

<b>Application Number</b>	14/0493/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	1st April 2014	<b>Officer</b>	Mr Amit Patel
<b>Target Date</b>	27th May 2014		
<b>Ward</b>	Arbury		
<b>Site</b>	297 Histon Road Cambridge Cambridgeshire CB4 3NF		
<b>Proposal</b>	Temporary change of use from A1 (shop) to D2 (assembly and leisure)		
<b>Applicant</b>	Mr Ryan Rudkin c/o Agent Cambridge Cambridgeshire United Kingdom		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <p>This proposal is only for a temporary period;</p> <p>The proposed use will not have a significant impact on residential properties nearby, subject to conditions</p> <p>There is not likely to be any significant impact upon the highway</p>
RECOMMENDATION	APPROVAL

## 1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The site is located on the western side of the road. There is a small access off Histon Road that serves the buildings. To the north is Open Space and to the south there is an access and beyond is the rear gardens of properties facing Tavistock Road. To the east is the squash club. The site is a group of single storey buildings finished in brick with multiple commercial uses.
- 1.2 The site is significantly set back from Histon Road. The site is allocated within the Cambridge Local Plan 2006 (site number 5.17) with a proposed use as Housing. The site is outside the Conservation Area and outside the Controlled Parking Zone.

There are no Tree Protection Orders on site nor are there any listed buildings.

## **2.0 THE PROPOSAL**

2.1 This application is a re-submission of a previously refused scheme which sought the permanent change of use from A1 (shop) to D2 Use (Assembly and Leisure).

2.2 Number 297 was previously used as a furniture showroom. This application now seeks a temporary planning permission for a change of use from A1 (shop) to D2 use class - assembly and leisure until February 2016. The ground floor will be split into 2 main activities, martial arts and dance studio space. The front area adjacent to the entrance will be a dance studio as well as another area to the rear of the building. The two martial arts space will be to the rear of the existing building.

2.3 The previous application was delegated and refused on the grounds:

- The loss of an allocated housing development site would reduce the housing development opportunities in the city. The application provides no evidence that the proposal meets any of the criteria which might render such loss acceptable, and is therefore contrary to policy 5/1 of the Cambridge Local Plan (2006), and government guidance in National Planning Policy Framework (2012).
- The application provides no evidence that the proposal is acceptable in meeting the needs within the site in terms of refuse arrangements, car parking and cycle parking and is therefore contrary to policies 3/1, 3/12, 8/2, 8/6 and 8/10 of the Cambridge Local Plan (2006), and government guidance in Section 7 of the National Planning Policy Framework (2012).

2.4 The application is accompanied by the following supporting information:

1. Planning Statement
2. Plans

The applicants have provided additional information:

1. Transport Statement
2. Car Parking Plan
3. Cycle and Bin storage

### 3.0 SITE HISTORY

Reference	Description	Outcome
13/1227/FUL	Change of use to D2 use class - assembly and leisure.	REF.
09/0453/FUL	Change of use from A1 (shops) to D1 (educational).	WDN
C/86/0226	Change of use from residential to offices.	REF
C/81/0372	Change of use from laundry and dwelling house to retail sales shop and showroom with ancillary office and workshop accommodation	A/C

### 4.0 PUBLICITY

4.1	Advertisement:	No
	Adjoining Owners:	Yes
	Site Notice Displayed:	No

### 5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2006	Local	3/1 3/4 3/7 4/13 5/1 6/2 7/2

	8/2 8/6 8/10
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### 5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012  National Planning Policy Framework – Planning Practice Guidance March 2014  Circular 11/95
Supplementary Planning Guidance	Cambridge City Council (May 2007) – Sustainable Design and Construction

### 5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, there are no policies in the emerging Local Plan are of relevance

## 6.0 CONSULTATIONS

### Cambridgeshire County Council (Engineering)

#### 6.1 Application lacks details on parking, trip generation and access to make an assessment.

### Additional Comments

The proposed temporary change will not trigger a Transport contribution but may increase parking demand in the area but will not result on highway safety. This may impact upon residential amenity.

