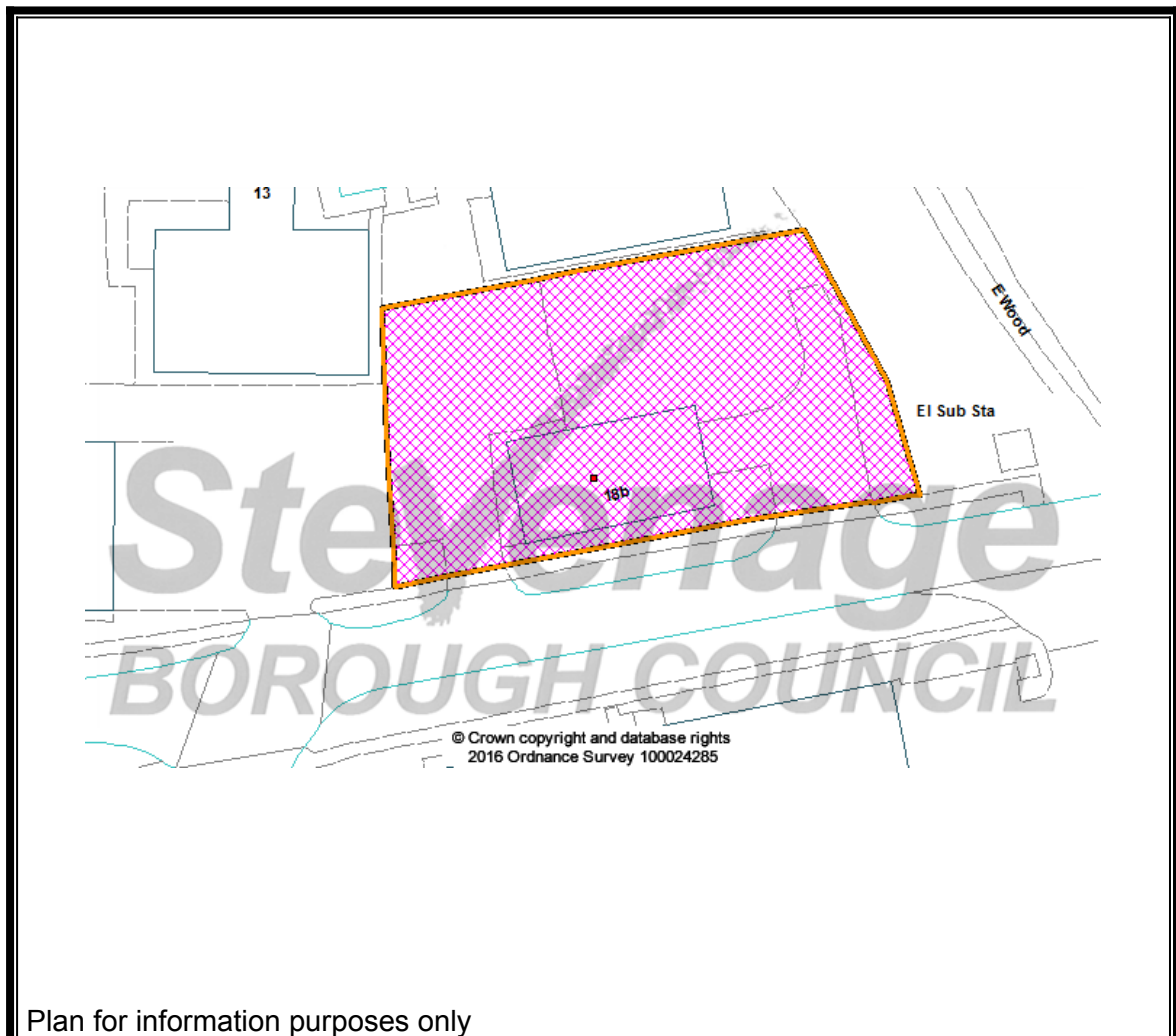


Meeting: Planning and Development Committee **Agenda Item:**
Date: 11 September 2018
Author: James Chettleburgh 01438 242266
Lead Officer: Chris Berry 01438 242257
Contact Officer: James Chettleburgh 01438 242266

Application Nos:	18/00045/FP
Location:	18B Boulton Road, Stevenage
Proposal:	Retrospective change of use from D1 (Training Centre) to D2 (Gymnasium).
Drawing Nos.	Site Location Plan
Applicant:	Mr Alex Game
Date Valid:	8 February 2018
Recommendation:	REFUSE PLANNING PERMISSION



1. SITE DESCRIPTION

- 1.1 The application site is located on the northern side of Boulton Road which is within the Pin Green Employment Area. The site comprises a two-storey, utilitarian style office building which is constructed of sheet metal cladding with aluminium framed windows and a roller shutter to the rear. The site also comprises a surface car park, area of informal open space, shipping container and service yard. The surrounding area comprises a mixture of offices, warehousing and light industrial units. The buildings in the area are generally utilitarian in design.

2. RELEVANT PLANNING HISTORY

- 2.1 Planning application 2/0275/86 sought permission for a warehouse with ancillary offices. This application was granted planning permission in September 1986.
- 2.2 Planning application 05/00019/FP sought permission for the erection of two containers. This application was granted planning permission in March 2005.
- 2.3 Planning application 17/00194/FP sought permission for the creation of 23 no. additional parking spaces. This application was granted planning permission in May 2017.
- 2.4 Planning application 17/00334/FP sought permission for the change of use from non-residential training centre (Use Class D1) to Gym/Fitness Centre (Use Class D2). This application was withdrawn in June 2017.

3. THE CURRENT APPLICATION

- 3.1 This application seeks retrospective planning permission for the change of use of the training centre (Use Class D1) to a gymnasium (Use Class D2).

