

Application Number

P/2017/0425

Site Address

Epwin Group Plc
Alders Way
Paignton
TQ4 7QE

Case Officer

Mr Alexis Moran

Ward

Blatchcombe

Description

Change of Use from Class B2 (General Industrial) to Class D2 (Assembly and Leisure)

Executive summary

The application relates to an existing industrial building with a ground floor area of 916m² and a first floor area of 65m² (981m² in total) that is situated on the Yalberton Industrial estate. The proposal seeks permission for a change of use of the building to a D2 leisure use as a gymnasium. The plans indicate the site can accommodate 37 car parking spaces and 8 cycle parking spaces.

Consideration of this application needs to balance the effect of the proposed development on economic prosperity which may be impacted by the loss of employment floor space against the health benefits of the proposal. Essentially the change of use from an employment use to a leisure use would result in a loss of available employment space for new businesses seeking to locate in Torbay, however the proposed use would provide some employment and would also deliver health benefits, which are a material consideration. Determination of this application is finely balanced.

There are a number of policies in the Torbay Local Plan 2012-30 that are relevant. Policy SS5 (Employment space) relates to the provision and retention of employment space. It acknowledges that non Use Class B employment uses (such as health, leisure, retail, tourism and education) all play an important role as employment generators in the Bay.

Policy SS5 states that proposals for a change of use from Use Class B employment space to other forms of employment use will be considered on the basis of the impact on the economic prosperity of Torbay, the appropriate mix of uses within the locality and on amenity.

In terms of the impact of the proposal on economic prosperity of Torbay, in support of the application the applicant has advised that the South Devon School of Gymnastics currently employ 3 x full-time coaches 17 part-time coaches and 2 cleaners. The Club train and employ senior gymnasts and pay them for courses

and training. It is evident therefore that the proposed use of the building for a gymnastics club will provide jobs.

There is conflicting information about the prospect of the site being used for industrial purposes. Information submitted in support of the application (by Charles Darrow) states that the unit was marketed for a period of 6 months, with 4 enquires received, none of which wished to continue forward with any further enquiries.

The TDA have been consulted on the application and have expressed concern about economic impact of the loss of the unit. The TDA advise that since January 2017 they have received 14 enquiries within the broad size parameter of the current site. Further clarification has been sought from the TDA about whether the rate that the unit was marketed at was reasonable and also whether the enquiries that they receive could reasonably be expected to have transpired into a letting.

Access to the car park is across a shared parking area used by HGVs from the neighbouring industrial unit. The majority of customer parking spaces are located to the rear of the premises, but the entrance is to the front

The proposal would provide 35 regular parking spaces, 2 disabled parking spaces and 8 cycle parking spaces. The parking requirement in the Local Plan for a facility of this scale is set at 38 spaces.

Typically pupils are dropped off by parents for training and that for every two pupils, one car may remain. The parking provision is considered to be suitable for day to day operations. However it is considered that a condition requiring a parking management strategy for events such as competitions is necessary. Details of this should be submitted to the Council for approval if the application is considered acceptable.

As previously noted, no details have been provided about how users of the gymnasium will interact with other uses in the area. Of particular concern is the potential hazards and conflict between delivery vehicles nearby, including the opposite double glazing unit and vehicles/pedestrians accessing the gymnastics school. Further information on this and which demonstrates that the mix of uses in this locality would be acceptable and that the proposed use would not prejudice the use of existing industrial units is required.

If conflicts with the access can be addressed the proposal would not have a detrimental impact on the amenity of existing occupants of the area which consists mainly of window manufacturers. The amenity of users of the gym is likely to be affected by neighbouring uses through noise and odour. The issue with regards to odour can potentially be overcome by the installation of a ventilation system. As potential noise and odour would come from existing uses in the area, it is considered that the applicant will be aware of these issues.

The proposal is considered to comply with Policies SC1 (Healthy Bay) & SC2 (Sport, leisure and recreation) of the Local Plan which encourage all development to improve the health and well-being of the community and provide access to sport, leisure and recreation facilities.

Subject to the receipt of additional information in relation to the impact of the proposal on economic prosperity and clarification by the applicant to show that the proposed use could operate safely in this location with no conflict with existing uses in the locality, e.g. between vehicle movements and pedestrian access to the premises, there is a presumption when considering the proposal against Policy SS5 that it would be an acceptable use in this location as it does employ people and the health benefits and retention of the South Devon School of Gymnastics in Torbay would also weigh in favour of approval

Recommendation

Conditional approval subject to the receipt of additional information confirming that the proposed change would not have a detrimental impact on the economic prosperity of Torbay and that the proposed use would interact safely in this location with existing uses in the locality, including the layout of the site and parking area. Final drafting of conditions to be delegated to the Executive Head of Business Services.

