

Reference:	21/01374/FUL	
Application Type:	Full Application	
Ward:	Leigh	
Proposal:	Change of Use from storage unit (Class B8) to personal training studio (Class E) (retrospective)	
Address:	Unit 2 Leighcliff Building Leigh Cliff Road Leigh-on-sea Essex SS9 1PR	
Applicant:	Mrs Strickland of Renegade Fitness & Strength Ltd	
Agent:	Mr Fardell of More Space Architecture Ltd	
Consultation Expiry:	01.11.2021	
Expiry Date:	02.12.2021	
Case Officer:	Janine Rowley	
Plan Nos:	200; 201; 202	
Supporting Documents:	Supporting information in relation to employment and parking, Noise Assessment	
Recommendation:	GRANT PLANNING PERMISSION subject to conditions	

1 Site and Surroundings

- 1.1 The application relates to unit 2 on the eastern ground floor of this two storey 1930s Leighcliff Buildings complex on the corner of Leigh Cliff Road and Maple Avenue. The applicant confirms that the unit has been in use as a gym from 2020.
- 1.2 The application unit is bounded by other units in the Leighcliff Buildings complex, which is a mix of industrial, yoga studio and a dance studio plus an adjacent vehicle/ MoT garage. The surrounding area including Leigh Cliff Road to the east and Maple Avenue to the north, is characterised by two storey dwellings. The site is within close walking distance of Leigh Road and Broadway and there are double yellow lines and parking permit only areas in the site's vicinity.
- 1.3 The application site has no specific allocation on the Development Management Document's Proposals Map. The site is not located within Flood Zone 2 or 3.

2 The Proposal

- 2.1 This retrospectively submitted application seeks to regularise the change of use from storage (Class B8) to the current gym/ personal training use (Class E).
- 2.2 The applicant states that the gym is to operate only on the basis of providing personal and group training sessions with a combined maximum of four staff and clients permitted at any one time. The applicant states that the majority of the time there will be 1 trainer and 1 client in the studio, but the potential maximum is 2 trainers and 2 clients at any one time, so 4 people total.
- 2.3 Equipment provided includes aerobic equipment and free weights. There are no changing facilities on site. Opening times for this application are stated as Monday – Saturday 07:00 - 21:00 and at no times on Sundays and Bank Holidays.
- 2.4 No external alterations have been carried out as part of the development.
- 2.5 The application, which has been submitted following planning enforcement enquiries is submitted with a supporting Planning Statement.
- 2.6 The application has been called into Development Control Committee by Councillor Thompson.

3 Relevant Planning History

- 3.1 85/1267- Re-site external staircase - Granted
- 3.2 92/0039- Demolish industrial buildings and erect a part 2/3 storey block of 14 flats form new vehicular access to Maple Avenue and lay out parking spaces at the rear- Granted, not implemented.
- 3.3 06/01273/FUL-Use vacant unit for class D2 purposes (assembly and leisure) - Granted.
- 3.4 12/00172/FUL- Demolish existing building (B8 Storage and Distribution) and erect 2 dwellinghouses- Granted.

4 Representation Summary

Public Consultation

- 4.1 49 neighbouring properties were notified and a site notice was posted. Four letters of objection (two have been received from the same address), and five letters of support have been received. During the course of the application a re-consultation has been carried out to reflect correction of the publicised address. One additional letter of objection has been received and accounted for below:
- 4.2 The objections are summarised as follows:
- Impacts on parking in an area already suffering from parking stress;
 - Impacts of noise on amenities of neighbouring occupiers within dwellings;
 - There is already a dance studio and yoga studio with no parking;
 - People could gain fitness from walking rather than attending a studio;
- 4.3 The support letters are summarised as follows:
- Benefits the community
 - Brings back a dilapidated use
 - The use is a small business and should be supported offering a service for local people;
 - This locally owned type of businesses benefits the local community;
- 4.4 The points of objection raised are noted and where relevant to material planning considerations they have been taken into account in the assessment of the application but are not found to justify refusing planning permission in the circumstances of this case.