4. PUBLIC REPRESENTATIONS

- 4.1 This planning application has been publicised by way of a site notice and neighbouring properties have been notified about the application via a letter. Ten representations in support of the application were received from the following addresses:-

- Formula One Autocentres, Pin Green;
- 23 Bragbury Lane;
- 10 Petworth Close;
- 5 Aspen Close;
- 2 Aspen Close;
- 29 Saxon Avenue, Stotfold;
- 8 Papillian Court, Admiral Drive;
- 52 Bury Road, Shillington;
- Shillinton, Hitchin; and
- 182 Chertsey Rise.

- 4.2 A summary of the representations received are as follows:-

- Formula One Auto Centres have a corporate membership at the gym and is utilised by their staff throughout the day;
- The developments benefits staff of local businesses to keep fit and healthy and is considered to be a net benefit in terms of staff retention;
- The gym is also a benefit to the local area more generally for nearby residents who reside in close proximity to the site;

- The property was vacant for a number of years and was in a poor condition internally;
- The offices were not attractive;
- The gym has transformed by the entrepreneurial spirit of the new leaseholder into a decent gym facility that is appreciated by over 150 members;
- The particular specialisation of the gym is unique for the local area and even attracts some national level athletes as well as nearby business users and residents;
- The facilities provided at the gym are above and beyond existing local gyms;
- The gym does not overburden local parking;
- Support for small businesses;
- There are a number of properties in the estate which are up for let in Pin Green and businesses will not take these properties up under their current use class as advised by commercial agents;
- The business brings money into the local area;
- The applicant has worked closely with the Council throughout the process in order to achieve an acceptable decision including the costs of covering a sequential test and impact assessment which have all been done at the request of the Council;
- It is costly starting up small businesses and very risky but the business has been very successful and is continuing to grow with 4 personal trainers, a sport therapist, receptionist and cleaners which provides more employment to the area;
- The gym is open to all businesses in the area;
- The gym is unique and specialised that no other gym can offer in the area or outside of Stevenage, therefore bringing more businesses to the area;
- The sequential test clearly shows that there are no other available properties in the town centre to let or in the surrounding areas for a gym;
- If the application was refused it would result in a loss of employment, a loss of a local facility and huge costs to be borne by the owners of the business;
- Local residents would be disappointed to see the loss of this facility;
- The gym is in a suitable location which means there is no need to travel to the town centre;
- The Council should be supporting small and local businesses;
- Brings a number of local people together;
- The gyms has helped to massively improved peoples lifestyles as well improve people's health and fitness generally.

5. CONSULTATIONS

5.1 Hertfordshire County Council as Highways Authority

5.1.1 The development does not generate any highways related issues.

5.2 Environmental Health Department

5.2.1 There are no comments to make on the retrospective application.

6. RELEVANT PLANNING POLICIES

6.1 Background to the Development Plan

6.1.1 In the determination of planning applications development must be in accordance with the statutory development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014);
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007); and
- The Stevenage District Plan Second Review 2004.

The Council has now reached an advanced stage in the preparation of a new Stevenage Borough Local Plan 2011-2031. The Plan has been used as a material consideration in the determination of all planning applications registered on or after Wednesday 6 January 2016. The Plan has now been through the Examination process and the Inspector's Report was received in October 2017. This recommended approval of the Plan, subject to modifications proposed. The Plan is currently subject to a holding direction placed upon it by the Ministry of Housing, Communities and Local Government (MHCLG), which prevents its adoption whilst MHCLG are considering whether or not to call it in.

- 6.1.2 The National Planning Policy Framework sets out that decision-takers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with policies in the National Planning Policy Framework.
- 6.1.3 In considering the policy implications of any development proposal, the Local Planning Authority will assess each case on its individual merits, however, bearing in mind the positive Inspector's Report, significant weight will be afforded to policies within the emerging Local Plan.

6.2 Central Government Advice

- 6.2.1 A revised National Planning Policy Framework (NPPF) was published in July 2018. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 213 of the NPPF applies which states that due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with it.
- 6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development.
- 6.2.3 In addition to the NPPF, advice in Planning Practice Guidance must also be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 11 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

6.3 Adopted District Plan

TW1: Sustainable Development;
 TW2: Environmental Safeguards;
 E2: Employment Areas;
 E4: Acceptable Uses in Employment Areas;
 E5: Retail and Leisure Proposals in Employment Areas;

T12: Bus provision;
T13: Cycleways;
T14: Pedestrians;
T15: Car Parking Strategy;
EN27: Noise pollution.

6.4 Stevenage Borough Local Plan 2011-2031 Publication Draft (Emerging Local Plan)

SP1: Presumption in favour of sustainable development;
SP2: Sustainable development in Stevenage;
SP3: A strong, competitive economy;
SP9: Healthy communities;
EC6: Pin Green Employment Area;
TC13: Retail impact assessments;
IT5: Parking and Access;
FP7: Pollution.

6.5 Supplementary Planning Documents

Parking Provision SPD (2012)

APPRAISAL

7.1 The main issues for consideration in the determination of the application are its acceptability in land use policy terms, impact on visual amenity; Impact on residential amenities; parking provision; means of access and highway safety.

7.2 Land use policy considerations

Employment

7.2.1 The application site is designated within the Pin Green Employment Area where policies E2 and E4 of the Stevenage District Plan Second Review 1991-2011 adopted 2004 apply. Policy E2 seeks to protect the Pin Green area for employment uses and Policy E4 sets out acceptable uses in employment areas and specifically states “in the employment areas already designated a range of employment uses within the B1, B2 and B8 use classes will be encouraged. However, this policy also states that proposals for employment generating uses that do not fall within the use classes order will be considered on their merits. Policy E5 of the District Plan (2004) states that development or use of land for, in the case of this application, leisure uses in employment areas, will not be permitted unless the following criteria are met:

a. a local need for a facility, in terms of supporting the operation of an employment area can be demonstrated; and

b. the proposal does not have an unacceptable traffic or environmental impact.