### **Planning Policy Team**

- 6.2 The Planning Policy Team have commented that *“The Council is concerned that this application does not prejudice or delay the delivery of this housing allocation. The site is allocated for housing in the Local Plan 2006 and in the Local Plan 2014: Proposed Submission, it is allocated for housing now and in the future. The temporary nature of this application and the break clause in the contract goes some way to allay these concerns. Furthermore it is worth noting that paragraph 14 of section 21a (Use of Planning Conditions) of the National Planning Policy Guidance (NPPG) states: “A temporary planning permission may also be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use.” (reference: 21a-014-20140306).”*

In addition support for the application in this instance does not imply that a similar application to extend this temporary period would be supported.

### **Head of Refuse and Environment**

- 6.3 No objection subject to conditions and informative on operating hours and building/plant noise insulation.

### Additional Comments

The previous comments are still relevant.

- 6.4 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

## **7.0 REPRESENTATIONS**

7.1 The owners/occupiers of No.17 Tavistock Road have made representations:

7.2 The representations can be summarised as follows: Notes the application is retrospective. Objects to use and operating hours causing noise and disturbance near to residential properties. Objects to increase in vehicular movements and highway safety. Concern of loss of retail use.

There is a suggestion for conditions to mitigate the impact above which cover restricted hours and use.

7.3 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

## **8.0 ASSESSMENT**

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Residential amenity
3. Refuse arrangements
4. Highway
5. Third party representations

### **Principle of Development**

8.2 The 2006 local plan allocates this sit and the wider area (is this correct) for housing development. Policy 5/1 is therefore relevant. Policy 5/1 states:

*“These sites and provision are safeguarded and development for alternative uses will not be permitted except:*

*a. as provided for in Policies 9/4 to 9/9 or the Proposals Schedule; or*

*b. for additional floorspace for established firms for their own occupation and use on their existing site.”*

The site is not in an Area of Major Change, therefore criteria (a) is not engaged and the proposal is not for additional floorspace

for an established firm therefore criteria (b) is not relevant. There is clear conflict with policy 5/1, however consideration needs to be given to whether the development will prejudice the delivery of housing on the site in view of the fact that it is for a temporary use.

- 8.3 The previous scheme sought a change of use but provided no evidence regarding the safe guarding of the allocated housing land. This application seeks a temporary change of use. The Policy Team have confirmed that this will not have a long term policy conflict as the temporary permission will not permanently prejudice the delivery of the housing allocation. The applicant states that the owners of the site do not foresee any residential development commencing onsite prior to February 2015 and furthermore there is a break clause in the contract with the operators of the site if planning permission for residential use is granted prior to February 2016. It is also worth noting the Council in the Annual Monitoring Report 2013 does anticipate the delivery of dwellings on this site before 2019/20.
- 8.4 The temporary nature of this application and the break clause in the contract goes some way to allay concerns about safeguarding land for housing. Furthermore it is worth noting that paragraph 14 of section 21a (Use of Planning Conditions) of the National Planning Policy Guidance (NPPG) states: "A temporary planning permission may also be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use."
- 8.5 Concern has also been raised for the loss of the A1 use. The site is not within a local or district centre and therefore is not afforded any protection with in the Cambridge Local Plan (2006) and a change of use from an A1 is in principal supported.
- 8.6 I consider that the additional information provided in support of this application has addressed the first reason for refusal under planning reference 13/1227/FUL and inin my opinion, the principle of the development is acceptable and delivery of housing in accordance with policy 5/1 of the Cambridge Local Plan (2006) is appropriately safeguarded..

