

**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER**

TO: WEST CRAVEN COMMITTEE

DATE: 6TH SEPTEMBER 2022

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO WEST CRAVEN COMMITTEE 6TH SEPTEMBER 2022

Application Ref: 22/0363/FUL

Proposal: Full: Change of use of Unit 11 from general industrial/storage (Use Class B2/8) to indoor sports/fitness (Use class E(d)).

At: Unit 11, Sough Bridge Mill, Colne Road, Earby

On behalf of: Mrs Lauren Stott

Date Registered: 06/06/2022

Expiry Date: 01/08/2022

Case Officer: Laura Barnes

Site Description and Proposal

The application site is an industrial unit within a former mill complex. The site is located in a predominantly residential area with some other existing commercial uses within the former mill.

The site is within the development boundary and is not allocated for any specific use in the Pendle Local Plan.

This scheme seeks to change the use from a storage unit to an indoor spot / fitness facility. The facility would provide martial art and fitness instruction to separate groups determined by age range and gender to cater for the mixed demographic of the surrounding area.

Relevant Planning History

None relevant

Consultee Response

LCC Highways

Awaiting comments

Environment Agency

No objection - Given that the red edge is drawn around the whole mill building, this brings the development within 20m of the New Cut watercourse which is a main river. Unit 11 is in Flood Zone 1.

Environmental Health

Recommend a condition to control hours of operation and a condition to prevent to use of the car park for exercise use.

Public Response

Nearest neighbours have been notified, multiple responses have been received raising the following issues:

- Parking issues
- Hours of operation

Support has also been received in response to the application, as follows:

- The development would bring much needed opportunity for physical activity to local children
- It would be a welcome activity for children / teenagers in Sough
- There would be benefits to children's mental and physical health
- Some people would walk to this facility
- The current facilities at the Civic Hall are great but this purpose made facility would be better
- Most parents will drop off and pick up so parking will not be required for the full sessions

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Policy SUP2 (Health and Well-being) This policy lends support to the provision of new or improved facilities for health, leisure and social care.

Policy WRK4 (Retailing and Town Centres) requires proposed developments to follow a sequential approach in order of preference for main town centre uses.

Replacement Pendle Local Plan

Saved Policy 31 sets out the maximum parking standards for development.

National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies of the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Principle of the Development

The site is located within a built up area and is within the settlement boundary. Policy SUP2 of the Local Plan: Part 1 Core Strategy supports developments of health, leisure and social care.

Design

There are no proposed changes to the exterior of the building.

The proposed development is acceptable in terms of visual amenity in accordance with policy ENV2.

Amenity

In terms of amenity, there are no proposed changes to the windows or doors as part of the conversion. As such, there would be no unacceptable impact upon nearby residential dwellings. The applicant has put forward a statement which sets out the follows:

- Monday to Friday 16:30 to 20:00
- Saturday 09:00 to 12:00
- Sunday & Bank Holiday Closed

The applicant has also provided a supporting statement which demonstrates a typical schedule for classes, as follows:

- Infants: 4:30pm – 5:00pm daily, Monday to Friday, and Saturday 9:00am – 9:30am (typically between 8 and 15 attendees)
- Beginners: 5:15pm – 6:00pm daily, Monday to Friday, and Saturday 9:45am – 10:30am (typically between 8 and 15 attendees)
- Advanced: 6:15pm – 7:30pm daily, Monday to Friday, and Saturday 10:45am – 12noon (typically between 8 and 15 attendees)

The hours of operation are not extensive and are not during anti-social hours. The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV2.

Highways

The applicant has set out that there are three areas of car parking which could be used by attendees of the classes. They have also noted that many parents / carers do not stay for the duration of the class but rather drop off their child and pick them up later.

The application form sets out that the gross internal area of the proposed development is 234 sqm. The existing use is B8, which requires two car parking spaces. The proposed use of Class E (d) falls into the form Use Class D2, for the purpose of the car parking standards within Appendix 2 of the Pendle Replacement Local Plan. As such 1 car parking space must be provided for each 22m² of floor space. Therefore, the requirement for the proposed use is 11 spaces.