7.2.2 Policy EC6 of the Stevenage Borough Local Plan 2011 – 2031 Publication Draft – January 2016 states that planning permission within this area will be granted where:

a. Development (including changes of use) is for use classes:

- B1(b) research and development;
- B1(c) light industry;
- B2 general industry and/or;

- B8 storage and distribution; and
- b. Any individual new unit(s) for B1(a) offices will only be granted where
- i. it is ancillary to an acceptable B1(b), B1(c), B2 or B8 use;
 - ii. essential to the continued operation of an established B1(a) use; or
 - iii. a sequential test clearly demonstrates that no suitable sites are available in more accessible locations.
- 7.2.3 The National Planning Policy Framework 2018 (NPPF) states that significant weight should be placed on both the need to support economic growth and productivity taking into account both local business needs and wider opportunities for development.
- 7.2.4 Dealing first with the existing use of the premises, according to Council records, the use of the premises is currently established as B1a (Offices). This is because the building which is the subject of this application was originally an ancillary office building to a warehouse as detailed under planning permission 2/0275/86. In addition, the Council's Business Rates Section confirmed by email in June 2017 in relation to withdrawn planning application 17/00334/FP that the premises were registered as a 'workshop and premises' since 21st July 2006. Furthermore, the site was advertised on the commercial website "Movehut" as suitable for storage, workshop or additional office space as well as being advertised by Brown and Lee as of July 2016 (Google Street Car, July 2016) as a Business Unit. Therefore, the use of the premises as a training centre (Use Class D1) was never granted planning permission from the Council. Consequently, a potential breach in planning control has occurred in this instance.
- 7.2.5 Given the above, in order to overcome the breach in planning, the applicant submitted a Lawful Development Certificate (18/00045/CLED) under Section 191 of the Town and Country Planning Act 1990 (as amended) (hereby referred to as The Act (1990)) to demonstrate that on the balance of probability, the premises had been used as a training centre for more than 10 years (Section 171B – Time limits of The Act (1990)) and therefore, would be immune from enforcement action under Section 172 of The Act (1990). However, upon receipt of the aforementioned application, it had been established at that point, that the gym (which is the subject of this application) was already operating from the property. Given this, the 10 year rule as set out under The Act (1990) had been broken by the unauthorised use of the premises as a gym. This is because the 10 years is worked back from the date of receipt of the Lawful Development Certificate as established under The Act (1990).
- 7.2.6 Notwithstanding the above, the evidence provided by the applicant under the Lawful Development Certificate in the form of affidavits, photographs of signage, copy of directories, invoices, Ofsted Report, Education Certificates can demonstrate to a fact and degree, that the premises was potentially operating before its use as a gym as a training centre for a period of around 10 years. However, as this use has been broken by the unauthorised operation of the gym from the date the Lawful Development Certificate was received by the Council, it cannot be established that the last legal use of the premises was a training centre (Use Class D1). Therefore, the default position would be that the premises legal status would be that of a B1(a) Office use.
- 7.2.7 Taking into consideration the above, it can be concluded that the existing development and previous unauthorised use has resulted in a loss of an established employment premises contrary to both the District Plan (2004) and the Emerging Local Plan (2016).

Consequently, the applicant will be required to demonstrate why the existing development is considered to be acceptable within the designated employment area.

- 7.2.8 In the applicant's submission, they state that the lawful use of the premises as Use Class D1 (training centre) has been established and therefore, the proposal does not result in the loss of employment space. However, as set out above, it can be established that the previous use of the property as a training centre cannot be lawfully established and therefore, the proposal does involve the loss of an employment property in this instance. To further support the Local Planning Authorities case, under planning application 17/00334/FP which was for the creation of additional car parking spaces at the application site, the applicant (Formula One) in the Design and Access Statement states "*The premises at 18B Boulton Road were acquired to cope with the expansion of the business....The office premises at 18B are larger than we need for just our own use, and are let out on commercial terms*". This application submission makes no mention of the premises i.e. 18b Boulton Road being used as a training centre.
- 7.2.9 In regards to the gym itself, they set out in the original application submission that there are around 120 members from the Stevenage area in which they intend to grow to 300. In terms of employment, they have 3 personal trainers who lease the premises and 3 other personal trainers also conduct personal training sessions from the site. In addition, whilst no marketing evidence has been provided, it is noted that prior to the premises being occupied by the gym it had been vacant and was being advertised on the market via commercial websites and by Brown and Lee as a Business Premises. Therefore, it can be argued that the existing development has brought a previously vacant premise back into use. In addition, there is a potential argument, based on the correspondence in support of the application, the existing use helps to support employers in the area and therefore, is an established need for the facility. This is because one of the gyms along Wedgwood Way (Dominate Fitness) is a women only gym and the other is martial arts. In addition, it is argued that the gym offers a unique facility and is the only one in Stevenage.
- 7.2.10 Notwithstanding the above, the existing use as a gym (Use Class D2) is not an acceptable use in the employment area. This is because it is not a traditional B-class use as established under Case Law. Furthermore, whilst it is noted that there is a women's only gym along Wedgwood Way, there is also a gym, which does have a martial arts studio, located at Unit 6 Senate Place which also lies within the Pin Green Employment Area. Therefore, the case that this gym is essential to support the ongoing operation of the employment is weakened by the presence of two nearby gyms and the fact they all fall within the same use Class i.e. D2. Therefore, as the use runs with the land these premises could become traditional fitness and leisure facilities in the near future. Moreover, the overall density an office development would generate (based on the Homes and Communities Agency Employment Density Guide 3rd Edition, 2015), would be 1 job for every 8 (call centres) to 13 (corporate) sq.m of floorspace based on who would occupy the office building. Based on this information, the existing premises could generate an employment density of between 36 to 57 jobs. However, with regards, to gymnasiums, this has an employment density of 1 job per 65 (family) to 100 (budget) sq.m. With this in mind, the employment density for the site would be between 5 and 7 jobs which is significantly lower than what is generated by a B1(a) Office Use. Taking this into consideration, the existing gymnasium would be classed as having a low employment density being that there is a total of 6 persons working at the gym (3 are the partners operating the gym and 3 are personal trainers who rent the space). However, the applicant has recently stated that the gym now currently has 4 personal trainers, a receptionist, sports therapist and cleaners leading to additional employment. Notwithstanding this growth, it can be deduced that the existing use of the premises as a gymnasium still has a significantly lower employment density than its lawful use as an office.

