



**Report Reference Number 2018/0541/COU**

**Agenda Item No: 6.6**

**To: Planning Committee**  
**Date: 5 September 2018**  
**Author: James Broadhead (Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2018/0541/COU	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Chuldow Martial Arts Sherburn	VALID DATE: EXPIRY DATE:	15th May 2018 10th July 2018
PROPOSAL:	Proposed change of use from B1 (light industrial) to D2 (leisure)		
LOCATION:	Unit 4, Swordfish Way, Sherburn In Elmet, North Yorkshire, LS25 6NG		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approving the application.

## 1. INTRODUCTION AND BACKGROUND

### The Site and Context

- 1.1 The application site is one of a terrace of existing industrial units in the centre of Sherburn in Elmet Industrial Estate, and is surrounded largely by light industrial units.

- 1.2 The existing unit is served from a cul-de-sac, Swordfish Way, which is off Aviation Road, which is itself at the southern exit of a roundabout off Bishopdyke Road.

### **The proposal**

- 1.3 The proposal is for the change of use of the existing 457m<sup>2</sup> B1 (Light Industrial) unit to a Class D2 (Assembly and Leisure) use (i.e. a Fitness and Martial Arts Centre). There are no external alterations proposed as part of the application.
- 1.4 The applicants have advised that they intend to run classes between 5:30pm to 8:30 pm on Monday and Wednesday and 5:30pm to 7pm on Friday, with the application form noting operating hours of Monday - Friday, 4:45pm to 9pm.
- 1.5 As part of the application the Applicants have provided confirmation in the form of an email from the Managing Director of an adjacent unit to the west (D3 Office) that students visiting the Martial Arts Centre can use their 9 parking spaces from 5:30pm onwards on weekdays and anytime at weekends subject to no liability being taken for the parked vehicles and limitation on parking not effectively restricting access to their unit. As such this is intended to provide parking for those attending the classes however this is an informal arrangement and on land outside the application site.

### **Relevant Planning History**

- 1.6 Permission for the application site was granted in November 1992 on the 03.11.1992 under Application reference CO/1992/1012 for the erection of seven industrial units and associated car parking at which is now known as "Swordfish Way". This consent includes a series of conditions related to the timescale on the consent, the landscaping of the site, the highways visibility, and the parking and turning provision. There are no restrictions on the hours of operation of the units.
- 1.7 There are no other applications specific to this Unit (Unit 4) or to any of the adjacent units since the initial consent was granted in 1992.

## **2. CONSULTATION AND PUBLICITY**

### **2.1 Sherburn in Elmet Parish Council**

The Parish Council object on the following grounds:

- its use for leisure purposes with children in close proximity to industrial units could lead to highway safety issues.
- very limited parking available in the area
- would also mean that it is no longer available as a starter industrial unit, which we understood to be the intention of these buildings.

### **2.2 North Yorkshire County Council Highways**

No objection.

### **2.3 Selby Area Internal Drainage Board**

No objection.

#### 2.4 **Selby District Council Environmental Health**

Members will be advised of the position of the Council's Environmental Health Officers at the Committee.

#### 2.5 **Selby District Council Planning Policy**

Confirmed that the application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP), the 2013 Selby District Core Strategy (CS) and the National Planning Policy Framework (NPPF), noting that the key issues which should be addressed are the relationship to the Spatial Development Strategy in the Core Strategy and the retention of established employment areas noting the key policies of SP2 of the Core Strategy, and EMP4 of the Selby District Local Plan.

They have noted that the application site is located on an industrial estate which is allocated as an "Established Employment Area" in the Selby District Local Plan. The proposal is to change the use of a building which was formerly used for B uses to a D use. Saved SDLP policy EMP4 relates to the retention of established employment areas and states that development proposals which would result in the loss of industrial / business floorspace in these defined areas will not be permitted unless:

1. Significant environmental, highway or community benefits would be achieved; or
2. The development would overcome or alleviate significant environmental or amenity problems; or
3. The supply of industrial / business land and premises is sufficient to meet the requirements over the plan period; or
4. Evidence can be provided that no suitable industrial / business occupiers can be found.

