

<b>Reference:</b>	18/00690/FUL	
<b>Ward:</b>	Shoeburyness	
<b>Proposal:</b>	Change of use from Light Industrial (Class B1) to Dance and Theatre School (Class D1 & D2) and layout 10 parking spaces	
<b>Address:</b>	38 Towerfield Road, Shoeburyness, Southend-On-Sea, Essex	
<b>Applicant:</b>	Mrs Wendy Headford	
<b>Agent:</b>	The Draughtsman Ltd	
<b>Consultation Expiry:</b>	22 <sup>nd</sup> May 2018	
<b>Expiry Date:</b>	9 <sup>th</sup> July 2018	
<b>Case Officer:</b>	Scott Davison	
<b>Plan Nos:</b>	TR/NAK/01, TR/NAK/02 & Location Plan	
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>	



## 1 The Proposal

- 1.1 This application seeks planning permission to change the use of 38 Towerfield Road from Light Industrial (Class B1) to a Dance and Theatre School (Class D1 & D2) and to layout 10 parking spaces.
- 1.2 The proposal is to change to the use of the existing building from an Engineering Workshop and Offices to a Dance and Theatre School. The submitted plans show a two storey building to the front of the site that would be retained as offices and toilets and the two workshop sections to the rear of the site which would be used as activity rooms. The dance school (Junior Masters Performing Arts School) presently operates from premises at Rayleigh Weir and it is intended to relocate to the application site. The business currently employs the equivalent of 6 full time staff.
- 1.3 The applicant has confirmed that there would be classes for adult fitness, yoga, health and mother and babies between the hours of 9am and 3.30pm on weekdays. The main times for the various dance, acting, singing and musical theatre classes as well as gymnastics would be after school times starting from 3.30pm running until 9.30pm. The sessions around 3.30pm are aimed at younger children and last approximately 30-45 mins. It is intended that larger classes would start after 5.30pm and sessions later in the evening extend to 1 hour in duration. The class sizes at the present site vary from as few as 4 children up to 10 – 25 children dependent on the type of class being run. Classes run concurrently, with differing genres being taught in each studio and it is not unusual for children to attend two or more classes which follow on. The applicant has confirmed that the majority of classes are held after 5.00pm when most units on the industrial estate will have closed and this would help avoid any parking conflict. The use of the site on Saturdays would be from 9am until about 5pm. No classes are scheduled for Sundays however the site would be used for rehearsals as and when needed as well as for exam classes, or one to one sessions.
- 1.4 The submitted plans show that 10 parking spaces are proposed within the application site. Four of these spaces will be located within the existing forecourt to the front of the site. To the side of the property is a wall and a set of gates and a further six car parking spaces will be provided behind the gates as tandem spaces along the shared boundary with No.40 Towerfield Road.
- 1.5 It should be noted that the applicant was granted a personal permission in February 2018 for a very similar proposal described as a “change of use from light industrial (Class B1(c)) to dance and theatre school (Class D1)”, erect new entrance to front and single storey front and side extension at 1A Stock Road (Ref 17/01332/FUL). The applicant has confirmed that she no longer intends to implement that particular permission however she is aware of the relevant policies and policy requirements and supporting information required to justify this type of application.
- 1.6 The applicant has submitted limited marketing information in support of the application and this has been provided by the most recent occupier of the site; AMJ Precision. This includes an email dated September 2015 providing a quotation to AMJ for the sale of the business, a copy of a letter to AMJ dated March 2016 confirming formal instruction for the sale of the business. A letter and email dated

March 2017 confirming that AMJ had withdrawn their instruction to sell the business and a letter from a property agent providing a quotation to AMJ for the sale of the premises.

## **2 Site and Surroundings**

- 2.1 The site is located on the northern side of Towerfield Road between its junction with Towerfield Close and Elm Road. The existing building on the site is a semi-detached industrial unit with a two storey flat roof building to the front of the site used as offices and finished in yellow brick, render and cladding. To the rear of the two storey block is an attached brick warehouse/workspace with a shallow pitched roof. The building was last used as an engineering workshop & offices but has been vacant since 2018.
- 2.2 The site is located on an Industrial Estate and the surrounding buildings are industrial units of a similar age and two storey scale.
- 2.3 The site is located within a designated industrial estate allocated as an Employment Area within the Core Strategy and Development Management Document. The site is located within Flood Zone 2 and 3.