## **Residential Amenity**

### Impact on amenity of neighbouring occupiers

- 8.7 No changes are proposed to the exterior of the building. Comments have been received regarding the potential impact of the proposed use on nearby residential properties. The nearest residential properties are located some 20m away from the site, but there is potential for disturbance arising from the use of building. I agree with the advice provided by the Council's Environmental Health Officer. The application seeks opening times on a Sunday and Bank Holiday. This is not supported by the EHO and given the proximity of residential development I do not consider this to be acceptable. I have recommended conditions to control noise insulation (3), windows and doors (4), opening hours (5), dance class hours(6) and inside (9). I have also limited the use to be used as martial arts and dance studio (8) as other uses within Class D2 such as cinemas, music and concert halls, dance halls would require further consideration in terms of their impact on residential amenity.
- 8.8 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with and Cambridge Local Plan (2006) policies 3/4, 3/7 and 4/13.

## **Refuse Arrangements**

- 8.9 This revised scheme addresses the second reason for refusal. There is a plan showing the bins location but it does not give details of what bins and sizes. I consider that the standard condition to require this additional information is appropriate as recommended by EHO (Condition 10).
- 8.10 Subject to condition, in my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 3/1, 3/12, 4/13 and section 7 of the National Planning Policy Framework (2012).

## **Highway and Car and Cycle parking**

### Car parking

- 8.11 The applicants have provided additional information regarding car parking. The plan shows space for 8 spaces. There are already 8 spaces for the current use. The car parking standards state that for this type of use, there should be a maximum of 2 spaces for every three staff plus 1 space for every 4 seats, including disabled parking outside a Controlled Parking Zone. The application form states that there are 4 members of staff and therefore 1 space is allocated to them. This leaves seven spaces which amount to 28 seats. Considering that there are 4 main areas and likely to be seating in each area and therefore splitting the 28 seats into the four totaling 7 seats in each area is a reasonable assumption. Within this car parking areas there will also be disabled car parking I consider the level of car parking to be acceptable.
- 8.12 Concerns have been raised about vehicle movements, however the local Highway Authority have not raised any concerns regarding this and I agree with their advice.

### Cycle Parking

- 8.13 Additional information is provided for cycle parking on site. The application form shows that there will be 20 spaces available. Considering the floor area is 500 square metres and the cycle parking standards require 1 space per 25 square metres, a total of 20 spaces is acceptable. The location of these spaces is shown but not the layout and therefore I recommend a condition for this additional information. (Condition 7)
- 8.14 Subject to condition, in my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 8/2, 8/6 and 8/10.

## **Third Party Representations**

- 8.15 The comments received have been addressed in the main body of the report above.  
The issue about the use, operating hours and noise and disturbance has been covered in the section headed Residential Amenity.

The concerns about the loss of A1 retail use is addressed in the heading of Principle of Development.

## **9.0 CONCLUSION**

- 9.1 The proposal is for a temporary period. This is acceptable and the proposed temporary use will not undermine the use of the site for housing development and it will not have a significant impact upon the nearby residents, subject to compliance with conditions as recommended. Approval is recommended.

## **10.0 RECOMMENDATION**

**APPROVE** subject to completion of the s106 Agreement and the following conditions:

1. The development hereby permitted shall be begun before the expiration of 21 months from the date of this permission.

Reason: In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

2. The use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of works submitted to and approved in writing by the local planning authority, on or before 28th February 2016

Reason: To enable the local planning authority to assess the impact of the use on the amenity of the surrounding area. (Cambridge Local Plan 2006 policies 3/1, 3/4, 3/12 and 8/2)

3. Before the development/use hereby permitted is occupied, a scheme for the insulation of the building(s) and plant in order to minimise the level of noise emanating from the said building(s) and plant shall be submitted to and approved in writing by the local planning authority and the scheme as approved shall be fully implemented before the use hereby permitted is commenced.

Reason: To protect the amenity of neighbouring residential properties. (Cambridge Local Plan (2006) policy 4/13).

4. During performances and practices, all doors and windows must be kept closed to contain noise.

Reason: To protect the amenity of neighbouring residential properties. (Cambridge Local Plan (2006) policy 4/13).

5. The premises shall only be open to members of the public between the hours of 12:00 and 21:00 on Mondays to Fridays; 10:00 and 18:00 hours on Saturday and at no time on Sundays and Bank Holidays. All members of staff shall vacate the building no later than 21:30 hours on Mondays to Fridays and 18:30 hours on Saturday.

Reason: To protect the amenity of neighbouring residential properties. (Cambridge Local Plan (2006) policy 4/13).

6. Dance tuition or classes shall only be held between the hours of 12:00 and 21:00 hours on Monday to Fridays; 10:00 and 18:00 hours on Saturdays; and not at all on Sundays or Bank holidays.

Reason: To protect the amenity of neighbouring residential properties. (Cambridge Local Plan (2006) policy 4/13).

7. Prior to commencement of use a plan showing the layout of the cycle parking to be provided in accordance with the Cambridge Local Plan Cycle Parking Standards shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved plans and cycle parking provision shall be made prior to commencement of use and retained thereafter.

Reason: To ensure appropriate provision for the secure storage of bicycles. (Cambridge Local Plan 2006 policy 8/6)

8. The premises shall be used for Martial Arts classes, Fitness/Dance classes and sports therapy and for no other purpose (including any other purpose in Class D2; of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: For the avoidance of doubt, and because use of the building for any other purpose would require re-examination of its impact. (Cambridge Local Plan 2006 policies 3/4, 3/12, 4/13 and 8/2)

9. The proposed use Martial Arts, fitness and Dance use shall only take place within the building and no external areas shall be used for Martial Arts classes, fitness and Dance use.

Reason: To protect the amenity of the neighbouring occupiers. (Cambridge Local Plan (2006) policy 4/13).

10. Prior to the commencement of the use hereby permitted, the on-site storage facilities for trade waste, including waste for recycling and the arrangements for the disposal of waste detailed on the approved plans shall be provided. The approved arrangements shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

Reason: To protect the amenities of nearby residents/occupiers and in the interests of visual amenity (in accordance with policies 4/13 and 6/10 of the Cambridge Local Plan (2006))

11. The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

**INFORMATIVE:** To satisfy building/plant noise insulation condition, the noise level from all activities, plant and equipment, vents etc (collectively) associated with this application should not raise the existing background level (L90) by more than 3 dB(A) (i.e. the rating level of the plant needs to match the existing background level). This requirement applies both during the day (0700 to 2300 hrs over any one hour period) and night time (2300 to 0700 hrs over any one 5 minute period), at the boundary of the premises subject to this application and having regard to noise sensitive premises. Tonal/impulsive noise frequencies should be eliminated or at least considered in any assessment and should carry an additional 5 dB(A) correction. This is to guard against any creeping background noise in the area and prevent unreasonable noise disturbance to other premises.

For the plant aspect of the condition, It is recommended that the agent/applicant submits a noise prediction survey/report in accordance with the principles of BS4142: 1997 Method for rating industrial noise affecting mixed residential and industrial areas or similar. Noise levels shall be predicted at the boundary having regard to neighbouring premises.

Such a survey / report should include: a large scale plan of the site in relation to neighbouring premises; noise sources and measurement / prediction points marked on plan; a list of noise sources; details of proposed noise sources / type of plant such as: number, location, sound power levels, noise frequency spectrums, noise directionality of plant, noise levels from duct intake or discharge points; details of noise mitigation measures (attenuation details of any intended enclosures, silencers or barriers); description of full noise calculation procedures; noise levels at a representative sample of noise sensitive locations and hours of operation.

Any report shall include raw measurement data so that conclusions may be thoroughly evaluated and calculations checked.

A noise insulation scheme should be provided detailing the acoustic noise insulation performance specification of the external building envelope.