Further they noted the ~"The 2015-16 & 2016-17 Authority Monitoring Report shows that the amount of completed employment development and the existing supply of employment land in Sherburn is more than sufficient to meet the 5 to 10 hectare requirement for Sherburn in Elmet, as stated in Core Strategy policy SP13, it is not considered necessary. This weighs in favour of the proposal, however the applicant should still submit evidence that no suitable industrial / business occupiers can be found at this location, including the evidence of marketing activity".

#### 2.6 **Neighbour Consultation**

All immediate neighbours have been informed by letter and a site notice has been erected. Five letters of objection were received from surrounding industrial unit occupants which are summarised below:

- Concerns surrounding parking which is already at maximum capacity and is an issue on the street. Delivery vehicles struggle to find space to load and unload at various premises. An increase in vehicles parking in the area will exacerbate this and also bring a potential risk to the safety of the children attending classes at the unit.
- General concerns that the proposal to run classes from the premise will affect how the surrounding units conduct their daily business.

### **3. SITE CONSTRAINTS AND POLICY CONTEXT**

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".
- 3.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 3.3 The site is within an existing Class B1 (and B2 and B8) Industrial Estate outside the development limits of the settlement of Sherburn in Elmet and is allocated as an 'Established Employment Area' (EEA) to which Selby District Local Plan as such Policy EMP4 of the Local Plan applies.
- 3.4 Policy EMP4 would presume against the loss of existing business floorspace within established areas unless significant environmental, highway or community benefits can be achieved; or the development would alleviate problems; or the supply of industrial floorspace is sufficient to meet plan period requirements or that no suitable business occupier can be found.

#### **Selby District Core Strategy Local Plan**

- 3.5 The principal Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP13 – Scale and distribution of Economic Growth

- 3.6 Policy SP1 is the presumption in favour of sustainable development from the NPPF and Policy SP2 (a) would support future employment....commercial and leisure growth.
- 3.7 SP13 and its commentary would support sustainable development which brings economic growth through developing and revitalising the local economy. The commentary states that, in Sherburn in Elmet, there has been significant employment growth in manufacturing and distribution sectors and that there are opportunities to modernise and upgrade existing employment floorspace through the renewal and refurbishment of older premises (para 6.23). Subs B 2 of Policy SP13 would safeguard EEAs unless there is no reasonable prospect of it being used as such. Subs D continues, 'In all cases development is to be appropriate in scale and type for its location, not harm character and seek a good standard of amenity'.

#### **Selby District Local Plan**

- 3.8 The relevant Selby District Local Plan (SDLP) policies are:

ENV1 - Control of Development  
EMP 4 – Retention of Established Employment Areas

T1 - Development in Relation to the Highway Network  
T2 - Access to Roads

- 3.9 EMP4 is a saved policy and there is an assumption that non industrial uses will be precluded from this allocated employment use and that the loss would be resisted unless amongst other things there are community benefits or evidence that no industrial occupier can be found.

**National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

- 3.10 The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2018 NPPF.

**4. APPRAISAL**

- 4.1 The main issues to be taken into account when assessing this application are:

- Impact on the Supply of Employment Land
- Relationship to Existing Employment Operations
- Impact on Parking and Highway Safety

**Impact on the Supply of Employment Land**

- 4.2 Policy EMP4 of the Selby District Local Plan states that development proposals which would result in the loss of industrial/business floorspace within established employment areas will not be permitted unless

- 1) Significant environmental, highway or community benefits would be achieved; or
- 2) The development would overcome or alleviate significant environment or amenity problems; or
- 3) The supply of industrial/business land and premises is sufficient to meet the requirements over the plan period; or
- 4) Evidence can be provided that no suitable industrial/business occupier can be found

- 4.3 It is stated on the application form that the unit has remained vacant since Spring 2017 when it was last occupied for the storage of electrical goods. The unit is owned by Selby District Council and further evidence has been provided from Selby District Council officers regarding the advertisement of the site. Since the unit became vacant there has been limited interest in the site, with 5 enquiries being received for the unit, 3 of which were for retail use, 1 for industrial and 1 for leisure (the applicant). The applicant was the only one to follow their interest up and as such it is accepted that no industrial/business occupier can be found.

- 4.4 As stated above at Paragraph 2.4 within the noted Policy Section responses on the application, and as documented in the 2015-16 and 2016-17 Authority Monitoring Reports, there has been a significant amount of completed employment development within the District, and in particular within Sherburn in Elmet. As such the 5 to 10 hectare requirement for the settlement, as stated in Core Strategy Policy

SP13 has been exceeded and EMP4 (3) of the Selby District Local Plan would therefore support the acceptability of the proposed change of use.