## **3 Planning Considerations**

- 3.1 The main issues for consideration include the principle of the change of use, the impact on the design of the existing building and wider street scene, any impact on neighbours, traffic and transport implications, flood risk and CIL implications.

## **4 Appraisal**

### **Principle of Development**

**National Planning Policy Framework, Policies KP1, KP2 and CP1, CP4 and CP6, CP7 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM10, DM11 and DM15 of the Southend-on-Sea Development Management Document (2015)**

- 4.1 Government guidance with regard to planning matters is set out in the National Planning Policy Framework (NPPF). The NPPF states that there are three dimensions to sustainable development. These are economic, social and environmental.
- 4.2 In relation to the economic strand of the definition of sustainable development, paragraph 3 of the NPPF states that the planning system will contribute to building a strong competitive economy by *'ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure'*.
- 4.3 Paragraph 17 states that planning should *"be genuinely plan-led"*. Paragraph 161 states *"the existing and future supply of land available for economic development and its sufficiency and suitability to meet the identified needs. Reviews of land available for economic development should be undertaken"*.

- 4.4 Paragraph 22 of the NPPF states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regarded to market signals and the relative need for different land uses to support sustainable local communities.
- 4.5 Policy KP1 seeks sustainable development by focussing appropriate regeneration and growth towards Priority Urban Areas and the main industrial/employment areas which includes Towerfield Road.
- 4.6 Policy CP1 of the Core Strategy states that *“The Borough Council will support the retention, enhancement and development of Class B uses within the Employment Areas.”* and that *“Permission will not normally be granted for development proposals that involve the loss of existing employment land and premises unless it can be clearly demonstrated that the proposal will contribute to the objective of regeneration of the local economy in other ways, including significant enhancement of the environment, amenity and condition of the local area.”*
- 4.7 The Towerfield Road Industrial Estate is identified as an employment growth area in the Development Management Document. Policy DM11 of the Development Management Document states that the Borough Council will support the retention, enhancement and development of Class B uses within the Employment Areas. Section 2 of policy DM11 relates to the use of designated employment areas and states:

*‘The Borough Council will support the retention, enhancement and development of Class B uses within the Employment Areas shown on the Policies Map and described in Policy Table 8. Proposals that fall outside of a Class B employment use will only be granted permission where:*

*2A the development proposal is a ‘sui generis’ use of a similar employment nature, which is compatible with and will not compromise the operating conditions of the Employment Area; or*

*2B. the development proposal is in conformity with a planning brief, or similar planning policy document, that has been adopted by the Borough Council for the concerned site, which sets out other appropriate uses; or*

*2C. it can be demonstrated to the Council’s satisfaction that:*

- i) there is no long term or reasonable prospect of the site concerned being used for Class B purposes\*, and*
- ii) the use is compatible with and will not compromise the operating conditions for other employment uses or the potential future use of neighbouring sites for employment uses; and*
- iii) the alternative use cannot be reasonably located elsewhere within the area it serves\*\*; and*
- iv) the use will not give rise to unacceptable traffic generation, noise,*

*odour or vehicle parking.*

*2D. it can be shown that the development will be a complementary and supporting use, which is both subservient and ancillary to the principal employment uses and serves the day-time needs of the estate's working population and will not result in a material change to the Class B character and function of the area.*

*\*This should include a minimum 2 year active marketing exercise where the vacant site / floorspace has been offered for sale or letting on the open market at a realistic price and that no reasonable offers have been refused. In exceptional cases related to site-specific circumstances, where the vacancy period has been less than two years, a robust market demand analysis which supplements any marketing and vacancy evidence may be considered acceptable. Appendix 4 sets out the information to be provided in relation to marketing and market demand.*

*\*\* The Borough Council will make a judgement about the extent of the area based upon the site concerned and the proposed use.*

4.8 In addition Appendix 4 of the Development Management Document provides the following information on the requirements for a robust marketing assessment:

#### *PART A - Marketing*

*In instances where policies require marketing information to be submitted, the following details will be used to assess the acceptability, or otherwise, of the information submitted and any marketing undertaken.*