Site Details

The site is comprised of an industrial/warehouse building measuring approximately 43m x 22m (916m² at ground floor and 65m² at first floor giving 981m² in total) and with 8 parking spaces to the front and 30 parking spaces to the rear. The site lies on Yalberton Industrial Estate in Paignton.

Vehicular access is via an unadopted parking/loading bay which is shared with the adjacent window factory.

The Torbay householder waste recycling centre is located to the west of the site and is accessed via Tor Park Road. The west boundary was screened by trees.

A window manufacturing company is located to the south its loading bay faces the front of the site.

Detailed Proposals

The proposal seeks permission for a change of use of the building from a B2 general industrial use to a D2 leisure use as a gymnasium. The applicant and proposed occupier is the South Devon School of Gymnastics.

The plans indicate the site can accommodate 37 car parking spaces and 8 cycle parking spaces. The application form does not contain any parking information although some explanation of hours of operation and typical transport options is provided. It is proposed to use the building from 9am to 9pm Monday to Saturday

and not on Sundays and Bank Holidays.

Information submitted in support of the application indicates that the premises will be used for teaching/coaching of gymnastics to a range of ages from babies to adults. The premises is expected to accommodate approximately 60 gymnasts at any one time however details of numbers for events such as competitions have not been provided.

No external works to the building are proposed.

Summary Of Consultation Responses

Strategic Planning: Policy SS5 recognises that Use Class D uses create employment and does not require the applicant to show no reasonable prospect of Use Class B use as long as the proposal will result in a use which creates employment (even though it is not a Use Class B use). Policy SS5 requires that proposals for the loss of Use Class B employment space for other types of use that generate employment is considered on the basis of the impact on the economic prosperity of Torbay, the appropriate mix of uses within a locality and on amenity.

Policy SS5 contains a more flexible approach to considering the loss of employment floor space than para. 22 in the NPPF, which has a higher test of there being no reasonable prospect of a site being used for an allocated employment use. As the Torbay Local Plan is up to date Policy SS5 carries more weight than the NPPF in the decision making process.

The application will therefore need to be assessed on the basis of impact of the proposed use on economic prosperity, appropriate mix of uses and amenity.

In this case the loss of a Use Class B use could impact on the economic prosperity since the unit is a purpose-built industrial unit situated on a busy, well-located industrial estate. The demand for such a unit is unclear. The statement by Charles Darrow does point to evidence of marketing- although it does not say for how long. The TDA will need to advise on whether the rate of £3.85 per sq ft (£41.44 per sq m) is reasonable. In addition the TDA will also need to comment on whether their enquiries would reasonably be expected to have transpired into a letting.

The Employment Land Review (October 2013) does not identify a great need for Use Class B space in Torbay (paragraph 3.3.10 suggests a small fall in industrial space). There is a need to update the ELR/Economic Needs Assessment, particularly if a more robust approach to retaining B space is taken. However the current evidence base is not strong in seeking to argue that the conversion of a B use to a Class D use would harm economic prosperity.

No information has been submitted about whether a gymnasium would be an appropriate use in the locality or whether it would be acceptable on amenity

grounds. On a visit to the site, the windows manufacturer was operating cutting equipment and the other nearby units also appeared to be in industrial use. It also appeared that the area shown as access to parking for the gym was in an area used by large vehicles. Further information as to how these potential conflicts will be addressed is necessary.

Gymnastics has health benefits and the application is supported by Sport Torbay. The health benefits are recognised, although Alders Way is likely to be car dependent. A gymnasium is a main town centre use. Policy SC2 applies a sequential test to major leisure facilities. The current application falls just below the threshold for a major application (i.e. 1,000sq m), and therefore a sequential test has not been applied.

The merits of the application are finely balanced and do raise wider strategic issues about Torbay's Economic Strategy.

More information about amenity and the layout/safety of the parking area is required.

However, if the issues of the possibility of occupation by an alternative B Class use and parking issues can be resolved in a satisfactory manner, Policy TC5 is a permissive one and the presumption would be that the application should be approved, especially as it does employ people. The health benefits and retention of the South Devon School of Gymnastics in Torbay also weigh in the application's favour.

Community Safety: Concerns have been raised that the gym could suffer from noise and smell nuisance given the location of the unit. This could however be overcome by ventilation/air intake directed away from areas which may cause odour.

