

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	4 th Nov 2019
Planning Development Manager authorisation:	AN	5/11/2019
Admin checks / despatch completed	CC	12.11.2019
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SB	12/11/2019

Application: 19/01149/FUL **Town / Parish:** Lawford Parish Council

Applicant: Mr Will Vote - Rose Builders

Address: Dairy Barn Mews Summers Park Avenue Lawford

Development: Change of use of suites 9-10 from B1 to D2 (Gymnasium)

1. Town / Parish Council

Mrs Peachey - Lawford
Parish Council

Council has no objection to this application

2. Consultation Responses

Environmental Protection

Environmental Protection have reviewed the noise management plan and advise the following:

Although the Noise Impact Assessment does not raise any concerns, it does refer to the implementation of the Noise Management Plan. In order to make this plan formal I would suggest a condition that formalises the adoption of the Noise Management Plan as suggested by the Noise Impact Assessment, notably the following:

Points raise on page 11 (of the NIA) points 5.9, 5.10, 5.11 and 5.12 (implementation of the NMP (Appendix C) on page 16)

We would also suggest that the opening times are conditioned to ensure that the gym is not used outside of these operating hours.

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal does not change the existing access arrangement for the site, which is gained directly from Summers Park Avenue. Pedestrians and cyclists can use the existing foot/cycle network in which the site sits. In relation to parking the proposal complies with the maximum parking standards set out therein. It also complies with the size requirements; in addition, the scheme also includes the ability for parents to drop off and collect children, therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

3. Planning History

19/01149/FUL

Change of use of suites 9-10 from Current

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM22 Noise Pollution

ER4 Non-Employment Uses in Employment Areas

ER31 Town Centre Hierarchy and Uses

ER32 Town Centre Uses Outside Existing Town Centres

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

SP1 Presumption in Favour of Sustainable Development

PP4 Local Impact Threshold

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three

'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is part of the Summers Park development which comprises 150 homes and approximately 700sqm of B1 (Office) use. The application site comprises 0.27 hectares (0.67 acres) of relatively flat land that is accessed from Summers Park Avenue. The site comprises 3 no. separate buildings known as Main Building, Annexe 1 and Annexe 2. The Main Building is part single, part double storey building and is of a traditional barn appearance. The two annexes are single storey buildings, also of a traditional appearance. The application relates to Annexe 1 which comprises suites 9-10 which have a cumulative floorspace around 107sqm. A courtyard is sited between the two annexes which provides parking for cars, motorbikes and bicycles. There is also a bin store to one side.

Planning & Application History

Planning permission was granted for 700 sqm of B1 floorspace at Dairy Barn Mews as part of the wider Summers Park residential development (ref: 13/00452/OUT and 14/01050/DETAIL). There were no conditions attached to either the Outline or the Reserved Matters schemes that affected or controlled the opening hours of the office buildings.

Description of Proposal

As submitted the proposal included the conversion of Annex 2 (suites 11-12) from B1 to D1 which, amongst other uses, includes Children's Nurseries. Following consultation with occupiers of adjoining properties the applicant amended the scheme in order that only a change of use to Annex 1 was considered and the proposed D1-use of Annex 2 was subsequently omitted.

The application therefore proposes changing the use of Annex 1 (Suites 9-10) from B1 (Office) to D2. Use Class D2 covers uses such as cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations. In this particular case the proposed use would be for a private gymnasium for the use by local residents and it is assumed, employees of the main B1 buildings. Due to the size of the unit (circa 107sqm) it is unlikely that any of the other uses associated with D2 would be implementable.

It is proposed to open the gymnasium between the hours of 06.00-22.00 Mondays to Fridays, 07.00-22.00 Saturdays and 07.30-22.00 Sundays & Bank Holidays. The gymnasium would employ two full-time employees.

Principle

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to

their setting and are of a suitable scale, mass and form. The Council's Adopted Local Plan (2007) shows this land as outside of Settlement Development Boundaries and protected as a 'Local Green Gap' aimed at retaining separation between the two substantial housing estates in Lawford; 'Lawford Dale' and the 'Leftleys' Estate; notwithstanding this the site has been developed for a residential-led mixed-use development, as established by 13/00452/OUT and 14/01050/DETAIL.

Non Employment Uses in Employment Areas

Saved Local Plan Policy ER4 considers non-employment uses in employment areas and reads as follows: "Proposals for indoor leisure, car showrooms and vehicle sales areas or facilities ancillary to the needs of business and industry may be acceptable on the existing Principal Business and Employment Areas and proposed larger employment allocations with areas above 5 hectares. Proposals would need to be acceptable in terms of the availability of employment land, highways access and car parking arrangements. In the case of leisure development the Council will need to be satisfied that more suitable locations within or on the edge of town centres are not available."

From the wording of Policy ER4 it is clear that it should be applied on i) "existing Principal Business and Employment Areas" and ii) on "proposed larger employment allocation with areas above 5 hectares". In terms of the first criterion the site does not appear on the list of existing business and employment areas given in [supporting text] paragraph 3.24 of the policy; neither is the site in excess of 5 hectares. Accordingly, it is considered that Policy ER4 is not applicable to the proposal and as such it is not a material consideration. It does however confirm the general compatibility of indoor leisure uses with employment uses.

Paragraph 86 of the National Planning Policy Framework (2019) 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." This view is mirrored in Saved Policy ER31. At the case officers request a sequential test has been undertaken in relation to alternative town centre locations. The sequential test is carried out the key assessment and in this case, no sequentially preferable sites have been found. It is therefore considered that the proposal complies with the NPPF and above policies and there is therefore no objection in principle to a gym in this location.