*Marketing evidence requires demonstration of an active marketing campaign for a continuous 2 year period, whilst the premises were vacant\*, which has shown to be unsuccessful.*

*Marketing must be through a commercial agent at a price that genuinely reflects the market value of the lawful use. It must be shown to the council's satisfaction that marketing has been unsuccessful for all relevant floorspace proposed to be lost through redevelopment or Change of Use.*

*Active marketing should include all of the following:*

- 1. A visible advertisement board posted in a prominent location on site, including relevant contact information (subject to advertising consent, if required);*
- 2. Registration of property with at least one commercial property agent and continuously advertised on the agent's website;*
- 3. Property details and information available to enquirers on request;*
- 4. Property marketed at a reasonable price reflecting market conditions, including in relation to use, condition, quality and location of the premises/site;*
- 5. Property marketed for the appropriate use or uses as defined by the relevant planning policy.*

*Sufficient detailed information is required to be submitted alongside any planning application to demonstrate compliance with the above criteria. Additionally, information should be submitted regarding:*

- i. the number and details of enquiries received;*
- ii. the number of viewings;*
- iii. the number, type, proposed uses and value of offers received;*
- iv. reasons for refusal of any offer received, and/or reasons why any offers fell through;*
- v. the asking price and/or rent that the site or property has been offered at, including a professional valuation from at least three agents to confirm that this is reasonable;*
- vi. the length of marketing period, including dates, and*
- vii. the length of the vacancy period.*

- 4.9 It is also noted that a number of evidence base documents for the Local Plan are relevant to this application as they include more detailed surveys and studies of the Borough's Employment Areas. The Southend-on-Sea Survey of Key Employment Areas (September 2013) states that of the 52 premises within Towerfield Industrial Estate, of these premises 49 (94%) were in use for B use classes and 5 units were vacant equating to 9.6%. This is a low vacancy rate in comparison to some of the other employment areas in the Borough and is one of the better performing industrial estates within the Borough. It should be noted that this survey is currently being updated and draft survey data from late 2017 shows that of the 60 units, 59 were noted as having a B class use (98.3%) and that vacancy rate has risen slightly to 7 units (11.7%).
- 4.10 In relation to Towerfield Road Industrial Estate the 2010 Employment Land Review 2010 (appendix 3.2) gave the following description: *"The site is located in the centre of Shoeburyness and is currently in a mixed quality condition with modern and older post war B2/B8 units. Premises appear in reasonable use for employment purposes, however there are some vacant units being marketed. The site has been developed over time but is considered in reasonable condition and suitable for continued employment use"*. The Market Appraisal of the site in the ELR stated: *Reasonable location and average quality stock appear to lead to continuing demand for Towerfield Road. There could be continued low levels of vacancy due to lower rental values and flexibility of premises leading to slightly higher turnover. Currently the site will primarily support existing employment rather than providing floorspace to facilitate growth.*
- 4.11 The Employment Land Review stated that the Towerfield Road Industrial Estate was an Employment site that should be retained and protected for employment uses: It therefore should continue to be protected from loss in the first instance. These aspirations are addressed in Policy DM11 of the Development Management Document which identifies the site as an Employment Growth Area.
- 4.12 Therefore a change of use for a building in this area will only be granted where it conforms to one of the four criteria 2A-2D in policy DM11 above. The proposed development falls outside Criteria 2A, 2B and 2D as it relates to a use falling within Use Classes D1/D2 which is not ancillary to, supportive of or similar to an employment use that falls within Class B and the site is not supported by an adopted planning brief. Criterion C is therefore the only applicable potential exception to the policy. The policy states that all the four criteria within part 2C must be met. These criteria are examined below.

