

DELEGATED FILE NOTE

CASE OFFICER: ...Andrew Hunter.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
24/01617/FP	Change of use of first floor from dance studio to storage use in connection with the ground floor business	3 Bury Mead Road Hitchin Hertfordshire SG5 1RT

Submitted Plan Nos

443_03 3BM-003 3BM-004 3BM-010

1.0 Policies

D1 Sustainable design

D3	Protecting living conditions
ETC1	Appropriate uses in Employment Areas
HC1	Community facilities
SECN12	Achieving well-designed places
SECN6	Building strong, competitive economy
SECN8	Promoting healthy and safe communities
SECN9	Promoting sustainable transport
SP2	Settlement Hierarchy and Spatial Distrib
SP3	Employment
SP6	Sustainable transport
T2	Parking
SP9	Design and Sustainability

2.0 **Relevant site history**

- 2.1 13/02001/1 - Extension of opening hours of premises to between 09.00hrs to 22.00hrs Monday to Friday; 09.00hrs to 18.00hrs Saturdays and Sundays and not at all on public holidays. (as variation of condition 3 of planning reference 11/01395/1 granted permission on 29/07/11 for change of use of first floor of premises from B1 (offices) to D2 (assembly and leisure - dance school)) – Approved 15/10/13.
- 2.2 11/01395/1 - Change of use of first floor of premises from B1 (offices) to D2 (assembly and leisure - dance school) – Approved 29/07/11.
- 2.3 03/01766/1 - Change of use from storage and office use to industrial (Class B2 - 844m²), storage (Class B8 - 808m²) and ancillary offices. Single storey side extension with external chimney to provide boiler house. External plant and equipment including 3 storage tanks – Approved 12/01/04.
- 2.4 85/01867/1 - Section 53 determination - Use of premises for repair, overhaul and fitting of components for motor vehicles with ancillary works – Not required 10/01/86.

3.0 **Representations**

- 3.1 **Neighbours** – The following objections were received:
- ☐ Loss of a community facility.
 - ☐ Provides dance and fitness classes for local women.
 - ☐ Has over 60 members.
 - ☐ Unsuitable for storage.
 - ☐ Has had little maintenance.
 - ☐ Sprung floor not available in many other facilities.
 - ☐ Will the applicant make a contribution to improve other facilities.

- 3.2 **Environmental Health** – No objections.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The site is a two storey building with a pitched roof, of which the ground floor is used as auto parts storage (Use Class B8), and the first floor is used as a separate dance school (Use Class E). The site is in an industrial/employment area, and is designated as an Employment Area in the Local Plan. Nearby uses are other employment/industrial businesses.

4.2 **Proposal**

- 4.2.1 To change the use of the first floor from the dance studio to storage (Use Class B8) in connection with the ground floor business. No external alterations are proposed.

4.3 Key Issues

- 4.3.1 The key material considerations are whether the development is acceptable in principle, design, neighbour amenity, and parking.

Principle

- 4.3.2 The main considerations relating to the proposal are the acceptability of the proposed new use, and whether the loss of the existing use can be supported. The proposed new use would be storage (Use Class B8), which is acceptable under Local Plan Policy ETC1 as the site is in an Employment Area, and easily accessible from the primary road network.
- 4.3.3 The existing use is a dance school (Use Class E). It is considered that the use is a Community Facility under Local Plan Policy HC1, as it is a venue where members of the local community can meet and undertake leisure/social activities, not unlike the examples stated in para. 10.2 of the Local Plan.
- 4.3.4 The whole facility would be lost as a result of the proposal. Policy HC1 states in these circumstances:

The loss of community facilities will only be permitted where this is justified by:

- i. the provision of replacement facilities, either on site as part of the development proposal or in an alternative appropriate location;*
- ii. showing that there is no local need for the facility or service and that any appropriate, alternative community use of the existing premises to meet local needs is not required; or*
- iii. demonstrating that the facility, or any reasonable replacement, is not, and will not be viable on that site.*
- 4.3.5 No replacement facilities are proposed, therefore i. wouldn't be complied with. The supporting Planning Statement focuses primarily on the planning case for the proposed storage use.
- 4.3.6 The Planning Statement however states in 2.2.1 that the lease for the first floor expires in September 2024. The PS also states in 6.1.5:

Loss of Dance Studio

The dance studio was allowed on the basis that it would bring a productive use to what was at the time a vacant floor within the building. However, a non-business related use was never policy compliant and that remains the case. The proposed Class B8 use would support the strategic land use objectives within the District and aid the economic development of a local business. These benefits would significantly outweigh any harm caused by the loss of a small recreational facility.

The applicant has also provided this further reasoning:

I was waiting for the client to confirm what was happening to the existing tenant. I am told that they will continue to operate from a local school hall.

I note Policy HC1 but the site is within a designated employment area and so any harm caused by the loss a community facility must be weighed against the benefit of returning the site to the intended employment use. Bennetts have identified an operational need for the additional space, and so the proposal would support the viability of an existing local business, which must carry significant weight.

I also note that whilst Dance Halls are defined as sui generis in the Use Class Order, the other types within that category (theatres, concert halls etc) suggest at something more formal than the converted premises at 3 Bury Mead Road. I consider that the current use can more likely be considered a E(d) indoor sport, recreation or fitness). This would allow a change of use to a variety of other commercial and service uses.

- 4.3.7 The arguments made in the PS for the loss of the present use are not framed against the criteria of Policy HC1. It is however considered that an argument can be made that the existing use is not viable as the dance studio is a tenant of Bennetts that own the wider site. The lease expired in September 2024, with the last class being on 17 October.
- 4.3.8 The dance school use has now ceased (although it will be continuing at a nearby school), which can be considered as a replacement (albeit indirectly). The use of the first floor is now dependent on the applicant as the owner, who can decide to keep it empty pending the outcome of the present application to convert it to storage. The dance school is not considered viable at the site for these reasons. With the existing use ceasing, weight is also given in favour of the proposed storage use that would enable that part of the building to be used for a purpose in keeping with its Employment Area location.
- 4.3.9 The proposal can also be supported by virtue of the present use being a Class E use, which was not restricted by Condition under the original 2011 permission to only be a dance studio or other use, therefore the dance studio could change to another Class E use under permitted development that would also result in the loss of the community facility. The proposed change of use is considered acceptable in principle, and complies with Policies ETC1 and HC1 of the Local Plan.

Design

- 4.3.10 The proposed storage use would be a use in keeping with the character of the Employment Area the site is within, and is acceptable in this respect. No external alterations are proposed, therefore the appearance of the building and locality will not change. The proposal raises no design concerns. The proposal complies with Policy D1 of the Local Plan, and Section 12 of the NPPF.

Neighbour amenity

- 4.3.11 The proposal would be considered to generate less noise, traffic and other forms of disturbance than the existing use, and in any case is not near any residential properties. The proposal is not considered harmful to amenity. The proposal complies with Policy D3 of the adopted Local Plan and Section 12 of the NPPF.

Parking

- 4.3.12 The proposed new storage use would be considered to generate less parking demands than the present use, while the wider site is considered to provide sufficient parking in most circumstances. The proposal is considered acceptable on the grounds of parking provision. The proposal complies with Policy T2 of the Local Plan, and Section 9 of the NPPF.

4.4 **Conclusion**

- 4.4.1 In the absence of material planning reasons to the contrary it is my view that planning permission is **GRANTED**.

5.0 **Recommendation**

- 5.1 That planning permission be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

Biodiversity Net Gain

1. This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 18 October 2024	