Essex Fire Service

- 4.5 No objections, subject to informatives relating to water supplies for firefighting and sprinkler systems.

Environmental Health

- 4.6 No objections subject to conditions relating to noise control, refuse and recycling and external illumination to mitigate against impact on the amenities of nearby residents. Those conditions suggested by Environmental Health which are considered to satisfy the tests for planning conditions are reflected in the recommendation at Section 9 of this report.

Highways

- 4.7 No objections given the sustainable location of the site.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Planning Practice Guidance and National Design Guide (2019)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP6 (Community Infrastructure) and CP7 (Sport, Recreation and Green Space)

5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM10 (Employment Sectors), DM11 (Employment Areas), and DM15 (Sustainable Transport Management)

5.5 Design & Townscape Guide (2009)

5.6 CIL Charging Schedule (2015)

6 Planning Considerations

6.1 The main considerations in relation to this application are the principle of the development, design and impact on character of the area, impact on residential amenity, traffic and transportation issues and CIL.

7 Appraisal

Principle of Development

7.1 The existing site is not located within an area designated by the Development Management Document.

7.2 Policy DM11 states that proposals for employment generating uses outside the Borough's designated Employment Areas will be allowed where they do not impact on the amenity of the surrounding uses and do not conflict with other development plan policies. Outside the Employment Areas proposals for alternative uses on sites used (or last used) for employment purposes, including sites for sui-generis uses of an employment nature, will only be permitted where it can be demonstrated that: (i) it will no longer be effective or viable to accommodate the continued use of the site for employment purposes or (ii) Use of the site for B2 or B8 purposes gives rise to unacceptable environmental problems. It will need to be demonstrated that an alternative use or mix of uses will give greater potential benefits to the community and environment than continued employment use.

7.3 No evidence has been provided by the applicant on marketing or suitability of the building for its on-going established use. However, the applicant has confirmed the unit was formerly a storage area to serve Bookmarcus limited in unit 5 but the unit was then split to enable that previous business to downsize and it became an unused area and in a dilapidated state.

7.4 The above is not considered to be conclusive evidence that there is no demand for a B8 storage area, and the failure to provide a market analysis is a negative aspect of the application. On the other hand, the qualities and circumstance of the premises of the site, including the unit's small size of 50sqm and other similar uses on site including a dance and yoga studio, are such that the unit is not reasonably considered to lend itself to use for a modern storage and distribution (class B8) purposes. Use as a gym has retained a degree of employment on the site.

7.5 The information submitted by the applicant identify public benefits associated with the development. These would be consistent with the objectives of Core Strategy Policies CP6 and CP7, supporting health and well-being within the community. The site is readily accessible being situated in close proximity to a bus route and within walking distance of the local centre Leigh.

- 7.6 Taking account of all the above considerations the development is, on balance, acceptable in principle.

Design and Impact on the Character of the Area

- 7.7 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 7.8 The Design and Townscape Guide also states that “*the Borough Council is committed to good design and will seek to create attractive, high-quality living environments*” and that “*proposed development [should] make a positive contribution to the local area*”.
- 7.9 No external alterations have taken place in association with the development.
- 7.10 No details of external plant or equipment have been provided as part of the application. Such equipment would likely be functional in appearance. Given the positive qualities of this 1930s building, but also the space generally available within its curtilage, it is considered that this matter can be reasonably dealt with through a condition of planning permission. Subject to this the proposal is considered to be acceptable and policy compliant in the above regards.