- 4.13 In relation to criteria 2Ci) and Appendix 4 of the Development Management Document the applicant has provided an email from a company dated September 2015 providing a quotation for sale of the Engineering business for £699,885. A copy of letter from March 2016 has been provided which confirmed the formal instruction to market the sale of the business. The submitted evidence during the period March 2016 – March 2017 relates to the sale of the business as opposed to the sale of the property. No information has been provided demonstrating whether any enquiries were received. A further email and correspondence dating from March 2017 confirmed that the agent had been de-instructed and the business would be withdrawn for sale. The applicant has provided a letter dated March 2017 from a new estate agent confirming details of quotation and information relating to an instruction to market the property from April 2017 initially for £415,000. The applicant stated in an email in May 2018 that they were in the process of buying the property and it is understood that the property has now been sold to the applicant.
- 4.14 Research on the Internet confirmed that the property was historically advertised online and that the property has been sold. Details of estate agent particulars of the site were also available on-line. A “for sale” board at the premises was erected at the property during the short period it was remarketed. However it has only been vacant since April 2018.
- 4.15 In relation to the other requirements of Appendix 4, no information has been provided regarding valuations of the property. This contrasts with the information provided for the application at 1a Stock Road 17/01332/FUL where two independent valuations were provided. No information has been submitted as to whether there were any queries about the property, accompanied viewings or offers relating to the period 2016-2017 in which the business was marketed for sale or during 2017-2018 when the property was marketed. Again this contrasts markedly with the information supplied with application at 1a Stock Road (ref: 17/01332/FUL) where the agent confirmed details of the level of interest from prospective buyers, including accompanied visits and a number of offers on the property.
- 4.16 In relation to the suitability of the site for industrial use, no comment has been made as to whether the site is no longer suitable for industrial use. However there is evidence to suggest the unit on the estate was well used. The information supplied for the 1a Stock Road application (Ref: 17/01332/FUL) noted that the selling agent had expressed concerns regarding the desirability of a unit of this age in the market place for industrial users.
- 4.17 The submitted marketing information does not state whether there has been any interest in this property. The submitted evidence appears to relate to the sale of the existing business during March 2016 – March 2017 rather the sale of the property. The business was removed from the market in March 2017 and the property on its own was only remarketed and vacant from April 2017. This means that it was only actively marketed for 12 months in the last 2 years during part of which it occupied.
- 4.18 It is therefore considered that the applicant has not demonstrated that there is no long term of reasonable prospect of the site concerned being used for Class B purposes and criteria 2C i) of policy DM 11 has not been met.

- 4.19 In regard to criteria 2C ii), which relates to the compatibility of the scheme with surrounding operators, it is considered that the proposed dance and theatre school would not compromise the operation of the neighbouring units, wider industrial estate or its future potential for employment uses. It is therefore considered that criteria ii) can be met.
- 4.20 Criteria 2C iii) requires the applicant to demonstrate that the proposed use cannot reasonably be located elsewhere in within the area it serves. In response to this the applicant has not submitted any supporting information with this application. It is however noted that during consideration of application 17/01332/FUL (see paragraph 1.5); the applicant stated that she had been seeking premises in the area since the 1990s and had viewed a large number of buildings during this time. Many of these were dismissed because they were too expensive or lacked parking. Offers were made on other buildings but fell through. The current building at Rayleigh Weir was secured towards the end of the 1990s but this was seen as a temporary home only. This building is now in need of significant and costly repairs. The applicant was recently successful in gaining planning permission for permission for a D1 use on an alternative B1 Unit on the Stock Road Industrial Estate (Ref: 17/01332/FUL). However the applicant informed that Council that she would no longer be going ahead with development at the Stock Road site.
- 4.21 The site presently has two large open rooms both with reasonable floor to ceiling heights required for this type of use. The applicant has not demonstrated that this kind of building can only be found within an industrial estate. It is noted that there are other similar businesses located throughout the Borough and wider catchment area in a variety of locations many of which are outside employment areas. It is therefore considered that the applicant has not demonstrated that this use could not be located outside an industrial estate.
- 4.22 Finally criteria 2C iv) requires that the development should not give rise to unacceptable traffic generation, noise, odour or vehicle parking. It is noted that the impact on traffic and highways is discussed in more detail below, however, the Council's Highway Officer has not objected to the proposal and it is generally considered that the proposed use would be able to meet this criteria. There is a concern about the turning area not being sufficiently wide to allow vehicles to manoeuvre effectively however this could be overcome if the parking bay sizes were increased and could be secured by a planning condition.
- 4.23 Overall it is considered that the applicant has supplied significantly less supporting information for this application in comparison to the application (Ref: 17/01332/FUL) -Change of use from light industrial (Class B1(c)) to dance and theatre school (Class D1) where the applicant was granted a personal permission. It is also considered that the proposal does not meet the policy criteria which would justify the loss of the existing B1 use of the unit. Therefore the proposal is found by officers to be contrary to policy DM11.
- 4.24 Finally policy CP7 of the Core Strategy seeks to support provision of sport and recreation facilities for children, young people and the wider community. It is acknowledged the provision of a dance/theatre school facility would be a possible benefit of the use including the supply of sport and community facilities, however, this is not considered to outweigh the objection to the in principle loss of the employment use in the circumstances of this case.



