

A02

F/TH/16/1255

PROPOSAL: Retrospective application for the change of use from tool hire business to dance studio

LOCATION: 25 Westbury Road Westgate On Sea Kent CT8 8QX

WARD: Westgate-on-Sea

AGENT: Mr J Elvidge

APPLICANT: Miss Linda Spreadbury

RECOMMENDATION: Approve

Subject to the following conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

2 The use of the premises hereby approved shall not be used other than between the hours of 1200 hours and 2100 hours Monday to Friday and 900 hours and 1700 hours on Saturday and at no time on Sunday and Bank Holidays.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy D1 of the Thanet Local Plan.

3 At any time where amplified music is being played in the dance studio area of the premises, all doors and windows associated with the dance studio must remain closed; and the door of the studio leading out onto the alleyway at the rear of the premises shall remain closed at all times (other than for emergency access and egress).

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy D1 of the Thanet Local Plan.

4 Music and associated noise from the application site shall be controlled, with no increase in the difference between LAeq, 1 min and LA90 when the music is on and off, and no increase in the difference between L10, 1 min and L90 when the music is on and off in each 1/3rd octave band between and including 40Hz and 160Hz, with all levels to be taken (with windows and doors open) from inside any neighbouring residential property.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy D1 of the Thanet Local Plan.

INFORMATIVES

During seasonal weather where the operator of the premises expects elevated internal temperature they shall consider the use of internal air conditioning units to control temperature to enable condition 3 to be met.

SITE, LOCATION AND DESCRIPTION

The site is located adjacent to the Westgate-on-Sea Conservation Area, within the urban confines and close to the centre of Westgate's commercial area. The property lies in the middle of a terrace of residential properties.

RELEVANT PLANNING HISTORY

F/TH/87/0600 - Use of premises for the sale of electrical equipment and hire of small tools.
Granted 31/7/87

F/TH/14/0732 - Retrospective application for change of use from tool hire business to gym.
Refused 8/4/15.

The reason for refusal being "*The change of use, due to its proximity to neighbouring residential properties and lack of noise mitigation measures, results in an unacceptable level of activity, vibration and noise to the occupiers of adjacent residential properties, severely harmful to the living conditions of those occupiers, contrary to Policy D1 of the Thanet Local Plan and paragraph 17 of the National Planning Policy Framework.*"

PROPOSED DEVELOPMENT

The proposal is for the change of use from a tool hire business to a dance studio (251 sq m). The dance studio has been operating since August as 'Silver Slipper' and this is a retrospective application for the change of use. The hours proposed are between the hours of 1200 hours and 2100 hours Monday to Friday and 900 hours and 1700 hours on Saturday and at no time on Sunday and Bank Holidays.

DEVELOPMENT PLAN POLICIES

Thanet Local Plan (2006)

D1 - Design Principles

TR12 - Cycling

TR16 - Car Parking Provision

CF1 - Community Facility

NOTIFICATIONS

Neighbour notification letters were sent to properties directly surrounding the site, a site notice was posted near the site and an advert placed in the newspaper.

One letter of objection has been received raising the following concerns:

- Noise disturbance from the use
- Hours of operation and concerns these hours may increase.
- This is the only shop premises in the road.
- This use is in the same category as the Gym that was refused.

Two letters of support have been submitted commenting that the use will be great for the community.

A petition containing 142 signatures from nearby roads has been submitted supporting the use as a dance studio stating "with the limited numbers of no more than 15 students at any one time, operating between midday and 9pm Monday to Friday and 9am to 4pm on Saturday, will not adversely affect the amenities of the area but will provide a much needed community facility and children's activity for Westgate families."

Westgate-on-Sea Town Council - Have concerns that this might not be an appropriate use within this area. If approved the hours of operation should be looked at. There are also concerns over noise levels and request that there are methods to mitigate that noise and the impact of the traffic movement within the immediate area.

Westgate-on-Sea Conservation Area Action Group - Raise concerns about noise levels and lack of on street parking.