- 7.2.11 Turning to the emerging Local Plan (2016), although having a holding direction in place by the Ministry of Housing, Communities and Local Government, it has been through public examination in which the Planning Inspectorate found the Local Plan to be sound. Therefore, in accordance with paragraph 48 of the NPPF (2018), the Local Planning Authority can give weight to the policies in the emerging local plan. Taking this into consideration, emphasis will be placed on the evidence base which supports the emerging Local Plan policies. Looking at the evidence base, the Council's Employment Technical Paper dated December 2015, outlines that it is forecasted, as set out under paragraph 2.54 that there will be a requirement to provide 30 hectares of employment land over the plan period between 2011-2031. However, through the undertaking of the SLAA it can be seen that a total of 19.4 hectares of land has been identified on the supply side. Therefore, the opportunities identified will therefore deliver 56% of the required quantum employment (paragraphs 3.40 to 3.42). The aforementioned Employment Technical Paper was updated in December 2016. A synthesis of the supply-side and demand-side data suggests that there is insufficient land available to meet the trend-based requirement for at least 30ha. The opportunities identified will deliver approximately 62% of the required quantum of employment land, resulting in a shortfall of approximately 11.5ha (paragraphs 3.10 and 4.4).
- 7.2.12 Given the above evidence base, it has been established that Stevenage can only accommodate about half of its predicted employment growth over the Local Plan period (this has included the release of Green Belt land in order to meet the necessary demand). Therefore, the Council has had to rely on neighbouring authorities to support the necessary employment growth which would be generated over the local plan period. Emerging Local Plan Policy SP3 criterion e. identifies that we as the Council will work with Central Bedfordshire and North Hertfordshire District Council and paragraph 5.23 sets out that the shortfall of employment land of 11.5ha. Consequently, whilst the existing development results in a limited loss of employment floorspace, if retrospective planning permission were to be granted it could set a precedent to allow further non-traditional B-class employment developments into the employment which could undermine the employment area if further proposals came forward. This would in effect result in a reduction in B-class employment space, which is in short supply as identified in the Council's Technical Paper (2015) over the plan period. Therefore, it can be argued that any reduction in employment floorspace, whether it is argued as being Office or Business floorspace (both which fall under Use Class B1) would undermine the local plan in that, there would be increasing pressure on the limited supply of employment space to accommodate any future growth (Employment Technical Paper 2015 and Functioning Economic Market Area Study 2015).
- 7.2.13 Taking into consideration the aforementioned, it is considered that the benefits the existing use generates do not outweigh the loss of this premises which is considered to have a lawful B1(a) office use. This combined with the fact that there is likely to be demand for office and commercial floorspace over the emerging local plan period would put increasing pressure on a limited supply of employment space to accommodate any future growth for the town over the local plan period. Therefore, the existing development fails to accord with Policies E2 and E4 of the Stevenage District Plan Second Review 1991 – 2011 (2004), Policies EC6 of the Stevenage Borough Local Plan 2011 – 2031 Publication Draft – January 2016, the National Planning Policy Framework (2018) and the Planning Practice Guidance (2014).

Impact assessment and the Sequential Test

- 7.2.14 The NPPF reaffirms the Government's objectives for ensuring the vitality and viability of town centres. For proposals that are not in an existing centre, the NPPF states that a sequential test must be undertaken giving preference to town centre sites and then

edge of centre sites before consideration is given to out of centre sites. For reference, under Annex 2: Glossary of the NPPF, health and fitness centres are identified as main town centre uses. Additional to this, the NPPF states that for proposals of this scale (above the default threshold of 2,500m² - If there is no locally set threshold) an impact assessment must be undertaken which has to consider the following:-

a) the impact of the development on existing, committed and planned public investment in a centre or centres in the catchment area of the proposal; and

b) the impact of the development on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment.

7.2.15 The Planning Practice Guidance (PPG) (2014) reaffirms the 'town centre first' principle, that compliance with the sequential and impact tests does not guarantee that permission will be granted and that the Local Planning Authority will have to take into account all material considerations in reaching a decision. With regards to the sequential test, the NPPG states that the applicant must demonstrate flexibility. A town centre site does not have to accommodate precisely the scale and form of the proposed development and consideration should be given to the contribution that more central sites are able to make.

7.2.16 The relevant adopted Local Plan Policies TR5 and TR6 of the Stevenage District Plan Second Review 1991-2011 adopted 2004, which relate to retail development, were not saved from September 2007. However, emerging Policy TC13: Retail impact assessments states that for main town centre uses, an impact assessment is required for any proposal in excess of 300m² for main town centre uses located outside the Town Centre. This policy goes on to state that this should include an assessment of:

i. The impact of the proposal on existing, committed and planned public and private investment in centres in the catchment area; and

ii. The impact of the proposal on town centre vitality and viability, including consumer choice and trade in the town centre and wider area, up to five years from the time that the application is made.