The applicant has set out a car parking plan as part of their submission. This demonstrates the following:

- Drop zone 1 = 1 space (based upon 2.5m x 4.5m)
- Car park 2 = 8 spaces (based upon 2.5 x 4.5m spaces)
- Car park 3 = 14 spaces (based upon 2.5 x 4.5m spaces)
- Car park 4 = 12 spaces (based upon 2.5m x 4.5m spaces)
- Total = 35 spaces

The applicant has also submitted correspondence from the owner of the building as follows:

"The majority of the tenants at Soughbridge Mill have storage based businesses so do not require much, if any, parking space. Those that do work on the site generally have working hours between 7am and 4pm. The 3 car parks start to empty from 4pm onwards and are usually 75% empty between 4-5pm, 75-85% empty between 5-6pm and 85-95% empty from 6pm onwards.

I believe that my clients' Taekwondo classes will operate from 4.30pm onwards, with their busiest hours being between 6-8.30pm. Based on your assessment that 11 car parking spaces are needed there will be no issue with the availability of on-site car parking.

They have access to 3 car parks that belong to the mill plus the roadside spaces immediately outside the mill (not near residential properties) which will be more than sufficient. We believe that the above business will bring much needed good to the local area and benefit the local community."

The Highways Authority have reviewed the proposals and their final comments are awaited. However, given the information set out above and based upon the requirement in the Replacement Local Plan Policy 31. There is sufficient off-street car parking available which could be used by the proposed development.

The proposed development is therefore acceptable in highway terms in accordance with policy 31 of the Replacement Local Plan.

Other Matters

Although the proposed development is for Use Class E(d), the particular type of facility which is proposed is not an intensive sport and recreation use which requires a large amount of equipment. It is not proposed to use this as a regular gym but rather to provide taekwondo classes to people during a limited number of hours in the evening and for 3 hours on a Saturday morning. The proposal must be determined based upon its merits. In this particular case, the proposed development is to provide a facility for taekwondo classes. It is possible to control the proposed development so that it does not change to another Use Class E use (retail for example) without the need for planning permission, as this would clearly not be appropriate here. Given the particular circumstances in this case, a sequential assessment of other potential town centre sites is not required.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is acceptable in terms of design, amenity and highway safety. The development is therefore compliant with the Development Plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

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

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan – TQRQM22146195103165
 - Proposed Site Plan – received on 06/06/2022
 - Unit 11 Plan, received on 06/06/2022
 - Drop Zone plan, received on 19/08/2022

- Car park 2 plan, received on 19/08/2022
- Car park 3 plan, received on 19/08/2022
- Car park 4 plan, received on 19/08/2022

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

3. Notwithstanding any indication on the Location Plan, the development hereby permitted relates solely to Unit 11 and no other units within South Bridge Mil.

Reason: For the avoidance of doubt.

4. No customers shall remain on the premises outside the hours of 16:30 and 20:00 Monday to Friday inclusive and between the hours of 09:00 and 12:00 on Sundays. The premises shall remain closed on Sundays, Bank and Public Holidays.

Reason: In the interest of residential amenity.

5. The development hereby permitted shall be used for purposes within Use Class E(d) only, at all times. This permission does not allow the premises to be used for any other purpose within Class E, without the need for express planning permission.

Reason: In order to ensure that the future use of the building is appropriate to the area.

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At: Unit 11, Sough Bridge Mill, Colne Road, Earby

On behalf of: Mrs Lauren Stott

REPORT TO WEST CRAVEN COMMITTEE 6th SEPTEMBER 2022

Application Ref: 22/0480/CEA

Proposal: Certificate of Lawful Use (S.192 Proposed Development) Change of Use from C3 (Dwellinghouse) to C2 (Residential Institution / Children's Home)

At: Hague House, Old Stone Trough Lane, Kelbrook

On Behalf of: Associated Wellbeing

Date Registered: 14/07/2022

Expiry Date: 08/09/2022

Case Officer: Laura Barnes

This application has been brought for determination at Committee at the request of a Councillor.

