



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
8 OCTOBER 2018**

Application Number	FUL/MAL/18/00798
Location	Rooms 8 & 9, Mayland Industrial Estate, Steeple Road, Mayland
Proposal	Change of use of Rooms 8 and 9 to Class D2 (Yoga Studio)
Applicant	Mrs Emma Turnbull – Yoga Wise
Agent	None
Target Decision Date	17 th September 2018
Case Officer	Devan Lawson, TEL: 01621 875845
Parish	MAYLAND
Reason for Referral to the Committee / Council	Departure from the Local Plan

1. RECOMMENDATION


APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

SE Committee
Not Set



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	SE Committee
	Date:	22/08/2018
www.maldon.gov.uk	MSA Number:	100018588

3. SUMMARY

3.1 Application Site

- 3.1.1 The application site is situated within Mayland Industrial Estate, which is a protected employment site under Policy E1 of the approved Local Development Plan(LDP) and is situated on the northern side of Steeple Road. The Industrial Estate is 1.54ha in size and is protected for B1 and B2 use.
- 3.1.2 The rooms that are the subject of the application are located within the first floor of Marine House. There are two parking areas included within the red line boundary, one opposite the site to the west and one to the southeast. There is an existing access off of Steeple Road which serves the industrial estate and therefore also serves the site.

3.2 Proposal

- 3.2.1 Planning permission is sought for a change of use of rooms 8 and 9 at first floor level to a D2 use. The rooms are proposed to be used as a Yoga Studio, with room 8 providing a reception area and room 9 serving as the Yoga Studio. Currently the rooms are partitioned and it is proposed to install a doorway between them. As part of the application, written information has been provided stating that Room 8 has been vacant for 9 years and Room 9 has been vacant for 5 months.
- 3.2.2 The applicant has provided information which states that initially the proposal will only require 1 employee, which is the applicant, but as the business progresses, she will seek to employ cleaners, receptionist and other Yoga Teachers.

3.3 Conclusion

- 3.3.1 The proposal would result in the loss of a Class B use for which the site has been allocated in the LDP. However, having regard to previous appeal decisions in the Maldon District, representations from consultees and members of the public it is considered that the proposed change of use would provide some benefit to the local community, which is supported by guidance contained within the National Planning Policy Framework 2018, (NPPF).
- 3.3.2 Furthermore, the proposed use, subject to conditions, would not materially harm the amenities of the occupiers of neighbouring residential properties. The proposal would not cause adverse issues in relation to the character and appearance of the area and would provide sufficient vehicle parking and access.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2012 including paragraphs:

- 11 Presumption in favour of sustainable development
- 91-92 Promoting healthy and safe communities
- 38 Decision-making

- 47-50 **Determining applications**
- 80-82 **Building a strong, competitive economy**
- 83-84 **Supporting a Prosperous rural economy**
- 117-118 **Effective use of land**
- 124-132 **Achieving well-designed places**

4.2 Maldon District Local Development Plan 2017:

- S1 Sustainable development
- S8 Settlement boundaries and the countryside
- H4 Effective Use of Land
- D1 Design quality and built environment
- D2 Climate Change and Environmental Impact of New Development
- T1 Sustainable Transport
- T2 Accessibility
- E1 Employment
- E3 Community Services and Facilities
- N2 Natural Environment and Biodiversity

4.3 Supplementary Planning Guidance:

- Maldon District Design Guide (2017) (MDDG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Policy S1 refers to the NPPF's presumption in favour of sustainable development and makes specific reference to the local economy, housing growth, effective use of land, prioritising development on previously developed land, design, the environment, sustainable communities, the effects of climate change, avoiding flood risk area, the historic environment, local infrastructure and services, character and appearance, minimizing the need to travel.
- 5.1.2 The site is located within the designated employment site of Mayland Industrial Estate and Policy E1 of the LDP identifies the site as appropriate for B1 and B2 uses. The Policy requires that, in principle, designated employment areas will be retained and protected for Class B Uses as specified and Sui Generis Uses of an employment nature, unless it can be demonstrated that there is no reasonable prospect for the site to be used for these purposes. Complementary and supporting uses may be considered acceptable where they serve an essential ancillary function to the employment area and will not result in a material change of the area's Class B character and function. The Policy goes on to state that proposals which will cause any loss of existing employment uses, whether the sites are designated or undesignated, will only be considered if:
- 1) the present use and activity on site significantly harms the character and amenity of the adjacent area
 - 2) the site would have a greater benefit to the local community if an alternative use