7.2.17 The existing development constitutes a 'main town centre' use for the purposes of the Emerging Local Plan and the Framework. The application site is outside of the town centre for the purposes of the development plan and is not an edge of centre site for the purposes of the Framework. To address the two tests, the applicant has submitted a Sequential Assessment and Impact on Design Centres dated May 2018. This document and its associated appendices contain a significant amount of technical information and judgements on the suitability and availability of alternative sites and the likely impacts from the proposed development. These have been carefully assessed in the following sections of this report.

Sequential Assessment

7.2.18 To properly consider the sequential assessment, it is necessary to be clear that the existing gym comprises of 450 sq.m located in an out-of-centre site in terms of retail policy.

7.2.19 In considering the suitability of alternative sites, it is necessary to have regard to the characteristics of any site that must be met in order to satisfy the applicant's business model. Legal decisions such as the Supreme Court Decision of Tesco Stores Ltd v Dundee City Council (2012) and appeal decisions (Rushden Lakes decision – APP/G2815/V/12/2190175) have confirmed that the sequential test is directed at what the developer is proposing, not some other proposal which the planning authority may

seek to substitute for it which is something less than that is sought by the developer. What this means is that when applying the sequential test, neither the NPPF nor the NPPG refers to disaggregation, thus, a development cannot be altered or reduced in order to fit into an alternative site.

- 7.2.20 It is noted that under paragraph 87 of the NPPF (2018) in so far as both applicants and the local planning authority should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre sites or edge of centre sites are fully explored. Dealing with the application before the Council, the minimum floorspace that the applicant advises is 4000 sq.ft to a maximum of 6,000 sq.ft (372 sq.m to 557 sq.m). They state they require at least 15 dedicated free parking spaces as a minimum and have a budget of £36,000 with regards to rent. The applicant argues that public parking in the town centre is £3/£4 an hour, which would act as a deterrent to persons who use the gym. They also argue that only places which do not rely on the car are metropolitan locations such as central London where there is good public transport and a substantial walk-in catchment of residents. Therefore, they argue that the application site they currently operate from is the only suitable site for the existing gymnasium. However, it is important to note that the existing gym is split over two floors so there is an opportunity to utilise sites in the town centre which have two floors.
- 7.2.21 The sequential test submitted by the applicant focuses on the district of Stevenage and generally draws upon on sites/premises which generally meet the applicant's business requirements. The assessment provides a list of premises in the town centre, vacant employment premises, edge of centre and out of centre sites as well as the neighbourhood centres across the town. This sequential test concluded that there are no sequentially preferable sites for the development and therefore, the application site i.e. 18b Boulton Road is the only preferable site for the existing gymnasium to operate from.
- 7.2.22 Following a review of the Sequential Test, it fails to consider the proposed development at 85 to 103 Queensway (planning applications 18/00268/FPM and 18/00279/FPM) which included the provision of a new gymnasium within the former M&S store. It is important to note that the aforementioned applications were granted planning permission at the Planning and Development Committee on the 14th August 2018 subject to the completion of a S106 agreement. In addition, the Council's Property Development Manager advises that the former Barclay's Bank (2 Town Square) and number 4 Town Square are available to let. Furthermore, the BHS store, whilst generally considered by the applicant, is available with an opportunity to look at whether the unit could be subdivided to accommodate the development. Moreover, the premises within Park Place are available to let and there are no restrictions on the original planning permission (16/00511/FPM) which controls the usage of the ground floor premises. There is also the recent permission for residential development with ground floor premises at 12 Park Place (17/00846/FP).
- 7.2.23 Further to the above, the Sequential Test does not consider any of the vacant units at Roaring Meg Retail Park, Roebuck Retail or Oakland's which are classed as edge of centre sites. In addition, the Sequential Test has ruled out a number of sites, including vacant premises in the town centre, based on assertions that they are too expensive, too large, too small, not enough parking, adjacency to residential properties, transport links, the impacts on town centre footfall and not an appropriate use for a town centre frontage.
- 7.2.24 In order to address the above, the applicant was approached to try and address some of the points raised with respect to the sequential test. However, they argue this request to be unreasonable as the assessment in their opinion is proportionate and comprehensive to the proposal. They states that the NPPF emphasises proportionality, and sets a default of 2,500 sq.m and the proposal is significantly below that. They note

the Council's policy is substantially lower, but the NPPF envisages a significantly higher threshold to that in the current application. They point out they have undertaken a flexible approach to the assessment and that the existing gym has no impact on the town centre. They also argue the Council needs to be flexible in its approach and argue that the existing facility is not a main centre use and an inspection of the property would reveal it is different in scale and nature to traditional 'health and fitness' centres. They also point out that an alternative location must be comparable in terms of size and characteristics.