- 4.25 The applicant is aware that the proposal is contrary to Policy DM11 however in contrast to the 1a Stock Road application, the applicant has not sought a personal permission for the proposed change of use; i.e. that the site would return to the previous B use if the applicant was no longer running the proposed business. As with the previous application at 1a Stock Road. It is acknowledged that the applicant has done valued work with the local community through her business not only with the dance school but also work with Southend Hospital to help children with mobility difficulties, blind and deaf children and amputees to strengthen muscles and improvement their movement.
- 4.26 However it is considered on balance that the case for 'exceptional circumstances' has not been justified to an extent where this overrides the policy position on the protection of employment (B use class) uses in this case.

### **Design and Impact on the Streetscene**

#### **National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policy DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.27 The existing building is a two storey light industrial building with a brick and rendered appearance. No extensions and alterations to the building are proposed to enable the change of use.
- 4.28 The buildings on the industrial estate are a mix of modern and older post war units and are comparable in scale and appearance to application building. These are not judged to be of any particular style or design merit. It is not considered that the development would adversely impact the character and appearance of the Industrial estates and the proposal is considered to be acceptable and compliant with policy objectives in this respect.

### **Impact on Neighbouring Properties**

#### **National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.29 Policy DM1 of the Development Management DPD states that development should *"Protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight."*
- 4.30 Paragraph 17 of the National Planning Policy Framework seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.31 Policy KP2 of the Core Strategy seeks to secure improvements to the urban environment through quality design. Policy CP4 seeks to maintain and enhance the

amenities, appeal and character of residential areas.

- 4.32 Policy DM3 of the Development Management Document seeks to support sustainable development which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.
- 4.33 There are no residential properties close to the site. Immediately to the east, west and south are industrial premises and to the north are railway sidings. It is possible that the dance/theatre school may use amplified music in the classes however any assessment of the potential noise nuisance needs to be balanced against that which could arise from the existing lawful use as an industrial unit. As such it is considered that the proposed use would not result in a material increase in noise and disturbance when compared with the lawful use of the site, to such a degree as would warrant a refusal of planning permission. The impact on neighbours is considered to be acceptable in all regards.

### **Traffic and Transport Issues**

**National Planning Policy Framework, Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.34 Policy DM15 of the Development Management Document requires that all development should meet the off-street parking standards. For commercial development the standards are maximum standards.
- 4.35 The submitted plans show 10 parking spaces are proposed within the application site. 4 of these spaces will be located on the within the existing forecourt to the front of the site. To the side of the property is a wall and a set of gates and a further 6 car parking spaces would be provided behind the gates as tandem spaces along the shared boundary with No.40 Towerfield Road. The applicant has confirmed that the business currently employs the equivalent of 6 full time staff, there will be 5 studios at the site and potentially there could be 5 classes at any one time with the number of children in each class ranging from classes of 4 children up to class sizes of between 10 – 25 children, however this is dependent on the type of class being run. Classes run concurrently, with differing genres being taught in each studio and it is not unusual for children to attend two or more classes which follow on. The applicant has indicated that the facility is unlikely to run at full capacity i.e. 5 classes of 25 children running at the same time.
- 4.36 The Vehicle Parking Standards by Use Class is set out in the Development Management Document. There is not a definitive space standard for the proposed use however for a D1 (school) use the requirement would be 1 space per 15 students. With 5 studios a maximum of 25 children there would potentially be 125 children and a requirement of 9 spaces. For a D2 (Other) uses, the parking requirement would be 1 space per 20 square metres and the floorspace of the building is 133 square metres and therefore a requirement for 7 spaces. The application site would provide 10 parking spaces.