Ward Councillor Bertie Braidwood comments that the Westgate Town Council conducted a Community Survey last year in which 'Things for Young People To Do' was highlighted as an area for improvement in the town, and as such this application would be a great addition to the Town and should be supported.

CONSULTATIONS

Environmental Health - No objection but recommended the following music noise limiting condition be attached to any permission:

Music and associated noise shall be controlled at any residential premises. There shall be: No increase in the difference between LAeq, 1 min and LA90 when the music is on and off. No increase in the difference between L10, 1 min and L90 when the music is on and off in each 1/3rd octave band between and including 40Hz and 160Hz. All levels shall be taken assuming windows open at the residential property.

It is noted that the doors and windows were closed during the Noise Impact Assessment monitoring and it is recommended that at any time where amplified music is being played in the dance studio area of the premises, all doors and windows associated with the dance

studio must remain closed. Further to this the door of the studio leading out onto the alleyway at the rear of the premises shall remain closed at all times (other than for emergency access and egress). An Informative is also recommended that during seasonal weather where the operator of the premises expects elevated internal temperature they shall consider the use of internal air conditioning units to control temperature to enable this condition to be met.

Conservation Officer - The application involves no changes to the external appearance of the property and therefore would have no impact on the character or appearance of the conservation area.

COMMENTS

This application is brought before the Planning Committee at the request of Councillor Sam Bambridge who has concerns about noise and disturbance to neighbouring properties; Councillor Carol Partington who has concerns about noise and unsociable opening hours in a residential area.

The main considerations of this application are the principle of development, impact on the character and appearance of the area, impact on the living conditions of neighbouring residential occupiers and highway safety.

Principle

The site lies within the urban confines within a district centre. There are no policy objections to the loss of the tool hire business and therefore the principle of the change of use to a dance school to serve the local community is considered to be acceptable in principle. Therefore the application needs to be determined in accordance with paragraph 70 of the National Planning Policy Framework (NPPF) and Local Plan Policies.

Character and Appearance

The application relates to the ground floor of the property. The windows in the front elevation of the building have been frosted/etched to reflect the use of the building as a dance studio with a non-illuminated sign above the entrance door. There are no external changes to the property and the building retains its appearance as a commercial property at ground floor. The use of the building does not result in any visual harm to the character and appearance of the area in general or the adjacent conservation area.

Living Conditions

The current planning use is for A1 retail use having previously been a Tool Hire business. The property is a terraced property situated in a wholly residential area. Nos 21 to 24 Westbury Road were formerly commercial at ground floor and have been converted over time to residential. No.25 is the only property in this part of Westbury Road that has retained a commercial use. The flat above No.25 is not in the same ownership as the ground floor.

The last legal planning use of this property was for A1 Retail, when it operated as a Tool Hire business. The building was most recently used, without the benefit of planning consent, as a gym. A planning application for the change of use from tool hire business to gym was refused due to its harm to the living conditions of neighbouring residential occupiers from noise disturbance. The gym had extensive operating hours, operating from 6.30am until 11pm every day, including Sundays and Bank Holidays. The lack of adequate ventilation within the gym resulted in the door to the internal courtyard and the rear door into the rear access road being open, resulting in noise from the gym spilling outside. The use of the gym equipment lead to impact noise from equipment and dropping of weights, together with music being played through speakers throughout the day; this use generated a number of noise nuisance complaints from nearby residents. No details were provided of how the impact of the gym activities were to be mitigated and no sound insulation measures were in place when used as a gym.

The ground floor of the property comprises a reception area to the front of the property with a changing room, kitchenette and WC directly behind, where it adjoins Nos 24 and 26, and the flat is directly above this part of the property. The dance studio is located to the rear, within the same area previously used for the gym, and is the former single skinned garage extension. It is understood the Tool Hire business used this area for repair work which would have generated a degree of noise associated with this use but this is unlikely to have been for prolonged periods of time.