- 7.2.25 Further to the above, the applicant considers sequential assessments which have been undertaken are at a fixed time and cannot constantly be updated taking into account new properties or proposal which have come on the market. In addition, they state all sites flagged up as "potentially" being available is no basis for a further "sequential assessment", they argue that a site has to be suitable, available and viable. The applicant also states that sites which have been flagged up in primary retail frontages are reserved for A1 retail and therefore, do not agree that these sites should be considered. In addition, they do not consider the proposal being located in secondary frontage would be acceptable and not an appropriate use within this frontage either.
- 7.2.26 They also advise the BHS unit, is larger than required and so is not suitable for the development. They also do not agree with the argument with respect to consideration of commercial rents and that the costs of fittings out units would be expensive and a matter of common sense that gyms should not be located close to residential units. They emphasise that the current site is not located in close proximity to any residential units and consider that the site is accessible with over 40% of clients walking or cycling to the facility and therefore, argue it is conveniently located to homes of residents who would have to drive to the town centre. In addition, they argue the town centre already has a number of existing leisure facilities.
- 7.2.27 Following a review of the applicants addendum to the originally submitted sequential test, it is considered that the sequential test (including the additional information provide) does not cover the extent of any investigations as to whether any of the issues raised could be overcome. This is because the applicant has not provided any evidence of discussions about reducing rents, whether noise mitigation measures could be installed in the premises, consideration as to whether or not the development would actually generate linked trips, demonstrate how the gym in terms of layout does not create an active frontage, whether units could be amalgamated or subdivided, demonstrate how the layout of the existing gym would not work in smaller premises. The sequential test also focuses on a number of employment premises which do not really carry any weight when assessing proposals for "main town centre" uses. Furthermore, the sites which have been identified by Officers and put forward to the applicant for their consideration have not been comprehensively assessed as to whether or not they are available within a reasonable timeframe to accommodate the existing gym.
- 7.2.28 Further to the aforementioned, it is acknowledged that the rental levels of some properties may be seen as unfeasible for the applicant's business and some information has been provided as to what the applicants budget is. However, despite what has been argued by the applicant, this information is limited and in any event this is essentially a commercial matter that has only limited bearing on the planning merits of the planning application. Furthermore, the argument that the business can only operate where there is free dedicated parking for its members is a commercial matter and therefore; this argument has limited bearing on the planning merits of the application.
- 7.2.29 With respect to the applicant's argument that the existing gym cannot be defined as a main town centre use due to the way it operates is not correct. This is because the

gym, despite how it operates, falls within Use Class D2 (Assembly and Leisure) of the Use Classed Order 1987 (As amended) and the NPPF (2018) is very clear that assembly and leisure facilities are “Main Town Centre” uses. Therefore, the NPPF is very clear in that these types of uses should be located in the town centre and if there are no sequentially preferable sites available consideration can be made to edge of centre and then out of centre site. With this in mind, despite the applicants arguments as to why they consider it unreasonable to assess out-of-centre sites, they have to properly and comprehensively consider edge of centre locations such as the Roaring Meg and Leisure Park as part of the sequential test because their site is classed as an out of centre site. In regards to existing facilities which currently operate in the town centre and therefore, the argument an additional gym is not required, is not material planning consideration as this is a commercial matter and the Council cannot consider competition under the planning process. With respect to some of the available premises being located in primary and secondary frontages, the applicant argues these premises are not suitable locations due to the Council’s policy and the requirement to provide an active frontage. However, the applicant has failed to fully consider these sites in more detail. This is because firstly, with regards to primary retail frontages, there is flexibility in the Council’s policies that if these sites have been vacant and the proposal can generate footfall, which a gym would as you would have linked trips, then a gym could potentially be located within the town centre as identified with the planning applications for 85 to 103 Queensway which include the provision of a gym within a primary retail frontage (see paragraph 7.2.22). In addition, within secondary retail frontages, the Council’s Policies do allow for a mixture of uses which does include D2 (Policy TC8 of the emerging local Plan).

7.2.30 Taking the aforementioned matters together leads to a view that it has not been demonstrated that a sequential test to clearly demonstrate that there is no sequentially preferable sites in the town centre or edge of centre which can accommodate the development and for this reason the application conflicts with Policy TC13 of the Emerging Local Plan and the Framework.

Impact Assessment

7.2.31 The NPPF advises that when assessing applications for *inter alia* retail 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 a development is over a proportionate, locally set floorspace threshold. As set out under paragraph 7.2.16 Stevenage Borough Council has a locally set threshold of 300m² under Policy TC13 of the emerging Local Plan (2016). Given, as mentioned under paragraph 7.2.11, the Local Plan has been through examination, this policy is material in the determination of this application.

7.2.32 An assessment of impact is essentially determined by the projected turnover of the proposed development, where this trade will be drawn from and the ability of the existing centres to absorb the predicted impact. The assessment should include the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area and the impact of the proposal on a town centre’s vitality and viability.

7.2.33 In respect to the first test, the applicant has undertaken health checks in each of the centres of the study area. The applicant assessment focuses on the existing, committed and planned public and private investment scheme within the centres outlined in the study area. Where schemes have been committed (developments with planning permission), these have been assessed as part of the impact assessment as well.

- 7.2.34 With regard to the second test, the town centre health checks are important to set a baseline so that the relative value of any impact can be fully assessed. In addition, an assessment has to be made as to whether a development would generate a significant trade draw which could detrimentally impact upon the vitality and viability of the town centre. Looking at the matter around trade draw, No Bull Fitness (The applicant) has 120 members and the Business Plan aims to have 300 in the next 5 years. Membership at the gym is £360 (annual) and £35 (monthly). Income in the business is generated by the 3 trainers, who are partners and they charge £35 an hour for personal training sessions. The gym is also rented out to 3 other personal trainers, each who pay £400 a month to conduct personal training to their own clients. Therefore, the existing gym generates a turnover of approximately £60,000. This would potentially increase to approximately £125,000. Taking this into consideration, due to the limited turnover of the business it is considered that from this perspective, it would have a negligible impact on the town centre. Therefore, it was agreed with the applicant they did not have to undertake a quantitative assessment. However, they have undertaken a qualitative assessment undertaken in order to ascertain what impact the development has on the town centre. This looks at the town centre's health and whether or not the development impacts upon the health of the town centre.
- 7.2.35 Taking into consideration the above, the ability of a centre to absorb impacts depends on the underlying health of that centre. The PPG advises that a judgement as to whether the likely impacts are significant and adverse can only be reached in light of local circumstances. It is also the case that a healthy, buoyant centre will be more capable of absorbing impact than a centre which is fragile. The applicant's Town Centre Health Check on Stevenage Town Centre was undertaken in 2018. The retail study identifies that footfall has decreased in the town centre and there appears to be some vacancies along Queensway and The Forum. In addition, the study identifies weaknesses of Stevenage Town Centre, mainly its dated appearance and its ability to provide a good retail offer to its natural catchment area. Furthermore, it identifies that there is a need to invest and improve in the public realm along with maintenance and enhancements to the centre generally. However, it does identify the centre to be reasonably healthy, it generally meets the needs of the town's population, it is performing better than the regional average and has a low vacancy rate.
- 7.2.36 Taking the aforementioned assessment into consideration, combined with the fact that the existing gym is limited in its overall size and scale, it would have a negligible impact on Stevenage Town Centre. As such the proposal is not considered to have a significant adverse impact on the town centre.