- 4.37 The Council's Highways Officer notes that the applicant has provided information relating to the type of activities that would be provided during the day which would not a significant impact on the surrounding area. From 3.30pm classes would be for school aged children which again would not have a detrimental impact upon the surrounding highway network as most of the other industrial sites close at approximately 5.30pm so pick up and drop off would not cause parking related issues within the surrounding area. The existing use and the proposal are comparable in traffic generation terms and due to the timings of classes this contrasts with the peak times for the industrial estate and therefore it is likely that there will be on street parking provision available in the surrounding area.
- 4.38 The Council's Highway Officer notes that a total of 10 car parking spaces have been provided of which, 6 have been provided to the side of the building. The turning area is only 5m in width and a width of 6m is usually required to allow vehicles to manoeuvre effectively. However if the applicant increased the parking bay sizes to 5.5m this would help when vehicles are using the parking bays. The applicant should be encouraged to provide secure cycle parking, alternative travel options and a Travel Plan. If the proposal were to be found to be acceptable it is considered that these items could be required by way of a condition.
- 4.39 It is therefore considered that the proposed provision of 10 spaces is sufficient to serve this development in this location and there are no highway objections to this proposal which is acceptable and policy compliant. The applicant

#### **Flood Risk**

#### **National Planning Policy Framework (2012), Core Strategy (2007) Policies KP1 and KP2**

- 4.40 Paragraph 103 of the NPPF states:

"When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- *Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
- *Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems."*

- 4.41 Policy KP1 of the Core Strategy in respect of flood risk states:

*"Where the Environment Agency's Flood Zone Maps or other considerations, including the South Essex Strategic Flood Risk Assessment, indicate that a risk of flooding may remain, all development proposals shall be accompanied by a detailed flood risk assessment appropriate to the scale and nature of the development and the risk. Development will only be permitted where that assessment clearly demonstrates that it is appropriate in terms of its type, siting and the mitigation measures proposed, using appropriate and sustainable flood risk*

*management options which safeguard the biodiversity importance of the foreshore and/or effective sustainable drainage measures.”*

- 4.42 Policy KP2 of the Core Strategy states that all new development should contribute to economic, social, physical and environmental regeneration in a sustainable way and this must be achieved in ways which apply a sequential approach to the location and siting of development, particularly having regard to the need to avoid or appropriately mitigate flood risk. Additionally new development should include appropriate measures in design, layout, operation and materials to avoid flood risk.
- 4.43 The application site is located within Flood Zone 2/3 and a flood risk assessment is normally required for developments in flood zone 2 or 3 including a change of use. The applicant has not submitted a flood risk assessment with this application. A change in use may involve an increase in flood risk if the vulnerability classification of the development is changed. In this instance the change of use from an industrial use to assembly/leisure will not increase the vulnerability classification of the development from ‘less’ to ‘more’ vulnerable.
- 4.44 Notwithstanding the absence of a flood risk assessment, the floor levels of the proposed development do not appear to be set any lower than existing levels. Details of the finished floor levels, flood proofing of the proposed development and a flood evacuation plan could be secured via a planning condition.

## **Community Infrastructure Levy**

### **CIL Charging Schedule 2015**

- 4.45 In this instance, CIL Regulation 42 (Exemption for Minor Development) applies as the development is only a commercial change of use and the proposal is therefore not CIL liable.

## **5 Conclusion**

- 5.1 The applicant has failed to demonstrate that there is no long term or reasonable prospect of the site being used for B class uses, and that the proposed use cannot reasonably be located elsewhere within the area that it serves. On this basis it is concluded that the use of the premises as proposed would undermine the employment growth area and the long term availability of employment-generating development in the Borough. On balance, there are found to be no material planning considerations of sufficient weight to outweigh the harm caused by this conflict with development plan policy. This is unacceptable and contrary to the National Planning Policy Framework, Policies KP1, KP2 and CP1 of the Core Strategy (2007) and Policies DM3 and DM11 of the Development Management Document (2015).