- were permitted or
- 3) the site has been marketed effectively at a rate which is comparable to local market value for its existing use, or as a redevelopment opportunity for other Class B Uses or Sui Generis Uses of an employment nature and it can be demonstrated that the continuous use of the site for employment purposes is no longer viable, taking into account the site's existing and potential long-term market demand for an employment use.
- 5.1.3 The owner of the site has provided information which states that the rooms are currently vacant and that room 8 has been vacant in excess of 9 years and room 9 for 5 months. However, no evidence has been provided to substantiate this or to demonstrate that the site has been marketed effectively. Therefore, it is not considered that point 3 is addressed. Furthermore, given that the lawful use of the rooms is protected under policy E1 it is not considered that the lawful use would result in significant harm to the character and amenity of the adjacent area. Having regard to this, in order for the change of use to satisfy policy E1, then it must be demonstrated that the site would have a greater benefit to the local community if a D2 use were permitted.
- 5.1.4 Policy E3 of the LDP seeks to enhance the provision of community services and facilities within the District, particularly where these are essential to the local community. Development proposal which will help to improve the provision of and accessibility to community services and facilities in the local area will be encouraged
- 5.1.5 Paragraph 91 of the NPPF states that decisions should *'aim to achieve healthy, inclusive and safe places, which enable and support healthy lifestyles, through the provision of safe and accessible sport facilities'* among other things and *'promote social interaction, through mixed use developments.'* Regard is had to the comments made by the Economic Development Team which states that the proposal will *'bring the community together'* and will provide *'positive health benefits'*. It is also noted that a number of letters of support have been received for the application which refer to the social and health benefits that would be provided by having a Yoga Studio in this location and the improved accessibility to Yoga as a result of the siting of the proposal. Therefore, it is considered that the proposal would provide some social benefits to the health and well-being of the community in accordance with the NPPF and also improved access to a community facility in accordance with Policy E3. Therefore, a judgement has to be made as to whether the benefits would outweigh the loss of employment and thus whether the proposed use would have a greater benefit to the local community.
- 5.1.6 The applicant has stated that initially the Yoga Studio would employ one person, which could grow in time. However, it is not certain that more than one person would be employed at the site and therefore, it must be considered that the proposed use would provide one job. Whilst it is noted that the rooms are currently vacant, given the floor area of 75sqm, it is reasonable to consider that a B1 use would provide more jobs than this. Therefore, there would be a potential loss of employment as a result of the development. However, it is recognised that it is not just employment opportunities that provide greater benefits to the local community and that at this time the site hosts no jobs.