Impact on investment

- 7.2.37 Paragraph 89 of the NPPF states that, in assessing impact, account should be taken of the impact the proposal would have on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal. This is reflected in Policy TC13 in the Emerging Local Plan (2016).
- 7.2.38 Taking into consideration the above, it is noted that there was a resolution to grant planning permission in January 2012, subject to the completion of a S106 agreement, which to date, has not been signed for the regeneration of the town centre. The proposal sought to redevelop the bus station and the surrounding underutilised sites. Approximately 45,000m² floorspace was proposed, including a department store, a hotel and residential units. The regeneration scheme also included the provision of fitness and leisure facilities. However, the proposed development partnership has withdrawn their interest in the scheme. Whilst a scheme based on the major redevelopment of the town centre could be resurrected, it is likely that the delivery of such a scheme may be many years away. Given this position, it cannot be argued that there is a committed scheme.

7.2.39 Turning to the emerging Local Plan (2016), under Policy SP3 it sets out that the Council will promote comprehensive and co-ordinated regeneration of Stevenage Town Centre. This will include for in the order of 4,600m² of additional comparison retail floorspace, 3,000 new homes and an improved range of shopping, bars, restaurants, leisure, community, civic and cultural facilities. A new train station will be the focus of the enlarged Stevenage Central Area, within which Six Major Opportunity Areas (MOAs) will be designated to promote distinct mixed-use redevelopment schemes. The MOAs which comprise of Use Class D2 (fitness and leisure) floorspace and therefore, relevant to this application (including associated Policy) is as follows:-

- Policy TC3: Centre West MOA;
- Policy TC5: Central Core MOA;
- Policy TC7: Marshgate MOA.

7.2.40 Taking into consideration of the above, there is the potential that the existing gym could potentially have an impact on these allocations. However, it is important to note that the gym is currently in operation with a limited floorspace of 450 sq.m and is over 3km from the Town Centre. In addition, there are currently no applications in with the Council to deliver the outlined MOAs set out in the emerging Local Plan. Furthermore, Use Class D2 covers not just active leisure, but also cinemas, music and concert halls, dance halls, swimming centres, indoor or outdoor sport and recreation facilities. In this regard, as these aforementioned Policies do not specify exactly what will operate within the MOAs, it cannot be assumed the existing development would affect the delivery of these sites. Furthermore, due to the nature of the development, a scheme would have to be designed to ensure that any noise generated by the gym is mitigated against as well.

7.2.41 Given the status of the Stevenage Town Centre Regeneration Proposals and the allocations in the emerging Local Plan have not yet been brought forward, it must be concluded that there would no adverse impact on the planned investment in Stevenage Town Centre. Additionally, there is no other planned investment which the proposed development could frustrate.

Other Retail Policy Issues

7.2.42 The NPPG states that compliance with the sequential test and impact tests does not guarantee that permission will be granted and that the local authority will have to take into account all material considerations in reaching a decision. Additionally, paragraph 87 of the NPPF (2018) states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre.

7.2.43 Taking this into consideration, despite the argument put forward by the applicant, the site would be classed as out of centre and it cannot be classed as being well connected or easily accessible from the town centre. This is because firstly, the site is over 3.4km north-east from the town centre. Additionally there is limited public transport connection from the Pin Green Employment Area to the town centre. Furthermore, whilst the applicant sets out that 40% of their clients walk or cycle to the premises, no evidence has been provided to support this. In addition, the character of the surrounding area is industrial in scale and nature offering little natural surveillance on the footway and the movements of large vehicles along the immediate highway network could be uninviting to pedestrians and cyclists for a considerable portion of the day and the submission document clearly emphasises the need for free dedicated car parking which encourages private vehicular movements. Therefore, it is evident that from this site, the town centre would more than likely be visited by customers via a private vehicle and due to the separation distance, it is highly unlikely there would be any linked trips between persons utilising the gym and visiting the town centre.

7.2.44 To conclude this section on retail planning policy, the applicant has failed to demonstrate that there is no sequentially preferable sites in the town centre or edge of centre which can accommodate the development combined with the fact that the site is not classed as accessible to the town, and for these reasons the application conflicts with Policy TC13 of the Emerging Local Plan and the Framework.

7.3 Impact on visual amenity

7.3.1 The existing development does not comprise of any external alterations to the existing building. Therefore, the development does not have a detrimental impact on the character and appearance of the building or the visual amenities of the area.

7.4 Impact on residential amenity

7.4.1 The application site is located within the established employment area of Pin Green. Given this, combined with the fact that the nearest residential properties in Great Ashby Way within North Hertfordshire is over 214m to the east of the site, the existing development does not have a detrimental impact on the residential amenities of the nearest residential properties. Consequently, the Council's Environmental Health Section has raised no concerns with the development as there are no nearby residential premises which can be affected in this instance.

7.5 Parking Provision

7.5.1 The Council's Parking Standards SPD (2012) sets out the maximum level of parking requirements for Class D2 (assembly and leisure) developments. The car parking standards which are required for such development is 1 space per 15m² of gross floor area. In this regard, a maximum of 30 spaces would be required to serve the existing development. However, given the application site is located within a non-residential accessibility zone, the requirement can be reduced to between 75% and 100% of the maximum giving a requirement of between 23 spaces to 30 spaces.

