

Case Officer: Matthew Coyne **Ward(s):** Banbury Grimsbury And Hightown

Applicant: Mr Stuart Davies

Ward Member(s): Cllr Andrew Beere
Cllr Claire Bell
Cllr Shaida Hussain

Proposal: Change of use from Class B2 (general industrial) Class D2 (assembly and leisure)

Committee Date: 04/08/2016 **Recommendation:** Refuse

1. Application Site and Locality

- 1.1 The application site is a small two storey industrial style building which is in an industrial part of Banbury. Unit 19 sits within the wider Thorpe Way industrial estate which contains a majority mix of B1, B2 and B8 uses. The site is not within a designated Conservation Area.
- 1.2 Unit 19 originally contained 'Rapid Metal Supplies' (Class B2), and it had been agreed that Banbury Martial Arts Centre could operate from the first floor of the building. 'Rapid Metal Supplies' went into liquidation, leaving Banbury Martial Arts Centre the sole occupiers of the building since 31 July 2015.
- 1.3 The existing building is constructed of brick and cladding with a corrugated roof. The building contains a single loading bay door and a separate pedestrian entrance.
- 1.4 The application is before the Committee as the Council has an interest in the land and buildings.

2. Description of Proposed Development

- 2.1 The current application seeks permission for the change of use from B2 (general industrial) to a D2 (assembly and leisure). No external alterations are proposed as part of this application. The proposed D2 use would allow the Banbury Martial Arts Centre to occupy the building. It is anticipated that the site would occupy 1 part time member of staff. The proposal also states that the use would only operate at times when the other industrial units in Thorpe Place were not open. This means that there would be parking spaces available for all users.

3. Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
15/01309/F	Change of use from general industrial class B2 to assembly and leisure class D2.	WDN

4. Response to Publicity

- 4.1 The application was publicised by way of neighbour notification letters (x2) and a notice displayed near to the site. A summary of comments raised by third parties are as follows:
- 4.2 A member of the public supports this application. They considered that: the gym is in a suitable location as it's not in town centre; it is used by people of all ages and benefits a large amount of people; and improvements to health.
- 4.3 In addition to the above, a number of letters were submitted with the application in support of the proposal.

5. Response to Consultation

- 5.1 Banbury Town Council: No objections
- 5.2 Cherwell District Council Antisocial Behaviour/Environmental Protection: No objections
- 5.3 Cherwell District Council Business Support Unit: As this application is for change of use only it is estimated that the impact will be negligible in terms of the potential to secure additional business rates under current arrangements for the Council.

6. Relevant National and Local Planning Policy and Guidance

Development Plan Policies:

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011 - 2031 Part 1

PSD 1 – Presumption in favour of sustainable development

SLE 1 - Employment Development

ESD15 - The Character of the Built and Historic Environment

Cherwell Local Plan 1996 (Saved Policies)

C28: Layout, design and external appearance of new development

6.1 Other Material Planning Considerations:

National Planning Policy Framework ("the Framework") - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (“nPPG”) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

7. Appraisal

7.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety

Principle of Development

7.2 Policy SLE1 of the CLP 2011-2031 intends that “employment development” relates to B Class Uses, e.g. B1, B2 and B8. The proposed change of use is for a small vacant unit in an industrial area of Banbury. The proposal indicates that only 1 part time member of staff would be employed by Banbury Martial Arts Centre. The proposal would result in the loss of a Class B2 use and the proposed number of employees is not considered to justify this loss. (The authorised use remains Class B2 regardless of whether or not the premises is currently vacant.)

7.3 In cases where planning permission is required existing employment sites should be retained for employment use unless the following criteria are met:

- *the applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been vacant in the long term;*
- *the applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable; and*
- *the applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment.*

7.4 Having regard to the above, Rapid Metal Supplies vacated the site in July 2015 and the site has been vacant since, with the exception of Banbury Martial Arts Centre which is said to be operating some first floor parts of the premises. The site has not been advertised as being vacant and therefore the first of these criteria has not been met. Furthermore, the loss of the B2 use would limit the amount of land available for employment use and the granting of this application would set a dangerous and unwelcome precedent for the future loss of employment land.

7.5 Policy SLE1 also states that regard would be had to whether the location and nature of the present employment activity has an unacceptable adverse impact upon

adjacent residential uses. The application site sits within a wider industrial area and is located approximately 67m away from the nearest residential unit. It is therefore considered that the present employment activity does not have an adverse impact upon residential uses.

- 7.6 Furthermore, SLE1 states that regard would be had to whether the applicant can demonstrate that there are other planning objectives that would outweigh the value of retaining the site in a Class B employment use. The applicant has not demonstrated that there are other planning objectives to outweigh this objective.
- 7.7 Overall, the proposal would result in the loss of B2 land use which has not been justified. The site has not been marketed as being vacant and it has not been demonstrated that there are reasons why the site is not economically viable. The proposal is therefore considered to be contrary to Policy SLE1 of the Cherwell Local Plan 2011-2031.

Impact on Visual Amenity

- 7.8 The proposal does not contain any external alterations to the building and relates solely to the change of use of the building. As a result it is considered that the proposal would not have any impact on the visual amenity and would therefore be in accordance with Policies C28 of the Cherwell Local Plan 1996 and ESD15 of the Cherwell Local Plan (Part 1) 2011 – 2031.

Impact on Residential Amenity

- 7.9 Having regard to its scale and siting, the proposed development would not have any significant impact on neighbouring occupiers. The site has no immediate residential neighbours (the closest being 67m away) and the change of use would not cause a loss of light or outlook to the adjacent units. The wider site lies within an area which is commercial and industrial in character, with a range of uses including (but not limited to) B1, B2, and B8.
- 7.10 For these reasons stated above, it is considered that the proposed would not adversely affect the living conditions of neighbouring properties, and would therefore be in accordance with Policies C30 of the Cherwell Local Plan 1996 and ESD15 of the Cherwell Local Plan (Part 1) 2011 - 2031.

Impact on Highway safety

- 7.11 The proposal would not alter the existing car park arrangements on the site. The site is in an industrial area of Banbury and is within walking distances of the town centre. The proposed operating hours of unit would mean that parking would be available in front of the other units in Thorpe Place.
- 7.12 Overall, taking in to consideration the above mentioned points, it is considered that the proposal would have no impact in regard to highway safety.

8. Engagement

8.1 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

9. Conclusion

9.1 The proposed change of use would not result in any significant harm to the visual, residential or highway amenities of the site and surrounding area. However, the proposal would result in the loss of employment land which, for the reasons set out in this report, fails to accord with Policy SLE1 of the Cherwell Local Plan 2011-2031 and the relevant paragraphs of the Framework.

10. Recommendation: Refuse for the following reason:

1. The proposal would result in the loss of a Class B2 land use which has not been justified. The site has not been marketed as being vacant and it has not been demonstrated that there are reasons why the site is not economically viable. The loss of the employment land is contrary to the aims and objectives of Policy SLE1 of the Cherwell Local Plan 2011-2031 and government guidance within the National Planning Policy Framework.

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