- 5.1.7 A similar proposal under the terms of FUL/MAL/17/00003 at Units 1 and 2 Old Maltings, Hall Road, Heybridge, was granted on appeal. Although the proposal differs in location and use, as the appeal was to be a gym as opposed to a Yoga studio, it is considered relevant to consider the Inspectors findings, as the appeal site was situated within a protected employment site and related to a D2 use. The Inspector considered that the D2 use *'would be a complementary use that would benefit employees on the immediate site, wider estate and wider community. In this case the scheme would provide a mixed use of the building that would allow it to be fully occupied. This would assist in enhancing and sustaining the vitality and vibrancy of the estate as a whole. In this regard the provision of the D2 use would not detract from the overall function of the estate. Accordingly the Council's objectives would not be undermined by this particular development. The National Planning Policy Framework also strongly supports employment growth and flexibility in accommodating business needs and the need for different land uses to support sustainable local communities'.* The Inspector, therefore, concluded that *'the proposal would not have a harmful effect on the supply of employment generating land.'*
- 5.1.8 It is noted that the appeal decision pre-dates the approval of the Maldon District Local Development Plan (MDLDP) and the release of the 2018 NPPF. However, the decision is considered to be relevant to this application as the Inspector's assessment would be equally applicable to the proposal subject of this application, Policy E1 of the LDP and guidance contained within the NPPF 2018. For instance, the use of a Yoga studio is considered to have the potential to benefit the employees on the immediate side, wider estate and community. Likewise with the appeal, the proposal would allow the building to be occupied by a mix of uses which could potentially enhance and sustain the vitality and vibrancy of the industrial estate. Therefore, it is considered reasonable to apply the views of the Planning Inspector to this application.
- 5.1.9 It should also be noted that Unit 2, Mayland Industrial Estate, to the north of the application site was granted a change of use to D2 under the terms of FUL/MAL/09/00653 for use as a children's indoor soft play centre. Therefore, although prior to the LDP, it has previously been accepted that a D2 use can operate within this employment site.
- 5.1.10 It is also relevant to consider that whilst the proposal would result in the loss of a B1 use within the protected employment site, the change of use is reversible. Therefore, if the employment market were to improve, then the change of use will be able to be undone.
- 5.1.11 Although it has not been sufficiently evidenced as part of the application that the proposal would provide greater benefits to the local community than the existing use, weight must be applied to the views of the Economic Development Team, the local residents, guidance contained within the NPPF and previous Inspectors findings. Therefore, through attributing appropriate weight to each of these it is considered that the proposed D2 use would provide a suitable mix of uses, which would contribute positively to the existing uses within the industrial estate and would therefore, constitute sustainable development. For these reasons there is no objection to the principle of a D2 use in this location subject to other material considerations.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, livable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development. This is supported by policies D1 and H4 of the MDLDP and the MDDG.
- 5.2.2 Policy D1 of the LDP states that all development must, amongst other things, respect and enhance the character and local context and make a positive contribution in terms of: (b) Height, size, scale, form, massing and proportion; (d) Layout, orientation, and density; (2) Provide sufficient and useable private and public amenity spaces; (4) Protect the amenity of surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.2.3 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).
- 5.2.4 The proposed change of use, would not result in any exterior changes to the application building. Therefore, it is not considered that the change of use would have any impacts on the character and appearance of the application site or the wider industrial estate and is therefore, in accordance with policies S1 and D1 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account overlooking, loss of daylight to the main windows of the neighbouring dwelling and domination to the detriment of the neighbouring occupiers. This is supported by the MDDG.
- 5.3.2 The application building is situated adjacent to industrial units to the north, south and east. To the west of the application site is a residential dwelling, No. 33 Steeple Road, located approximately 20m from the application building. Whilst it is not considered that the Yoga Studio would be likely to cause unacceptable impacts by way of increased noise, there is potential in the future for the rooms to be occupied by another D2 use such as a gym which could use amplified noise. This has been raised as a concern by Environmental Health. Furthermore, the proposed hours of use are 9am-9pm Monday –Sunday. Therefore, if a D2 use other than a Yoga studio were to occupy the rooms, then there could be unacceptable noise levels during unsociable hours. Consequently, in order to overcome this it is considered reasonable to impose a condition requiring restricted use as a Yoga Studio, rather than an un-restricted D2 use along with a condition restricting any amplified sound at the site exceeding a noise rating of 5dB(A) below background noise levels. It is also noted that the applicant has stated that a restricted D2 use would be more favourable than the imposition of a condition requiring sound proofing and is therefore, in support of this.
- 5.3.3 A condition requiring a scheme of ventilation has also been requested by Environmental Health. However, following further discussion with them it is considered that a restricted use would prevent the need for this condition and any installation of ventilation equipment on the exterior of the building would require

permission from the Local Planning Authority. Therefore, it would not be reasonable or necessary to impose this condition.

5.3.4 A condition preventing any external illumination is considered necessary to protect the amenity of the neighbouring occupiers.

5.3.5 It is considered that through the use of conditions which would limit the external lighting, hours of use and restrict the use to a Yoga studio that the amenity of the neighbouring occupiers would not be unduly affected by noise or light generated by the proposal. Furthermore, given that there are no external alterations proposed the change of use would not result in any loss of privacy or light and would not be considered overbearing in accordance with Policy D1 of the LDP.

5.4 Access, Parking and Highway Safety

5.4.1 Policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.

5.4.2 The proposed development would utilise an existing access off of the northern side of Steeple Road, and would use two existing parking areas within the industrial estate, to the east and west of the application building. A consultation response from Essex Highway Authority is to follow. However, as the proposal would use an existing access and parking area it is considered that the proposal would be acceptable from a highway safety perspective.