7.5.2 Under planning application 17/00194/FP permission was sought to create 23 additional parking spaces on the site which also comprised of 2 disabled bays. In total, there would be 42 parking spaces. Following a site visit to the application site, these parking spaces have been implemented and currently being utilised by the existing development. Consequently, there is more than sufficient off-street parking to serve the development.

7.5.3 In terms of cycle parking, the Parking Standards SPD requires 1 short-term space per 25m² of gross floor area plus 1 long-term space per 10 full time staff. Taking this into consideration, there would be a requirement of 19 cycle spaces. At this current time, no secure cycle parking has been provided on-site. However, if members were minded to grant planning permission a condition could be imposed to require the applicant to provide details of secure cycle parking which would be installed in accordance with any approved details.

7.6 Means of access and highway safety

7.6.1 The application site would be served by the existing access road off Boulton Road which is a spur road off Wedgwood Way. The existing access and egress arrangement off Boulton Road is of an industrial standard so it is currently of sufficient width to accommodate the traffic generated from the site. In terms of traffic generation, due to the limited size of the gym combined with some linked trips between the site and existing employment premises, this would be of a level which would not prejudice

highway safety. In addition, there would be sufficient off-street parking to ensure that vehicles do not park on the highway which would have a detrimental impact on highway safety,

- 7.6.2 Given the aforementioned assessment, Hertfordshire County Council as Highways Authority have raised no objection to the existing development.

8 CONCLUSIONS

- 8.1 In conclusion, it is considered that the benefits that the existing use generates do not outweigh the loss of this premises which is considered to have a lawful B1(a) office use. This combined with the fact that there is likely to be demand for office and commercial floorspace over the emerging local plan period would put increasing pressure on a limited supply of employment space to accommodate any future growth for the town over the local plan period. In addition, it has not been demonstrated through the sequential test that the existing use could not be accommodated in available premises within the town centre sites, edge of centre sites or other sequentially preferable sites.
- 8.2 Given the above, the development fails to accord with Policies E2 and E4 of the Stevenage District Plan Second Review 1991 – 2011 (2004), Policies EC6 and TC13 of the Stevenage Borough Local Plan 2011 – 2031 Publication Draft – January 2016, the National Planning Policy Framework (2018) and the Planning Practice Guidance (2014).

9 RECOMMENDATIONS

- 9.1 That planning application be REFUSED subject to the following reasons:
1. The benefits that the existing use generates do not outweigh the loss of this premises which is considered to have a lawful B1(a) office use. This combined with the fact that there is likely to be demand for office and commercial floorspace over the emerging local plan period would put increasing pressure on a limited supply of employment space to accommodate any future growth for the town over the local plan period. Therefore, the existing development fails to accord with Policies E2 and E4 of the Stevenage District Plan Second Review 1991 – 2011 (2004), Policies EC6 of the Stevenage Borough Local Plan 2011 – 2031 Publication Draft – January 2016, the National Planning Policy Framework (2018) and the Planning Practice Guidance (2014).
 2. The existing gym is contrary to paragraphs 86, 87 and 90 of the National Planning Policy Framework July 2018, the Planning Practice Guidance (2014) and Policy TC13 of the Stevenage Borough Local Plan 2011 – 2031 publication draft, 2016 in that it has not been demonstrated through the sequential test that the existing use could not be accommodated in available premises within the town centre sites, edge of centre sites or other sequentially preferable sites.

Pro-active statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Council has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

10 FURTHER CONSIDERATIONS

- 10.1 Having recommended refusal of the retrospective planning application, a decision needs to be made as to whether the Council should undertake enforcement action against the breach of planning control which has occurred in this instance.
- 10.2 As set out previously in this report, it is considered that the benefits that the existing use generates do not outweigh the loss of this premises which is considered to have a lawful B1(a) office use. This combined with the fact that there is likely to be demand for office and commercial floorspace over the emerging local plan period would put increasing pressure on a limited supply of employment space to accommodate any future growth for the town over the local plan period. In addition, it has not been demonstrated through the sequential test that the existing use could not be accommodated in available premises within the town centre sites, edge of centre sites or other sequentially preferable sites.
- 10.3 Given the aforementioned comments, should the Committee agree with the recommendations set out in section 9 of this report to refuse planning permission, authorisation is sought to take enforcement action to secure the cessation of the use of 18b Boulton Road as a gymnasium (Use Class D2). It is considered that a period of six months from the date of the decision is deemed reasonable in line with the Government's Planning Practice Guidance (2014).

11 FURTHER RECOMMENDATION

- 11.1 That an Enforcement Notice be issued and served by the Assistant Director of Planning and Regulation, subject to the Council's appointed solicitor being satisfied as to the evidence requiring the cessation of the use of 18b Boulton Road as a gymnasium. The precise terms of the Enforcement Notice, including all time periods, to be delegated to the Assistant Director of Planning and Regulation.
- 11.2 That subject to the Council's appointed solicitor being satisfied with the evidence, the Assistant Director of Planning and Regulation be authorised to take all steps necessary, including prosecution or any other litigation/works in default to secure compliance with the enforcement notice.
- 11.3 That in the event of any appeal against the Enforcement Notice, the Assistant Director of Planning and Regulation be authorised to take any action required to defend the Enforcement Notice and any appeal against the refusal of planning permission.

12 REMEDY REQUIRED

- 12.1 Within six months of the date of refusal of planning permission, to cease the use of 18b Boulton Road as a gymnasium and to return the premises back to its original form.

13 BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage District Plan Second Review 1991-2011.
3. Stevenage Borough Local Plan 2011 – 2031 Publication Draft 2016
4. Central Government advice contained in the National Planning Policy Framework July 2018 and National Planning Policy Guidance 2014.

5. Responses to consultations with statutory undertakers and other interested parties referred to in this report.