

5f 3/12/0256/FP – Change of use from Industrial (B1/B8) to Leisure (D2) for family entertainment centre to accommodate a childrens soft play venue at 10 Haslemere Industrial Estate, Pig Lane, Bishop’s Stortford, CM23 3HG for Mr J Fothergill

Date of Receipt: 15.02.2012

Type: Full - Minor

Parish: BISHOP’S STORTFORD

Ward: BISHOP’S STORTFORD - SOUTH

RECOMMENDATION:

That planning permission be **GRANTED** subject to the following conditions:

1. The use hereby permitted shall cease on or before five years of the date this decision.

Reason: The development is a temporary expedient only having regard to the amenities of the area.

2. The building shall be used as a childrens activity centre and for no other purposes including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987.

Reason: To ensure that no alternative use is made of the premises which would be likely to be a nuisance or annoyance to the occupants of adjoining premises.

3. The use of the premises shall be restricted to the hours 09:00 – 19:00 Monday to Sunday.

Reason: In the interests of the amenities of the occupants of nearby properties

4. Prior to the commencement of development details of the insulation of the building against the transmission of noise and vibration shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out in accordance with the approved details.

Reason: In order to ensure an adequate level of amenity for residents in the nearby neighbouring dwellings in accordance with policies ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007.

5. Approved Plans (2E10)

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Insert Location Plan, Location Plan 01, Block Plan.

Directive:

1. Other Legislation (01OL)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the 'saved' policies of the East Herts Local Plan Second Review April 2007), and in particular policies SD2, EDE1, BIS9, ENV1, ENV24, TR7 and the National Planning Policy Framework. The balance of the considerations having regard to those policies and the grant of permission at no. 2 Haslemere Industrial Estate (ref. 3/11/1592/FP) is that permission should be granted.

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1.0 Background:

- 1.1 The site is located within the built up area of Bishop's Stortford as shown in the OS extract.
- 1.2 Haslemere industrial estate is sited just off Pig Lane, with a residential development to the west known as 'Proctors Way' and the main railway line to the east. The site is one of a number of warehouse units of some varying size and scale, with the larger units to the north. The general design is as one would expect within an industrial site, with corrugated roofing, light brown bricked plinths and large access doors. Some landscape screening is provided between the site and Proctors Way creating an approximate 4 metre 'buffer zone'.
- 1.3 The application seeks permission for a change of use from office (use class B1) to a family entertainment centre – a children's soft play centre (use class D2). An indicative internal layout submitted with the application shows soft play areas for use by different age groups, 2 party rooms, a disco room), a kitchen and areas for seating. The applicant confirms that the disco room would constitute only a glitter ball and radio playing nursery rhymes. The information submitted with the application indicates that the development would generate employment for some 13 people

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2.0 Site History:

- 2.1 Planning Permission for the industrial units was originally granted within application 3/74/1019/FP.

3.0 Consultation Responses:

- 3.1 Environmental Health comments that they do not wish to restrict the grant of planning permission.
- 3.2 Hertfordshire County Highways comment that they do not wish to restrict the grant of planning permission. The Highways Officer comments that the site is located within a private commercial estate. Whilst the proposal does have the potential to increase overall vehicle movements when compared against the permitted use, those vehicle movements would, for the most part, be outside of peak hours and the number of trips by heavy goods vehicles would be significantly reduced, if not eliminated. Traffic generation does not therefore give rise to capacity or safety concerns on the public highway network and there are no grounds for the Highway Authority to object to the proposal.

The applicant has undertaken a parking comparison study which indicates that the use will generate a demand for a maximum of 24 spaces. The Highways Officer acknowledges that there are a number of communal parking spaces and a significant number of other available spaces due to the existing units on the site being un-occupied. However, the Highways Officer does comment that the proposed development can only guarantee 12 parking spaces – 50% of the likely maximum.

The Highways Officer also comments that in terms of pedestrian safety, there is no pedestrian access to the site within the confines of the estate. Any pedestrians visiting the site will be in direct conflict with the general industrial traffic associated with the development.

4.0 Town Council Representations:

- 4.1 Bishop's Stortford Town Council do not object to the application but comment that there are concerns in respect of the availability of parking space.

5.0 Other Representations:

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification. Three letters of representation have been

received which can be summarised as follows:

- Impact on neighbour amenity in terms of noise and general disturbance;
- The development will involve changes to the original permission in terms of hours of operations;
- Impact on pedestrian safety.

6.0 Policy:

6.1 The relevant 'saved' Local Plan policies in relation to this application include the following:

- EDE 1 (Employment areas)
- BIS9 (Employment areas)
- ENV1 (Design and environmental quality)
- TR7 (Car parking standards)
- ENV24 (Noise Generating Development)

6.2 In addition the National Planning Policy Framework is of relevance to the consideration of the application.

7.0 Considerations:

7.1 The planning considerations relating to this application are as follows:-

- The principle of development;
- The impact on highway safety;
- Parking provision;
- Neighbour amenity considerations.