Noise Pollution and its Impact on Neighbours

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Noise pollution can have a significant effect on both the natural and built environment and on the quality of life of individuals and communities. PPG24 (Planning and Noise) introduced the concept of noise exposure categories for assessing noise sensitive developments such as schools, hospitals and housing and the importance of controlling the location of new developments to ensure that land uses are compatible in terms of noise generation and sensitivity. New development that is noise sensitive such as housing should be located away from sources of unacceptable noise levels, whilst noise-generating development should be positioned so as not to pollute other sensitive land uses.

Policy COM22 states that planning permission will not be granted for noise sensitive developments such as hospitals, schools and housing unless one of the following conditions is met: i) the development is located away from existing sources of noise; or ii) mitigation measures are proposed which will adequately mitigate the adverse effects of noise at all times and in all circumstances.

Paragraph 180 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

The Planning Practice Guidance (PPG) is written to support the NPPF with more specific planning guidance (updated in July 2019). The PPG reflects the NPSE and states that noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. It also states that opportunities should be taken, where practicable, to achieve improvements to the acoustic environment. The PPG states that noise can over-ride other planning concerns but should not be considered in isolation from the other economic, social, and environmental dimensions of the proposed development.

In regards to a detailed assessment of the potential for any noise emanating from the proposed development having a significant adverse impact on quality of life for nearby residents, the Local Planning Authority required a Noise Assessment Survey to be undertaken by the applicant.

A precis of the assessments states that there is no published guidance on methods for assessing noise arising from car park activities. The Department of Transport assessment methodology, 'Calculation of Road Traffic Noise', HMSO, 1988 provides a method for determining noise from road traffic use but does not cover this type of situation where there are very low traffic flows travelling at slow speeds. Therefore, the results of noise measurements of slow moving cars (i.e. as would be moving along the access road and in the car parking areas) have been used as the basis for the calculations and assessment of the noise from vehicle movements associated with the proposed development upon existing properties.

Noise from Traffic:-

The report states that noise from variable sources, such as traffic, a difference of 3 dB is just distinguishable. In addition, a doubling of traffic flow will increase the overall noise by 3 dB. The 'loudness' of a noise is a purely subjective parameter, but it is generally accepted that an increase/decrease of 10 dB corresponds to a doubling/ halving in perceived loudness. The results of the calculations for predicted increases in daytime and evening noise levels for the two closest properties No. 11 Summers Park Avenue would be an increase in 0.1dB for both morning (06.00-07.00am) and evenings (21.00-22.00) and for No. 16 Summers Park Avenue would be an increase in 0.3dB for morning (06.00-07.00am) and 0.5dB for evenings (21.00-22.00)

Therefore, as the increase in ambient noise will be negligible, i.e. less than 1 dB noise arising from vehicle movements will be minimal and therefore unlikely to cause disturbance to the amenity of neighbouring occupiers.

Noise from the Gymnasium:-

Sound breakout measurements were undertaken on 9th October 2019 to determine the sound reduction performance of the building, using a broadband internal sound source. The measurements show that the sound insulation performance of the façade is in the order of 32-35 dB with windows kept closed.

The nature of the gym is that music would be controlled to a level that allows customers to maintain a conversation and also so as to not cause disturbance externally. On this basis it is reasonable to assume a maximum internal sound level of 75 dB.

Taking into account the measured sound insulation of the building and distance losses, the noise level at the nearest residential receiver (16 – 18 Summers Park avenue) would be approximately 26 dB, which is significantly lower than the ambient noise level. Levels at 11 Summers Avenue would be lower still. Internal noise from the premises will therefore be acceptable at neighbouring properties.

Highway Issues

The proposal does not change the existing access arrangement for the site, which is gained directly from Summers Park Avenue. Pedestrians and cyclists can use the existing foot/cycle network in which the site sits. In relation to parking the proposal complies with the maximum parking standards and the size requirements set out therein.

Other Considerations

34 objections have been received in response to the public consultation. The topic of the objection and numbers of responses received about this topic are tabulated here:-

Topic	Number of Objections	Comment
Our property was mis-sold to us	15	Not a material consideration in the determination of this planning application
Increased traffic	27	See Highway Issues in body of main report
Impact on road network	10	See Highway Issues body of main report
Noise	22	See Noise Pollution and its Impact on Neighbours in main body of the report.
Parking	18	See Highway Issues body of main report
Safety (pedestrians)	10	See Highway Issues body of main report
Pollution (traffic)	6	See Highway Issues body of main report
Insufficient Marketing	7	Not a material consideration in the determination of this planning application
Typical office hours	1	See Planning & Application History in main body of the report.
Site notice	1	The site notice was displayed on 23 rd August 2019

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

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

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: G555/02, revision A received 31st July 2019 and the recommendations contained within Appendix C (Premises Noise Management Plan) of the Noise Assessment Survey, reference R8222-1 Rev 0 undertaken by 24Acoustics received 21st October 2019.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 The gymnasium shall not be open before 06.00 on weekdays, 07.00 on Saturdays and 07.30 on Sundays, Bank Holidays or Public Holidays. Nor shall the gymnasium be open after 22.00 on weekdays, Saturdays, Sundays, Bank Holidays or Public Holidays.

Reason - to minimise the risk of any potential noise nuisance to residential properties.

- 4 The development shall be carried out in full accordance with paras i (opening hours) ii (music), iii (windows/doors), v (soft closing door mechanism) and vii (waste disposal) detailed in Appendix C – Premises Noise Management Plan, received 21st October 2019.

Reason - To minimise the risk of any potential noise nuisance to residential properties.

- 5 The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking area shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed in writing with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 6 The Cycle / Powered Two- wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason - To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity.

8. Informatives

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

It is recommended that signage is displayed inside the Annex, requesting customers to leave the premises quietly and give consideration to neighbours.

Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in making any alterations/ developing the site.

Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO