

<b>Application Number</b>	18/1945/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	17th December 2018	<b>Officer</b>	Mairead O'Sullivan
<b>Target Date</b>	11th February 2019		
<b>Ward</b>	Abbey		
<b>Site</b>	Unit 2 61 Ditton Walk		
<b>Proposal</b>	Change of use from B1 to flexible B1/D1 use.		
<b>Applicant</b>	Mr Mark Swann 125 Pym Court Cromwell Road		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> <li>- The proposal would result in the loss of B1 floorspace contrary to policy 41 of the Cambridge Local Plan 2018</li> </ul>
RECOMMENDATION	REFUSAL

**1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 The site is a single storey industrial building which is part of a group of industrial buildings known as The Enterprise Centre on the north western side of Ditton Walk. The interior of the building is currently a warehouse space with adjoining office elements with toilet facilities. The site is currently in B1(c) use.
  
- 1.2 This part of Ditton Walk has a mixture of residential and commercial use. The adjacent site at 63 Ditton Walk has permission for a residential development comprising 3 flats. To the south of the site are a number of industrial units. The opposite side of the road is characterised by 2 storey semi-detached residential dwellings. The site backs on to Coldhams Common.
  
- 1.3 There are no site constraints.

## **2.0 THE PROPOSAL**

- 2.1 The application seeks full planning permission for a change of use from the existing B1 use to a flexible B1/D1 use. A flexible use would allow the applicant to switch between the B1 and D1 uses without the need for multiple planning permissions. The right to switch between the uses lasts for ten years and the use in operation at the end of the ten year period becomes the lawful use of the property from that date onwards.
- 2.2 The intended occupier of the unit which requires the change of use is Cambridge Ballet Academy. Cambridge Ballet Academy is the only local provider which delivers the BTEC Level 3 Extended Diploma in Dance. There are other providers in the area which offer similar services, but Cambridge Ballet Academy is the only company which caters specifically for dance. The Company caters for small class numbers of between 4 and 7 students who typically would travel to the site by bike.

## **3.0 SITE HISTORY**

- 3.1 There is no site history.

## **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 2018 policies, Supplementary Planning Documents and Material Considerations.
- 5.2 Relevant Development Plan policies

PLAN	POLICY NUMBER
Cambridge Local Plan 2018	1 32 33 34 35 36

	41
	55 56
	73
	81 82

### 5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework 2019 National Planning Policy Framework – Planning Practice Guidance from 3 March 2014 onwards Circular 11/95 (Annex A)
Previous Supplementary Planning Documents  (These documents, prepared to support policies in the 2006 local plan are no longer SPDs, but are still material considerations.)	Sustainable Design and Construction (May 2007)  Cambridgeshire and Peterborough Waste Partnership (RECAP): Waste Management Design Guide Supplementary Planning Document (February 2012)
Material Considerations	<u>City Wide Guidance</u>  Cycle Parking Guide for New Residential Developments (2010)

## 6.0 CONSULTATIONS

### Cambridgeshire County Council (Highways Development Management)

- 6.1 No objection: The proposal is likely to generate short to medium term parking demand that may not at all times be accommodated within the site. Therefore, the development may impose additional parking demands upon the on-street parking on the surrounding streets and, whilst this is unlikely to result in any significant adverse impact upon highway safety, there is potentially an impact upon residential amenity which the Planning Authority may wish to consider when assessing this application.

### Environmental Health

#### *First comment*

- 6.2 Further information required: No objection to the principle of the use but further information is needed to make an assessment. Of particular concern is the fact that the adjoining land at 63 Ditton Walk has recently been granted approval for development of residential premises with gardens. Given the close proximity, there is the potential for noise breakout from the dance studio to impact on those premises. We need to be certain that the existing structure can adequately contain the noise from the proposed activities within.

#### *Second comment*

- 6.3 No objection: Conditions are recommended regarding building noise insulation, plant noise insulation, hours of use, doors and windows being kept closed when playing music and restricting the D1 use to the ballet school use.
- 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 the following addresses have made representations:
- 162 City Road London

- 29 Denmark Road, Cottenham
- 3 Heath Drive, Cottesmore
- 22 Newmarket Road

7.2 The representations can be summarised as follows:

- Travels long distance for child's ballet tuition. If it is not possible to provide their training in Cambridge they would need to travel to London as the course is not widely available.
- The existing facilities are over 3 different venues and are shared and do not have all of the required facilities (for example changing rooms) and there are safeguarding concerns
- The proposal would allow the school to provide sprung floors, which help avoid injuries, and full length mirrors so the students can see their full bodies
- Parents use local shops and services
- Cambridge Ballet Company provides an excellent service

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. Context of site, design and external spaces
3. Residential amenity
4. Refuse arrangements
5. Highway safety
6. Car and cycle parking
7. Third party representations

### **Principle of Development**

8.2 Policy 41 of the Cambridge Local Plan (2018) protects uses within the B use class. The site lies outside of a Protected Industrial Zone so criteria C and D are relevant. These state that development (including change of use) resulting in the loss of floorspace within the B use class will not be permitted unless:

- c. the loss of a small proportion of floorspace would facilitate the redevelopment and continuation of employment uses (within B use class or sui generis research institutes) on the site and that the proposed redevelopment will modernise buildings that are out of date and do not meet business needs; or
- d. the site is vacant and has been realistically marketed for a period of 12 months for employment use, including the option for potential modernisation for employment uses and no future occupiers have been found.

- 8.3 The application proposes a flexible B1/D1 use. As detailed in paragraph 2.1, this allows the site to move between the B1 and D1 uses without the need for planning permission. At the end of 10 years of the permission being issued, the use at that time will become lawful.
- 8.4 The proposal does not meet with either of the above criteria. The proposal could potentially result in the loss of the B use of the building at the end of the 10 year period. The proposal does involve works to the interior of the building to make it suitable for the dance use but the policy is specific that the employment use must be within the B use class or else a sui generis research use. As the B1 use is not proposed to be wholly removed there is no way which it can be marketed to meet criterion d.
- 8.5 The other relevant policy is 73 which relates to community, sports and leisure facilities. As the proposed use is educational it would fall within a D1 use which is classed as a community use. Proposals for new community uses will be permitted if:
- a. the range, quality and accessibility of facilities are improved;
  - b. there is a local need for the facilities; and
  - c. the facility is in close proximity to the people it serves.
- 8.6 The proposed use would be classified as a community use in policy terms but the applicant does not propose any use by the wider community. The proposal would allow Cambridge Ballet Academy to occupy the building. They are the only solely dance provider of Btec Level 3 extended diploma in dance in Cambridge. They currently use shared facilities around the city and wish to have their own custom premises. As a result the proposal would meet with criterion a. and b. Two of the representations mention travelling long distances to avail of the course so I am unclear whether the site does serve local

people. The representations state that if the course was not available in Cambridge students would need to travel to London so although the use may not only be serving local students it does appear to reduce the travel distance for those who use the facility. The policy goes on to state that developers will be expected to demonstrate use of the sequential test in considering sites for development.

- 8.7 The applicants have not provided any evidence that a sequential test was undertaken as part of the process to select a suitable premises; other than stating that East Barnwell Community Centre was considered,. I have queried with the City Council's community services what community facilities exist nearby to understand if there is a shortage of D1 uses in the area. I understand that the Leper Church is within 5 minutes walking distance of the site. Within approx. 15 minutes walking distance from the site are the East Barnwell Community Centre, River Lane Community Centre, Barnwell Road Library and Christ the Redeemer Church. Within 20 minutes walking distance from the site are the Abbey Meadows School Community Wing and St Philips C of E Primary School. The Council has currently allocated £255k of S106 community facilities for the County Council's East Barnwell Community Centre proposals. Given the prevalence of community uses nearby I do not consider there to be sufficient need in the area for the D1 use to justify the loss of B1 floorspace contrary to policy 41.
- 8.8 The applicant has provided a response to my concerns regarding the loss of the B1 floor space. They note that the East Barnwell Community Centre was considered but as this is due for demolition it did not work with their timescales. They also note that the school requires specialist equipment and sprung floors as well as gender specific changing facilities and a secure room for storing exam papers. I understand that the proposed use does have particular needs however these requirements do not overcome the fact that the proposed change to the flexible use has the potential to result in the loss of B floorspace contrary to policy 41.
- 8.9 It would not be possible to grant a temporary permission to allow the dance school to occupy the building for a period of time as this is not the correct way to utilise temporary permissions. The NPPG at paragraph 014 states that

*Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.*

It then notes that temporary permission may be granted for vacant buildings to allow longer term regeneration plans to come forward. This is also permitted under policy 41 to allow a temporary use to occupy the building while marketing takes place. The proposal would not meet with any of these criteria and as a result I consider it would not be appropriate or reasonable to grant permission for the D1 use for a temporary period.

### **Context of site, design and external spaces**

- 8.10 The applicant does not propose any physical alterations to the external envelope of the building and as a result there are no design implications.
- 8.11 In my opinion the proposal is compliant with Cambridge Local Plan (2018) policies 55 and 56.

### **Residential Amenity**

Impact on amenity of neighbouring occupiers

- 8.12 The Environmental Health Officer requested further information from the applicant regarding the construction of the building. The concern was the impact on nearby residential amenity, in particular the impact on the future occupier of the approved flats at 63 Ditton Walk. The applicant provided some additional information which allowed the Environmental Health officer to remove his objection subject to conditions. The conditions require the approval of plant and building noise insulation details, restrict the hours of use of the building to 08.30 -21.00 Monday – Friday and 10.00 – 16.00 on Saturdays, and require windows and doors to be closed when music is being played. A condition is also requested requiring the D1 use to be restricted to that described in the Design and Access Statement. I agree with these comments and if I were minded to recommend approval, a condition would be recommended requiring the use be restricted to a D1 dance school use.

8.13 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that, in this respect, it is compliant with Cambridge Local Plan (2018) policies 35, 55 and 56.

### **Highway Safety**

8.14 The Highway Authority has no objection to the proposal. The Highway Engineer has noted that the proposal may give rise to an increase in demand for short to medium term on-street car parking in the area but this is not considered to impact on Highway Safety.

8.15 In my opinion the proposal is compliant with Cambridge Local Plan (2018) policy 81.

### **Car and Cycle Parking**

8.16 Cambridge Ballet Academy only accommodate a small number of students (between 4 and 7) and staff (a total of 7 but maximum of 3 on site at any time) and several will cycle to the site. The applicant is satisfied that bikes can be accommodated internally and if the need arises additional Sheffield Stands could be accommodated externally. I have no objection to this approach given the small number of students.

8.17 There is a shared car park for the units within the business park which includes disabled parking and there is an area where parent can drop off children. Given the small number of students and staff I consider this arrangement would be adequate.

8.18 In my opinion the proposal is compliant with Cambridge Local Plan (2018) policy 82.

### **Third Party Representations**

8.19 Any outstanding issues raised by the third party representations are addressed in the below table.

<b>Representation</b>	<b>Response</b>
Travels long distance for child's ballet tuition. If it is not possible to provide their training in	Noted

Cambridge they would need to travel to London as the course is not widely available.	
The existing facilities are over 3 different venues and are shared and do not have all of the required facilities (for example changing rooms) and there are safeguarding concerns	I note the schools need for better facilities but this does not overcome the conflict with policy 41
The proposal would allow the school to provide sprung floors, which help avoid injuries, and full length mirrors so the students can see their full bodies	I note the benefits of the scheme but these are not considered to outweigh the conflict with policy 41.
Parents use local shops and services	This potential benefit is noted but users of the B1 floorspace would also be likely to use local services
Cambridge Ballet Company provides an excellent service	Noted.

## 9.0 CONCLUSION

9.1 I note that Cambridge Ballet School are the only dance provider of Btec Level 3 extended diploma in dance in Cambridge and to provide this service they have a particular set of needs such as sprung floors, gender specific changing facilities and a locked office for exams. Whilst the proposed use clearly has benefits, the proposed B1 use of the site is protected by Policy 41. The proposed flexible use does not result in the immediate total loss of the B1 floor space but should the D1 Dance school use remain in place after 10 years, the B floor space would be lost. As it is not possible to ensure the retention of the B use in the long term, the proposal does not comply with policy 41 of the Cambridge Local Plan (2018).

## 10.0 RECOMMENDATION

**REFUSE** for the following reasons:

1. The proposed flexible B1/D1 use does not guarantee the return of the B floorspace at the end of the 10 year period for the flexible permission. As a result the proposal has the potential to result in the loss of the B floor space contrary to policy 41 of the Cambridge Local Plan (2018).