5.4.3 In regards to parking provision, the adopted parking standards would require a maximum provision of 1 space per 22 sqm of floor space. The rooms have a combined floor area of 75sqm, which would require 4 parking spaces, which is 1 space greater than the existing B1 use. Whilst details of the exact number of parking spaces have not been provided, it is considered that there is sufficient parking provided within the site for four cars. Furthermore, it is noted that the application site is in sufficient walking distance of Mayland where it would appear a number of the applicant's clients are located. Therefore, there is no objection in relation to car parking.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/09/00653** – Relating to Unit 2 Mayland Industrial Estate, Steeple Road. Proposal, change of use of existing premises from class B1,B2 and B8 to class D2. Unit to be used as a Children's indoor soft play centre including café and party room. Decision APPROVED.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
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Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	No response received at the time of writing this report	Noted

7.2 Statutory Consultees and Other Organisations

Name of Consultee	Comment	Officer Response
Cadent Gas Network	There is apparatus in the vicinity of the site which may be affected by the activities specified.	There are no operational works proposed as part of the proposal. Therefore, it is not considered that any apparatus would be affected by the change of use.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	<p>There is a residential unit opposite the site, 10m from the façade of the building. The use of the building for Yoga purposes will have a lesser impact on noise sensitive premises than a gym or fitness studio, which is likely to have amplified music, which would be a concern should a D2 unrestricted use be granted.</p> <p>The installation of air condition unit should be conditioned.</p> <p>Should an unrestricted D2 use be granted a condition should be applied requiring sound proofing.</p>	Please see section 5.3

Name of Internal Consultee	Comment	Officer Response
	The applicant has provided further clarification that the use could be restricted to Class D2 (Yoga Studio). Therefore, there would be no objections subject to conditions.	
Economic Development	No objection – the Yoga business has been well established for 13 years. It will unite the community with positive health benefits. It will make good use of underused units and will restore an economic use.	Please see section 5.1

7.4 Representations received from Interested Parties

7.4.1 25 Letters were received supporting the application for the following reasons:

Supporting Comment	Officer Response
It would be beneficial to the area and the local community.	Please see section 5.1
There have not been many new businesses in Mayland	New employment space has been allocated within the Local Development Plan. However, each application is assessed on its own merits.
No high quality Yoga venues in Essex.	Whilst this is noted, no evidence has been provided with the application to demonstrate that there is a need for Yoga Studios in Essex
Would rather bring new students to this site than London or Colchester and can offer more than an urban environment can.	Noted.
Yoga is becoming popular and is recommended by hospitals and GPs for long term health conditions and contributes to healthier lifestyles	Please see section 5.1
Being able to walk to the Yoga studio rather than travel to Maldon and further will reduce car usage.	Please see section 5.4
Employees on the industrial estate will have better access to Yoga	Please see section 5.1
There are many Yoga studies on industrial estates within the west country – West Devon Council (01430/2014)	The change of use of industrial units to D2 uses is discussed under section 5.1
The government encourage small	Please see section 5.1

business, and particularly those that provide a much needed service to the local community (in our case a rural village).	
There is ample parking.	Please see section 5.4

8. **PROPOSED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development shall be carried out in accordance with the following approved plans and documents: Front Elevation Plan, Site Block Plan, TQRQM18177202504, Front Elevation, Location Plan.
REASON: To ensure that the development is implemented as applied for and to meet the requirements of policy D1 of the Maldon District Local Development Plan.
3. The premises shall only be used as/for Yoga Studio purposes and for no other purpose including any purpose as defined within Class D2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.
REASON: To ensure that no alternative use of the premises is made in the interests of the amenity of the occupiers of neighbouring residential properties in compliance with Policy D1 of the Maldon District Approved Local Development Plan and the aims of Policy E1 of the Maldon District Approved Local Development Plan.
4. The Yoga Studio (D2) use hereby permitted shall only be undertaken between 0900 hours and 2100 hours on Mondays to Sundays and Bank Holidays.
REASON: In the interests of the amenity of the occupiers of neighbouring residential properties in compliance with Policy D1 of the Maldon District Approved Local Development Plan.
5. No amplified music, speech or other such sounds resulting from the use of the application site shall exceed a noise rating level of 5dB(A) below the background noise level as determined by the procedures set out within BS4142:2014 and measured from the façade of any residential premises. In the event that an assessment is required to establish noise levels generated at the site, such an assessment shall be carried out by a suitably qualified and experienced acoustic consultant who is a member of the Institute of Acoustics.
REASON: In order to protect the amenity of local residents in accordance with policy D1 of the Maldon District Approved Local Development Plan.
6. No floodlighting or other external form of illumination of the site shall be undertaken without the express consent of the local planning authority.
REASON: In the interests of the amenity of the occupiers of neighbouring residential properties in compliance with Policy D1 of the Maldon District Approved Local Development Plan

INFORMATIVES

- 1 Please note that permission is not hereby granted for any new extraction or ventilation

equipment, vents, air conditioning units or similar plant equipment. None shall be installed or fitted to any external part of the building unless an application for planning permission and Listed Building Consent has been submitted to and approved in writing by the local planning authority.