The principle of development

7.2 The application site is identified as an employment area, and policy EDE1 of the Local Plan states that these areas are reserved for industry, comprising Use Classes B1 (Business), B2 (General Industrial) and, where well related to the transport network, Class B8 (Storage or Distribution). The application seeks permission to use unit 10 Haslemere Industrial Estate for a use which falls within Class D2 of the Use Classes Order. This use is contrary to policy EDE1 and BIS9 of the Local Plan.

7.3 The Council has undertaken an Employment Land and Policy Review, which was undertaken with the primary objective of assessing the supply and demand for employment land and premises in East Herts over the

period to 2021. This study will form part of the evidence base for the Council's emerging Local Development Framework (LDF) and will inform the Council's preferred options for its Core Strategy, to assist in the formulation of policies for new employment land development in the emerging LDF and provide background information to assist the determination of planning applications for such developments in the future.

- 7.4 The Review assessed the existing supply of employment land (in the first half of 2008), and in terms of future land requirements, examined a range of potential employment growth scenarios. The Review concluded that the overall additional need for employment land between 2008 and 2021 is projected to be between 2 and 5 hectares, although this could rise to 7-10 hectares if existing employment sites are lost. In particular the Study identified that within Bishop's Stortford, due to strong demand and low vacancy rates, in combination with the scarcity of supply, there is good reason for employment sites to be safeguarded. As indicated, that review was undertaken in 2008. It is considered that there will have been some changes in circumstances since that time but that some considerable weight should still be assigned to that need.
- 7.5 The National Planning Policy Framework (NPPF) also provides some advice to Local Authorities in the consideration of such matters. 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 regard to market signals and the relative need for different land uses to support sustainable local communities."
- 7.6 The Government's position as set out in the NPPF is a move towards regularly reviewing the designation of employment land and reviewing its protection where there is no *reasonable* prospect of the site being used for that purpose.
- 7.7 To support that position, the applicant has provided information relating to a marketing exercise, a need assessment for this type of development, a sequential test showing that there are no more preferable sites suitable for the use proposed, information relating to the potential employment generation associated with the development and the benefits to the health and growth of children.
- 7.8 With regards to marketing information – the applicant provides

information from a local estate agent, who specialises in the sale of commercial buildings. That information demonstrates that the premises were marketed in September 2010. The premises were subject to a full marketing campaign including brochures, specific occupier mail shots, Bishop's Stortford Observer, and advertising in numerous commercial property websites. The property has been continuously marketed from September 2010 until the present date – a period of around 18 months.

- 7.9 The applicant has also provided further information demonstrating that there is a qualitative need for the specific use proposed in this application. That view is based on an assessment of whether there are any other similar types of uses in the immediate and wider locality and a questionnaire undertaken by the applicant of the local population.
- 7.10 With regards to the sequential assessment, the applicant sets out that the constraints of this type of development are based on the height of the building required for the use (required for the play apparatus). The applicant sets out that there are no more preferable sites closer to the town centre than that at Haslemere Industrial Estate. Whilst this point is acknowledged, the NPPF sets out that when assessing applications for leisure development outside of town centres, which are not in accordance with an up to date Local Plan, local planning authorities should require an impact assessment if the development is over a threshold of 2,500 sqm. This application does not exceed that threshold and therefore the sequential assessment is not required in this case.
- 7.11 The applicant sets out that the business provides a beneficial community and sports related use which is considered to promote the health and well being and confidence in children. Such an approach is generally considered to be consistent with the Governments objectives in Planning Policy Guidance 17 – 'Planning for Open Space, Sport and Recreation'. That guidance is now deleted and replaced with the NPPF.
- 7.12 Members may recall that a similar development proposal has recently been granted at unit 2 Haslemere Industrial Estate (LPA reference 3/11/1592/FP – gymnasium use, class D2). In that case the permission enabled another employment unit to be released to the market, it relocated from a unit in London Road which was within a designated employment area). In that case, it was considered appropriate to restrict the use of the building and impose a five year time limit. Those conditions were considered to be necessary having regard to the specific justification relating to the use and the need to review the use of the building to ensure sufficient Employment Land is available.
- 7.13 The impact of the use on the long term general supply of employment

land/buildings should, in Officers opinion be able to be reviewed in the future. Taking into account those considerations and the temporary permission attached to a similar development at Unit 2, Officers consider that the use of the building for a children's play centre is only acceptable if the use is restricted to the specific use proposed and a time limit is attached restricting the use of the building to five years. For the reasons set out above such conditions are necessary and reasonable, in this case and would allow the impact on employment land supply to be reviewed.

- 7.14 Having regard therefore to the above considerations, Officers consider that circumstances exist in this case to warrant a departure from policy. It has been demonstrated through the submission of marketing information that unsuccessful attempts have been made to let the premises for B1 or B8 purposes. The NPPF states that planning policies should avoid the long terms protection of sites allocated for employment use where there is no reasonable prospect of the site being used for that purpose. Given that the proposals generate a level of employment and that the use does not result in the irrevocable loss of the unit it is considered that these matters, in combination, are sufficient to weight against the conclusions of the 2008 Employment Land Study.