## **6 Planning Policy Summary**

- 6.1 National Planning Policy Framework (2012)
- 6.2 The Southend-on-Sea Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP1 (Employment Generating Development). CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance) CP6

(Community Infrastructure) CP7 (Sport, Recreation and Green Space)

- 6.3 The Southend-on-Sea Development Management Document (2015): Policies DM1 (Design Quality), DM3 (The Efficient and Effective Use of Land) DM10 (Employment Sectors) DM11 (Employment Areas) DM15 (Sustainable Transport Management)
- 6.4 Supplementary Planning Document 1: The Southend-on-Sea Design & Townscape Guide (2009)
- 6.6 CIL Charging Schedule 2015
- 6.7 Southend on Sea Employment Land Review May 2010

## **7 Representation Summary**

### **Transport & Highways**

- 7.1 There are no highway objections to this proposal. Highways note that the applicant provided information relating to the type of activities that would be provided during the day which would not a significant impact on the surrounding area. From 3.30pm classes would be for school aged children which again would not have a detrimental impact upon the surrounding highway network as most of the other industrial sites close at approximately 5.30pm so pick up and drop off would not cause parking related issues within the surrounding area. The existing use and the proposal are comparable in traffic generation terms and due to the timings of classes this contrasts with the peak times for the industrial estate and therefore it is likely that there will be on street parking provision available in the surrounding area.
- 7.2 A total of 10 car parking spaces have been provided and 6 have been provided to the side of the building. The turning area alongside the building is only 5m in width. An area of 6m is usually required to allow vehicles to manoeuvre effectively however if the applicant increased the parking bay sizes to 5.5m this would help when vehicles are using the parking bays. The applicant should also provide secure cycle parking, a travel plan and alternative travel options.

### **Environmental Protection**

- 7.3 No objection to the proposal. The site is located within the middle of an industrial estate and the nearest noise sensitive residential property is located approximately 118m away. Environmental Protection considered that it is unlikely that residential properties will be affected by noise in the form of amplified music from this site. There is a commercial premises that shares a party wall with the site. Noise and vibration may occur from activities within the premises. Therefore, the applicant's attention should be drawn to the informative below. Any issues will be considered under statutory nuisance provisions.
- 7.5 Environmental Protection notes that application does not state if any mechanical extraction, ventilation or air conditioning plant is required. If any plant is to be added it would need to be carefully located and designed in order to prevent causing nuisance. The internal arrangements within the premises may be changed and taking into consideration the age of the premises, the applicant's attention should be drawn to their duty to manage asbestos. Finally to avoid the occurrence

of nuisance from lighting, appropriate measures shall be taken.

- 7.5 Conditions relating to external lighting, construction hours and burning of waste during any demolition and construction have been suggested. Informatives relating to the duty to manage asbestos and noting that compliance with a decision notice would not bestow compliance with other regulatory frameworks have also been suggested.

### **Parks**

- 7.6 No comments received.

### **Public Consultation**

- 7.7 A site notice was posted and three neighbours have been notified. No responses have been received.
- 7.8 The application has been called in to Committee by Cllr Hadley.

## **8 Relevant Planning History**

- 8.1 No planning history for this site
- 8.2 It should be noted that the applicant was granted a personal permission dated 7th February 2018 for a similar proposal described as a change of use from light industrial (Class B1(c)) to dance and theatre school (Class D1), erect new entrance to front and single storey front and side extension at 1A Stock Road (Ref 17/01332/FUL). Aside from the actual location, both the approved scheme at Stock Road and proposal are both located on Industrial Estates. The key difference between two schemes appears to be that the approved Stock Road scheme would have 3 studios whereas the Towerfield Road application would have 5 studios.

## **9 Recommendation**

### **9.1 REFUSE PLANNING PERMISSION for the following reasons:**

**01 The applicant has failed to demonstrate that there is no long term or reasonable prospect of the site being used for B class uses, and that the proposed use cannot reasonably be located elsewhere within the area that it serves. On this basis it is concluded that the use of the premises as proposed would undermine an employment growth area and the long term availability of employment-generating development in the Borough. There are found to be no material planning considerations of sufficient weight to outweigh the harm caused by this conflict with development plan policy. This is unacceptable and contrary to the National Planning Policy Framework, Policies KP1, KP2 and CP1 of the Core Strategy (2007) and Policies DM3 and DM11 of the Development Management Document (2015).**

**The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the**

proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application and therefore, the proposal is not considered to be sustainable development. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future.

#### **Informatives**

01 You are advised that as the proposed development at your property benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil) for further details about CIL.