There are issues with regards to the relationship between the car park area and other industrial uses in the area and potential vehicular and pedestrian conflict. It would appear that the car park area is shared with neighbouring industrial units with frequent deliveries including HGVs and fork lift truck movements. Given that the users of the club are in the majority going to be children, the potential for a significant accident is high. Unless the car parking and access can be protected/segregated by means of fixed barriers, then there would be an objection on Health and Safety grounds.

Sport Torbay: With their new infrastructure now in place and gymnastics growing in the Bay, South Devon School of Gymnastics will be able to provide further employment to this area of Torbay.

This is a positive approach to employment and training for sport in Torbay with over 25 employees based at this facility.

Sport is becoming an important area of employment and training in Torbay and it's important that this planning application goes ahead.

Police Designing Out Crime Officer: No observations due to lack of detail.

TDA: Would not want to lose a unit of this size to other uses. In the local Torbay market a unit of this size does not become available very often. As has been previously suggested. Evidence of a concerted marketing effort to let the space for commercial use would need to be provided we feel.

Within our property database and the enquiries coming through mainly the Invest in Torbay website, there are 14 enquires since Jan 2017 (we can use different date if required) that have use the search requirement criteria of industrial space, 10-12,000 sq ft.

Summary Of Representations

One letter of support from the applicant has been received, this also provides additional information in response to comments from the TDA and these are provided in the key issues/material considerations part of this report.

Relevant Planning History

None relevant.

Key Issues/Material Considerations

The key issues to consider in relation to this application are 1. whether the loss of employment floor space will have a detrimental impact on the economic prosperity of Torbay, 2. whether the use of the premises as a gym within the locality is an acceptable mix of uses, whether impacts on amenity are acceptable and 3. health and community wellbeing benefits of the proposals.

1. Whether the loss of employment/employment space is acceptable

Policy SS4 of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay. The Local Plan supports the creation of at least 5000-5,500 net additional jobs by 2030 with an emphasis on delivering around 1375 net new jobs in the first 5 years of the Plan period.

Policy SS5 states that in order to meet the needs of existing, growing and new businesses, sufficient high quality space will be provided to meet existing and arising requirements of employers. This will include space and facilities for Use Class B employment uses and other non-Use Class B sectors including health, leisure, retail, tourism and education, which play an important role as employment generators in the Bay.

Policy SS5 is more tolerant of changes of use of employment land than NPPF paragraph 22, in that it allows changes of use from Use Class B to non-Use Class B employment uses to be considered on the basis of the impact on the economic prosperity of Torbay, the appropriate mix of uses within the locality and on amenity. As the Torbay Local Plan is up to date Policy SS5 carries more weight in the decision making process than para. 22 of the NPPF.

Impact on the economic prosperity of Torbay

In determining this application consideration must be given to the fact that a loss of a Class B use could impact on economic prosperity, particularly as the unit is a purpose-built industrial unit, on an industrial estate. The Employment Densities Guide 3rd edition indicates 1 job per 36 sq m which would mean 26 full time equivalent jobs could be expected to be provided in a unit this size in Use Class B2 use.

Comments from Strategic Planning state that the current evidence base (from the Employment Land Review October 2013) is not strong in seeking to argue that the conversion of a B use to a Class D use would harm economic prosperity.

In support of the application the applicant has advised that the South Devon School of Gymnastics currently employ 3 x full-time coaches of 30+ hours per week and 17 part-time coaches ranging from 3-26 hours per week. The applicant has stated on the application for that this is the equivalent of 6 full time staff. They will also be advertising for an additional full-time member of staff shortly. They employ 2 x cleaners through a cleaning company for 8 hour per week. The Club train and employ senior gymnasts and pay them for courses and training.

Information submitted by Charles Darrow on behalf of the applicant states that the unit was marketed for a period of 6 months, with 4 enquires received, none of which wished to continue forward with any further enquiries. Sierra Windows, the manufactures opposite, viewed the unit and did not require the space.

The TDA have expressed concern about the loss of the unit. They advise that since January 2017 there have been 14 enquiries to the TDA within the broad size parameter of the current site. The TDA indicate that the unit in question does not appear to have been marketed through the TDA's commercial database. In accordance with the consultation comments from Strategic Planning comments the TDA have been invited to comment on whether the rate per square metre for the unit is reasonable and whether their enquiries would reasonably be expected to have transpired into a letting.

Of lesser importance, Policy SDP3 identifies Yalberton Industrial Estate as one where development for refurbishment and environmental improvements to the existing employment area and qualitative improvements to upgrade existing provision will be considered appropriate.

2. Mix of uses and amenity

The application drawings indicate that

- i. Access to the car park is across a shared parking area used by HGVs from the neighbouring industrial unit
- ii. The majority of customer parking spaces are located to the rear of the premises, but the entrance is to the front.