- 4.5 In this context and given the Council's position on employment land supply within the functional economic area within which the site lies it is considered that the proposed change of use would be acceptable when taking account of the material considerations and thus accord with Policy EMP4 and ENV1 of the Selby District Local Plan, Policy SP13 of the Core Strategy and the advice contained within the NPPF.

### **Relationship to Existing Employment Operations**

- 4.6 Objectors have raised concerns regarding the inappropriateness of having a leisure use in a predominantly industrial area noting concerns in terms on their operations and the safety of users. These objections have come from surrounding occupiers.
- 4.7 It is noted from a site visit that although the industrial estate primarily comprises B1, B2 and B8 uses there are also a number of other uses in the area including A3 (Restaurant and Café) uses. However, the application unit and the immediately adjoining units have no restrictions on hours of operation as noted in the Planning History above.
- 4.8 The unit could be used for a B1 / B2 or B8 use with no hour's controls at present, and on balance it is considered that the proposed use as D2 operation would with the noted hours restrictions would on balance have a lesser potential impact on adjoining occupiers than an unrestricted B1 / B2 or B8 operation.
- 4.9 In this context it is considered that based on the proposed hours of operation it is considered that the potential for disturbance of the surrounding employment uses is minimal.

### **Impact on Parking and Highway Safety**

- 4.10 Objectors and the Parish Council have raised concerns that the proposed change of use from surrounding employment units regarding the parking issues that may arise from the proposed change of use.
- 4.11 The existing unit has one car parking space and another disability parking space both of which are located to the front of the unit.
- 4.12 The applicant has provided an email correspondence which details that a neighbouring employment unit would allow use of nine of their own parking spaces from 5:30pm onwards, subject to
- a) there being no parking in front of the loading bay doors
  - b) that those parking there do so at their own risk
  - c) that they accept no liability for any damage to anyone's property whilst on the land
  - d) All users are asked to park considerately and carefully to avoid any damage to the units / owners property
  - e) Parking on the gravel area is prohibited to avoid weight on underground pipes
  - f) Reserving the right to cancel the agreement to use the parking at anytime
- 4.13 This is an informal arrangement that may not remain in situ; however North Yorkshire Highways have been consulted on the proposal, unaware of this

agreement and have regardless offered no objections to the proposal on the grounds of highway safety or impact on parking. It is considered that limited weight should be given to this informal agreement and that the proposal should therefore be assessed on its existing merits.

- 4.14 As such having regard to the above it is therefore considered that there are unlikely to be any significant impacts on highway safety. The proposal is therefore in accordance with Policy ENV1, T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

## **5. Conclusion**

- 5.1 The application seeks planning permission for the change of use of an existing B1 light industrial unit to a D2 leisure use in an established employment area. Although on the face of it, this proposal is contrary to Policy EMP4 of the Selby District Local Plan, overall it is considered that, due to a significantly increased supply of industrial/business land within the District and in particular within Sherburn in Elmet, the proposal would be in accordance with Policy EMP4. The proposed development would also not have a detrimental effect on the supply of employment land, or on parking and highway safety

## **6. Recommendation**

- 6.1 The application is recommended to be APPROVED subject to the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

• Drawing No. LOC01	Location Plan	Received 15/05/18
• Drawing No. LAY02	Layout Plan	Received 15/05/18
• Drawing No. 03	Existing Floor Plan	Received 10/05/18

Reason:

For the avoidance of doubt.

03. The use hereby permitted shall only take place between the hours of 16.45 and 21.00 on Monday to Friday. The facility should not be used on Weekends or Bank Holidays.

Reason:

In order to preserve the amenity of adjacent employment units having had regard to Policy ENV1 of the Selby District Local Plan

## **7. Legal Issues**

- 7.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

7.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

7.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

**Financial Issues**

- 7.4 There are no financial issues that are material to the determination of this application.

**Background Documents**

Planning Application file reference 2018/0541/COU

**Contact Officer:** James Broadhead, Planning Officer

[jbroadhead@selby.gov.uk](mailto:jbroadhead@selby.gov.uk)

01757 292 279

**Appendices:** None