Highway safety/parking

- 7.15 The Highways Officer has commented that the use of the unit as proposed will result in a reduction of large vehicles movements associated with the site and there are therefore no grounds to object to the application. In accordance with that advice, Officers are of the opinion that the development proposal is acceptable in terms of highway safety matters.
- 7.16 With regards to parking matters, regard should be had to policy TR7 and appendix II of the Local Plan. Appendix II of the Local Plan sets out that development which involves places of entertainment (which Officers consider reflects the proposed development) should be decided on its own individual merits.
- 7.17 As noted by the Highways Officer, the applicant has undertaken a parking review of similar types of development which shows that the proposed development is likely to require in the region of 24 parking spaces.
- 7.18 The Highways Officers comments that of those 24 spaces, only 12 can be guaranteed by this development proposal, as the red outline of the application only includes a relatively small area to the front of the building

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wherein there is space for around 12 vehicles.

- 7.19 Within the application form and planning statement, the applicant sets out that there are in the region of 52 spaces which would comfortably accommodate the proposed development, in terms of parking. However, the vast majority of those spaces are communal areas of parking located to the west of the application site.
- 7.20 Currently, a number of the units within Haslemere Industrial Estate are not occupied and pressure for the parking spaces associated with those units is fairly limited. Of course, should those units start to become occupied this may impact on the availability of parking for the proposed development.
- 7.21 Whilst Officers are mindful of this and the comments from the Town Council, on balance, Officers are of the opinion that the provision of 12 dedicated parking spaces and the access to communal parking in the immediate locality of the application site will provide sufficient parking for the proposed development, in this case.
- 7.22 The Highways Officer also raises concerns with regards to the lack of pedestrian access directly to the application site. Unlike Unit 2 Haslemere Industrial Estate which has permission for a children's gym, Unit 10 is located further into the industrial estate and there may be a conflict between pedestrian movement and traffic associated with the industrial estate. Officers acknowledge that potential conflict and understand that the siting of the unit may well mean that access into the site is likely to focus on the use of private vehicles. This is not an ideal situation and does not present a particularly sustainable solution. However, it is not considered that such weight should be assigned to this issue that it outweighs the other favourable considerations.

Neighbour amenity

- 7.23 The existing use of the building and adjoining buildings is generally within the use class 'B' classifications which, by their very nature, are likely to result in some levels of noise. A B2 use has previously been granted at appeal at Unit 2 Haslemere Industrial Estate. That particular unit has, as noted above, more recently been granted planning permission for a D2 use and no objections were raised by the Council with regards to the impact of that particular application in terms of neighbour amenity.
- 7.24 Officers note the comments from third parties, who raise concern with the potential impact on neighbour amenity in terms of noise and general

disturbance. Those letters comment that the buildings fabric, proximity to neighbours and the provision of music within the building (the 'disco') is such that the development proposal will result in harm to neighbour amenity. The third parties also refer to the historical context of the site and the time limits that were placed on the use of the buildings to protect neighbour amenity.

- 7.25 The applicant has commented on those letters of objections, setting out that the 'disco' as shown on the plans attached with the application is not an integral part of the design and is in no way intended to convey the activities associated with a "discotheque". As outlined earlier in this report, the applicant comments that the disco would be a low key use suitable for young children and would generally constitute music related to childrens nursery rhymes.
- 7.26 The applicant further comments that the proposed development should be considered in the context and allocation of the site – it does not involve the provision of any plant or machinery operating. Furthermore, the applicant has set out that the building will need to be insulated to retain heat and will contain soft furnishings which will attenuate any noise breakout. This, the applicant comments, will provide for a more insulated building than others within the estate.
- 7.27 The comments from the applicant are acknowledged, in particular the comments relating to the insulation of the building. No detailed information has been submitted in respect of noise insulation of the building. To ensure the appropriateness of that insulation and, given the concerns from third parties, it is considered that any impact on neighbour amenity could be adequately controlled through the provision of a planning condition. Subject to that condition, Officers consider that the proposed development will not result in significant harm to neighbour amenity in terms of noise and disturbance to warrant refusal of planning permission.

8.0 Conclusion:

- 8.1 Having regard to the above considerations, Officers opinion is that the provision of a D2 use on this site is justified in this case. The National Planning Policy Framework calls upon the Local Authority to take a flexible approach in dealing with employment land. The applicant has provided further information to show that there is a potential demand for this type of use, that despite marketing of the site, that no other 'B' classification users of the site have come forward and, in any event the proposed development will provide employment generation for around 13 people.

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- 8.2 The proposed development provides for an acceptable level of parking provision and is not considered to result in significant harm to highway safety or neighbour amenity. Officers therefore recommend that planning permission is granted.