The proposal would provide 35 regular parking spaces, 2 disabled parking spaces and 8 cycle parking spaces. The parking requirement in the Local Plan for a facility of this scale is set at 38 spaces.

It is explained in the application supporting materials however that typically pupils are dropped off by parents for training and that for every two pupils, one car may remain. In the circumstances it is considered that the amount of parking will be suitable for day to day operations. Whether it is suitable for events that may be held (competitions) is unclear at this stage but such events would not be the prevalent use of the site. It is considered that a condition requiring a parking management strategy for events such as competitions is necessary, these details should be submitted to the Council for approval if the application is considered acceptable.

During peak times the unit will accommodate approximately 60 gymnasts plus parents watching from the first floor level. There is therefore likely to be a high number of vehicle movements to and from the site at peak times. This raises concerns of potential conflict between vehicles accessing and exiting the unit. Further information on how this can be overcome and on what route children will take from the rear car park to the front of the building is deemed necessary to ensure that potential conflict between high numbers of vehicle movements and children accessing/exiting the gymnastics school can be overcome. Although there is a turning area to the front of the site it does not appear to have any parking restrictions and if parents are dropping off children at the front of the unit then details of how they can safely turn around are required.

As previously noted, no details have been provided about how users of the gymnasium will interact with other uses in the area of particular concern in the impact of noise, dust and smell from nearby general industrial uses or how potential hazards (i.e. delivery vehicles nearby, including the opposite double glazing unit) could be avoided. Further information on these points which demonstrate that the mix of uses in this locality would be acceptable and that the proposed use would not prejudice the use of existing industrial units is required.

Advice from Community Safety states that potential car parking and access hazards need to be addressed, this could be by means of fixed barriers to protect/segregate the rear car parking area from delivery vehicles and fork lift trucks used by adjacent industrial units.

If the concerns with regards to access and potential conflict between industrial processes such as delivery vehicles and vehicles and pedestrians accessing the gymnastics school can be overcome, it is not considered that the proposed use would have an impact on the amenity of existing occupants of the area.

The amenity of users of the gym are likely to be affected by noise and odour caused by the neighbouring window manufacturers and the adjacent recycling centre. Issues with regards to odour can be overcome by the installation of a ventilation system.

3. Health & Wellbeing

The Gymnastics School has recently lost its previous facility and the application site would provide them with a new facility from which to operate. Policy SC1 of the Local Plan encourages all development to improve the health and well-being of the community. Although not technically a new facility, a failure to find another location to operate from could see the School close, with consequent negative health and community cohesion impacts. The NPPF emphasises that one of the three pillars to sustainable development includes the social aspects of development. Accordingly, this is a matter to which significant weight can be afforded.

Policy SC2 applies a sequential test to major leisure facilities, however the application falls just below the threshold for a major application and therefore a sequential test has not been sought. The health benefits (including encouraging women to participate in sport) outweigh any sequential/location concerns that could arise under SC2.

However as the gymnastics club would be located on an industrial estate it is considered that further information should be submitted by the applicant to show that the location would be acceptable on amenity grounds and that the layout of the site parking area is safe.

CIL/Section 106

The application form states that the floorspace is 930 sq m of B2 use. The Employment Densities Guide 3rd edition indicates 1 job per 36 sq m which would mean 26 full time equivalent jobs. An accompanying letter to the application indicates the gymnastic school would employ 3 fulltime staff, plus 17 part time coaches and 2 part time cleaners.

However the floorspace of the unit is below the threshold for "tariff style contributions" and the proposed use does provide employment, albeit less than would be expected in a B2 unit of this size. On this basis the Council will not be able to seek loss of employment contributions in this instance.

Conclusions

The proposed development for the change of use from B2 to D2 is finely balanced

based on the points discussed in this report. Subject to the submission of additional information from the applicant to show that the proposed use would interact safely in this location, and further information from the TDA about whether the loss of the unit would harm economic prosperity the proposal is considered to be consistent with Policies SS5, SD1 and SC2 of the Torbay Local Plan and therefore appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

In order for the Council to retain some control over the use of the unit in the future it is considered that a condition should be added which removes permitted development rights for the unit to change to a different use class or a different use within Class D2. Final drafting of conditions to be delegated to the Executive Head of Business Services.

- o Removal of permitted development rights for any change of use within D2 or any other use class.
- o Submission and approval of a traffic management strategy prior to the first use of the unit as a gymnastics school.
- o Submission of a travel plan.
- o Implementation of disabled car parking spaces and cycle storage prior to first use of the unit as a gymnastics school.
- o Restriction on hours of use.

Relevant Policies

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