Impact on Residential Amenity

- 7.11 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities “*having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.*”
- 7.12 This corner building complex as a whole is adjoined by residential properties in Leigh Cliff Road and Maple Avenue. The lawful storage use of the application unit, which does not directly adjoin any dwellings, had potential to generate a degree of noise and activity during typical business hours of operation. No record has been identified of any planning condition restricting hours of operation for that B8 use.
- 7.13 An existing yoga studio ‘Shambala’ in unit 11 has opening hours 07:00 to 23:00 Monday to Sunday approved under planning permission 06/01273/FUL. The current opening hours of the development subject of this application are 07:00 to 21:00 Monday to Saturday with no opening on Sundays. The noise assessment represented within the Noise Consultant’s Technical letter submitted in support of the application was based on proposed opening hours of 07:00 to 21:00 Monday to Saturdays. This assessment demonstrates that the development, with those specific operating times, would not significantly harm the amenity or living conditions of adjoining and nearby residents, subject to mitigation measures which can be controlled by condition.
- 7.14 The Council’s Environmental Health Service has raised no objection based on the methodology and findings of the noise assessment represented within the Technical letter, noting for example that the survey information states that the activity is inaudible outside of the premises. Comings and goings to and from the premises by staff and clients are limited in number and scale being constrained by the unit size and are not considered

to cause any significant harm to residential amenity in any relevant regard.

- 7.15 Subject to conditions the development and its proposed operating hours, with no Sunday Bank or Public Holiday operation, are acceptable and policy compliant in the above regards.

Traffic and Transportation Issues

- 7.16 Policy CP3 of the Core Strategy and Policy DM15 of the Development Management Document aim to improve road safety, quality of life and equality of access for all. Policy DM15 of the Development Management Document expresses parking provision as a maximum one space per 10sqm of floor area for this type of use which equates to a maximum of 5 spaces.
- 7.17 No provision is shown for off-street parking spaces for staff or clients of the development and on street parking is limited and partly restricted in the site's vicinity. The site is in a sustainable location having regard to public transportation, walkability and linked trips with existing shops and services, and proximity to residential areas.
- 7.18 No details of refuse storage or collection or cycle provision have been provided for the development. The unit is limited in size and has no external domain of its own. The applicant has confirmed there is a communal refuse storage. Given the size and nature of the use involving low capacity one to one training, which can be restricted by condition, it is considered in this instance that a waste management scheme and cycle provision internal to the unit would be an acceptably proportionate response to policy requirements.
- 7.19 Subject to conditions, the development is considered acceptable and policy-compliant with regard to parking, highway safety and transport matters.

Community Infrastructure Levy (CIL)

- 7.20 The development is a commercial change of use with no increase in floor space. It is therefore not CIL liable as it benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the development with operating hours restricted to Monday to Saturday inclusive is acceptable and compliant with the objectives of the relevant development plan policies and guidance. The development acceptably maintains the character and appearance of the site, street scene and the locality more widely. It would have public benefits associated employment and health and well-being to be weighed in the balance. The amenities of neighbouring occupiers would not be significantly harmed subject to measures controllable by planning conditions. There are no significantly adverse traffic, parking or highways impacts. The application is recommended for approval.

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

- 01. The development shall be retained in accordance with the following approved plans: 200; 201; 202.**

Reason: To ensure that the development is in accordance with the provisions of the Development Plan.

- 02. The use hereby approved shall not be open for customers outside the following hours: Monday – Saturday 07:00 - 21:00. There shall be no opening on Sundays, Bank or Public Holidays.**

Reason: To protect the environment of people in neighbouring properties in accordance with the National Planning Policy Framework (2021), 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).

- 03. There shall be no more than four people on site including staff and customers at any one time.**

Reason: To protect the environment of people in neighbouring properties in accordance with the National Planning Policy Framework (2021), 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).

- 04. Within three months of the date of this permission, mitigation measures set out within the findings and recommendations of the Technical letter of dB Consultation Limited dated 10 September 2021 shall be implemented at the site in full and thereafter be retained for the lifetime of the development. If the mitigation measures set out within the findings and recommendations of the Technical letter of dB Consultation Limited dated 10 September 2021 are not implemented within 3 months of the date of this permission the use of the site as a gym shall cease until they are implemented in full. No amplified music shall be played at the premises before 0800 hours, windows shall not be opened at the premises prior to 0800 hours and after 2000 hours, and no amplified speech shall be used at the site at any time.**

Reason: To safeguard the amenities of the neighbouring properties in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015).

