, and vehicle fumes emitted from running engines.
20. Whilst there are negative impacts created by the existing businesses on the running of the personal training and martial arts unit, consideration must also be given to the negative impacts created by the personal training and martial arts unit onto the existing businesses; those being the limitations it may create on the operation of those existing businesses, for example limiting the scope of existing works which can be carried out on site, because of the effects of vibration, noise, and smell, on the personal training and martial arts unit. This could prejudice the economic viability and competitiveness of those existing established businesses. Similarly those environmental factors may impact on the viability of the personal training and martial arts unit. This would not accord with the thrust of the NPPF in terms of supporting economic growth.
21. Policy BV14 which details the approach to general employment areas, requires (inter alia) that development at Suffolk Business Park comprises of the following uses, a) light industrial, research and office use; b) units for new and small firms involved in high technology and related activities. This would be permitted providing that parking, access, travel and general environmental considerations can be met. As such the change of use to a D2 use would not accord with this policy.
22. Policy DM30 seeks to secure proposals that are positive in terms of creating appropriate Employment uses and protection of Employment land and existing businesses. The policy seeks to ensure this via the submission of appropriate evidence that demonstrates that there is a suitable supply of alternative sites, and that genuine attempts have been made to sell or let the site in its current use and that evidence can be provided of this. In addition the policy seeks to secure proposals that would mitigate existing uses where they create over riding environmental problems that can be addressed through a change of use. No detail has been provided regarding the extent of the attempts made to find alternative sites. Because no specific detail has been provided regarding the marketing of the unit, and a lack of interest or uptake for its current permitted use, the proposal cannot satisfactorily demonstrate that criterion b) of joint management policy DM30 has been complied with. Therefore the change of use for this unit could not be considered appropriate, and would not accord with policy DM30 which seeks to ensure that the Local Authority is able to achieve its employment objectives.

23. Furthermore policy DM35 requires proposals for main town centre uses, which includes D2 uses, to apply a sequential test in site selection. The applicants have not submitted sufficient evidence to support this use outside of the town centre.
24. In terms of planning balance, weighing the number of jobs supported by the proposal against the impacts of that change of use and the possible resulting prejudice against existing businesses and the jobs that they support, it is not considered that the creation of those new jobs would outweigh the risks to the existing. As such whilst the creation of new jobs could accord with parts of policy DM30, the level to which it does not accord with the policy would outweigh those positives.
25. It is reasonable to conclude that the proposed mix of uses on site would result in adverse effects being imposed on both the existing uses and the proposed, and as such it is considered that the proposal does not accord with the NPPF and policies DM2 and DM30 of the Joint Management policies. Furthermore it would not accord with the Core Strategy Spatial Objective Eco 6 which seeks to secure Sustainable Development in line with the requirements of DM2, delivering employment and supporting the local economy.

### **Highways safety**

26. The highways consultation received 20<sup>th</sup> June 2018 requested confirmation of the floor area for the unit to enable the calculation of required parking spaces. Further information was provided by the applicant detailing the floor space and details of the timings for the use of the unit. The highways authority confirmed in their response on the 11<sup>th</sup> July 2018 that they had no objections to the proposal.
27. However it is the case officer's professional judgement that parking standards cannot be achieved, nor can an appropriate control be achieved through the planning system to ensure that there would be no significant harm to highway safety in the future. The unit in this location has an allocation of 3 parking spaces, adopted parking guidance details specifically for D2 gym uses the need for 1 car parking space per 10 sqm of public space, and 10 cycle stands plus 1 additional cycle space per 10 vehicle spaces. The unit is approximately 111sqms, and would therefore require as a minimum approximately 11 car parking spaces, and approximately 10 cycle stands and an additional cycle space, which the site is not physically able to deliver.
28. From the planning officer's site visit it was apparent that for each unit there is an allocation of approximately three parking spaces, and that cars were parked along the edge of the existing highway, and on the ends of those three parking spaces.
29. It is noted that the additional information provided by the applicant details that during working hours the use would involve one-on-one sessions with clients, which could work with the current provision of three parking spaces. However there are no appropriate controls that could effectively limit the use to those parameters. Where local and national policy require that businesses are not unduly restricted, any conditions imposed would conflict with that requirement and in addition would fail the tests for

conditions as set out in the National Planning Practice Guidance (particularly in terms of enforceability).

30. Outside of main business hours evening classes are proposed; Monday – Thursday, 19:00-22:00; Friday, 18:00-20:00. However, the level of parking available for use with the unit would not increase. Whilst in the evening parking spaces associated with other units may be available for use, there is no formal agreement of this and the long term delivery of this is not guaranteed. This would not accord with policy DM46 which requires the proposal to provide adequate levels of parking, whilst also reducing over-reliance on the car and promoting sustainable forms of transport. As such it is deemed that the proposal does not accord with the requirements of policy DM46.

### **Conclusion:**

31. The proposed change of use would be contrary to local and national policy, creating potential restrictions on the viability of neighbouring businesses. Furthermore it is reasonable to suggest that those existing businesses would also create potential restrictions on the proposed use, which overall would not create a strong and stable local economy. This in conjunction with the case officer's assessment of the lack of parking available on site, would on balance create significant detrimental impacts which could not be overcome with additional information, and is therefore recommended for refusal.

### **Recommendation:**

32. It is recommended that planning permission be **REFUSED** for the following reasons:
1. The introduction of a D2 use onto a site which is currently being used for a mix of industrial and commercial uses is reasonably anticipated to create negative impacts to those businesses. This is due to the nature of works associated with the existing nearby uses which create a level of noise, smell, and vibration which might reasonably impact negatively and materially on the proposed use. Furthermore, consideration must also be given to the negative impacts created by the proposed use on the existing businesses. Limitations may consequentially be enforced on the operation of those existing businesses, potentially limiting the scope of operations which can be carried out on site due to the effects on the D2 use. This could prejudice the economic viability and competitiveness of those existing established businesses. Furthermore no specific or robust evidence has been provided that confirms a lack of alternative sites are available, or any marketing evidence that demonstrates that the current employment use of the unit is not viable, thereby demonstrating a failure to comply with Policies DM35 and DM30 respectively. This proposal would not accord with the thrust of the NPPF which seeks to support economic growth, nor with locally adopted policies CS2, CS9, DM2, DM30, and DM35.
  2. The lack of parking, which does not meet highways standards, would be detrimental to highway safety. This is because it would encourage ad-hoc parking in the vicinity of the site, which may in turn restrict access required by other users and emergency vehicles. This in addition to the lack of cycle storage is likely to discourage users from accessing the site as a pedestrian or cyclist. The proposal would not therefore accord with



policy DM46 which seeks to reduce the over-reliance on the car and promote sustainable forms of transport, nor with the provisions of the NPPF which require a safe and secure access to be provided. Furthermore all proposals including changes of use are required to provide appropriately designed and sited car and cycle parking. The proposal therefore fails to accord with policy DM46 and the provisions of the NPPF.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/18/0863/FUL](#)

<http://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P8EBLYPDG4L00>