Site Description and Proposal

The application site is a five bedroom dwelling known as Hague House, accessed off Old Stone Trough Lane.

This application is for a Lawful Development Certificate for the proposed use of the dwelling as a home to provide care for up to four children with three carers / staff living sleeping at the premises overnight on a rota basis.

This application seeks to establish that the existing and proposed uses both fall within Use Class C3 (dwelling house) and as such the proposed use does not represent a material change of use requiring planning permission.

Planning History

None relevant

Consultee Comments

None relevant

Public Response

Multiple objections have been received from local residents raising the following issues;

- Concern that neighbours have not been correctly notified
- Issues regarding the land within the red edge
- The property is not detached but is adjoined to another house
- The application is on a working farm, this could present dangers to children, especially if they have additional needs
- There are no utilities to this property e.g mains gas / water
- This is an isolated location, not near to facilities and services required by children and young adults
- Unsuitable location for potential facility like this

- Parking is limited
- Public transport in this area is not good
- The comings and goings would be different to a typical household
- The existing facility which the same company operates “Requires improving”
- It is not clear what type of disability the intended occupants have
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Two letters of support have also been submitted raising the following:

- A semi-rural area would be a great place for a child who is suffering from a difficult home life / circumstances to live, particularly because of the green spaces which have a positive impact upon children’s physical and mental health
- Comparisons with other institutions are unhelpful and ill informed

Officer Comments

The consideration in determining this Lawful Development Certificate is whether the use proposed would constitute a material change of use requiring planning permission.

The onus is on the applicant to provide sufficient information to be able to prove that a certificate should be issued. The applicant has put together a statement which sets out some case law (including North Devon District Council v First Secretary of State 2003) to support their case that carers who do not live at the property as their main residence cannot be considered to be part of a household under C3b. The applicant maintains that there would be no material difference between the proposed use from the current use.

The application is accompanied by a supporting statement which describes the proposed use, this would involve four children being cared for on site on a rota of carers, each giving 48 hour care. Up to three carers at once could be on the premises providing care.

There is some case law surrounding this. Although the uses C2 and C3 are in separate use classes the courts have in effect concluded that no change of use would occur if the nature and character of the use of the premises is indiscernible between the two uses.

Here the residential property is lawful to be used as a house. What is being proposed is to house four children with three carers. It is acknowledged by the applicant that the proposed use falls within Use Class C2. The applicant has provided some detail surrounding the working patterns of the staff. Up to four children would live at the house, with two carers working on a rota basis sleeping overnight. Six carers would operate on a shift pattern of 48 hours on, 60 hours off. Other than changeover times, there will no more than three carers in the premises at any one time. There would be one changeover of the overnight care staff per day, usually 8 am each morning. A manager, also a carer, would usually visit the site each day from 8 am to 7pm.

The facility would provide accommodation for up to seven people at any one time. Added to this there would be visitors and change overs in staff required daily. A C3 use is defined as suitable accommodation for up to six people.

Clearly, the number of staff and children at the proposed facility would exceed the maximum set out in the definition of C3 Use Class (up to six people) living together as one household. There are material differences between a C3 household and the case here in that it would result in a more intensive use of the property with additional staff and visitors coming and going, over and above that which would be expected from a family living together as a C3 household. The number of these movements is likely to be significantly more than the number that would be undertaken by a family and certainly an intensification in the use of the site is acknowledged. There is insufficient

evidence before me to show that the use would result in lower (or equal) levels of noise and disturbance than the existing authorised residential use.

Reason for Decision

The applicant has failed to substantiate that on the balance of probability the proposal does not need planning permission.

RECOMMENDATION: Refuse lawful development certificate

Application Ref: 22/0480/CEA

Proposal: Certificate of Lawful Use (S.192 Proposed Development) Change of Use from C3 (Dwellinghouse) to C2 (Residential Institution / Children's Home)

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