- 05. Prior to installation of any external air conditioning units or equipment, at the premises specifically subject of this permission, details of their specification, position and appearance and any noise and vibration mitigation measures to be used shall be submitted to and agreed in writing by the Local Planning Authority. The air conditioning units or equipment shall be implemented in accordance with the details approved under this condition before they are brought into use and shall be retained as such in**

perpetuity thereafter. The noise arising from any external air conditioning units or equipment shall be at least 10dB below the background noise level as measured at 1m from the façade of the nearest noise sensitive property.

Reason: In the interests of visual amenity and neighbour amenities further to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the Design and Townscape Guide (2009).

06. Within three months of the date of this permission, details of secure cycle storage internal to the unit, together with a timetable for its implementation, shall have been submitted in writing to the Local Planning Authority for agreement. The approved cycle storage arrangement shall be implemented at the site and made available for use by staff and/or customers within 1 month of the agreement being given by the Local Planning Authority and in accordance with the agreed details and shall be retained for the lifetime of the development thereafter. If secure cycle storage has not be implemented at the site in full accordance with details approved under this condition within 4 months of the date of this permission the use of the site as a gym shall cease until such times as cycle storage has been implemented at the site in full accordance with details approved under this condition.

Reason: In the interests of accessibility further to the National Planning Policy Framework (2021), Policies KP2, CP3 and CP4 of the Southend-on-Sea Core Strategy (2007), and Policy DM15 of the Southend-on-Sea Development Management Document (2015).

07. Within three months of the date of this permission, details of a waste management scheme, together with a timetable for its implementation, shall have been submitted in writing to the Local Planning Authority for agreement. The waste management scheme shall be provided in accordance with the approved details and made available for use by staff and customers of the premises within 1 month of agreement of the details being given by the Local Planning Authority and shall be retained for the lifetime of the development thereafter. If waste management has not be implemented at the site in full accordance with details approved under this condition within 4 months of the date of this permission the use of the site as a gym shall cease until such times as waste management has been implemented at the site in full accordance with details approved under this condition.

Reason: In the interests of neighbour amenities further to the National Planning Policy Framework (2021), Policies KP2, CP3 and CP4 of the Southend-on-Sea Core Strategy (2007), and Policy DM15 of the Southend-on-Sea Development Management Document (2015).

08. The use of the site shall be solely as a gymnasium and personal training facility and not for any other purposes including any other use within Use Classes E, as defined under the Town and Country Planning (Use Classes) Order 1987 (as amended), nor any change of use permitted under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or in any provisions equivalent to those Classes in any statutory

instrument revoking and re-enacting these Orders.

Reason: To determine the scope of the permission in the interest of the character of the area and because alternative uses within Class E could have material different and potentially adverse impacts on residential amenity, parking, cycle parking and waste. This is in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP1, Development Management Document (2015) and Policies DM1, DM3 and DM15.

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

10 Informatives:

- 1 The proposal is a commercial change of use creating no new floor space and is not CIL liable.**
- 2 There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.**
- 3 The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular, your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and the noise provisions within the Control of Pollution Act 1974. Applicants should contact the Council's Regulatory Services Officer in Environmental Protection for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ER'.**
- 4 The applicant is also reminded that this permission is separate to the need to comply with Food Safety and Health & Safety at Work laws. These will include the Food Safety Act 1990 (as amended), the Food Hygiene (England) Regulations 2013, Regulation (EC) 852/2004 and the Health and Safety at Work Etc. Act 1974. Applicants should contact the Council's Regulatory Services Officer for Food and Health and Safety for more advice on 01702 215005 or at Regulatory Services,**

**Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2
6ER.**