The 1987 permission for the use of the premises as a tool hire business (F/TH/87/0600) restricted the hours of operation to 8am and 6pm Monday to Saturday and at no time on Sundays. The hours of operation applied for by the dance studio are substantially less than the unauthorised gym use (6.30am until 11pm every day, including Sundays and Bank Holidays) and are proposed between 12 noon and 9pm Monday to Friday and 9am to 5pm on Saturday and at no time on Sunday and Bank Holidays.

The main dance floor area is approximately 5 metres by 7 metres. Given the limited size of the studio and the need for dancers to have space to move around it is unlikely that the numbers of people using the studio at any one time would be more than 15. The dance studio offers sessions that are generally between 30 mins to 45 mins long, therefore, unlike the previous unauthorised gym use, the amplified music and sound from classes taking place is unlikely to be continuous from opening to closing time.

One of the main concerns of the previous unauthorised use as a gym was the noise spilling out from the building from the doors being open and the use of the outdoor spaces. In this instance the use would be contained within the building and the applicant has agreed to conditions that at any time where amplified music is being played in the dance studio area, all doors and window associated with the dance studio must remain closed. Further to this the door of the studio leading out onto the alleyway at the rear of the premises shall remain closed at all times (other than for emergency access and egress). Furthermore the applicant has invested in an air conditioning unit that can be used to control the temperature within the studio without the need to open the doors and windows whilst amplified music is played, thereby reducing the amount of noise spilling outside the building.

The applicant has submitted a comprehensive Noise Impact Assessment which measures noise emissions at various points around the site including from the rear garden of 24 Westbury Road, the rear of the premises close to the boundary with 26 Westbury Road, from the flat roof of the dance studio rear extension and overlooking both Nos 24 and 26 Westbury Road and the residential dwelling immediately above 25 Westbury Road, at first floor level. The conclusion of the report states that the use of the building as proposed is unlikely to provoke any adverse noise impact at any of the assessed locations.

It was considered that the use of air conditioning equipment to ventilate the property would in itself generate low frequency noise disturbance to properties in close proximity. However, the Noise Impact Assessment document submitted notes that the typical sound levels generated by a "wheeled-in" air conditioning system is highly unlikely to contribute any physical increase in the internal sound levels already identified in the report.

The site has been operating as the Silver Slipper dance studio, without the benefit of planning consent, since August. As of 29 November 2016 Environmental Health confirm no noise nuisance or other complaints have been received relating to the dance studio. The last complaint received was in July 2015 when the property was being used as a gym.

I consider the lawful use of the premises for A1 retail use has the potential for a degree of noise disturbance from customers using the shop at various times throughout the day. With regards to the proposed use as a dance studio I consider the hours of operation, together with the measures in place to prevent noise spilling over to adjoining residential occupiers is sufficient to protect the residential amenity of neighbouring occupiers and therefore accords with Policy D1 of the Thanet Local Plan and the National Planning Policy Framework.

Transportation

The lawful use for A1 retail has the potential for vehicular movements visiting the premises, with the tool hire business likely to result in vehicles needing to collect and return potentially bulky and heavy equipment. With regards to the previous unlawful use of the gym Kent Highways considered the use would be unlikely to lead to a material increase in demand for on street parking on surrounding highways. I consider the current proposed use as a dance studio, open for less hours and operating on less days, is likewise unlikely to lead to a material increase in on street parking demand.

As part of this application the applicant has submitted a parking survey which indicates on-street parking availability in the vicinity during the hours of proposed use.

The site is in a very sustainable location being close to the centre of Westgate and close to public transport links. As a tool hire business with A1 use I do not see that the number of vehicular movements to and from the site would be significantly different to the proposed use. I therefore consider there is no adverse impact on highway safety.

Conclusion

The use has not resulted in any harm to the character and appearance of the area, and it is considered that the noise arising from the use has not had any significant adverse impacts

on the living conditions of neighbouring residential occupiers and is in line with Local Plan Policy D1. As such it is recommended that subject to safeguarding conditions, restricting the hours of use and noise mitigation measures, Members approve the application.

Case Officer

Rosemary Bullivant

TITLE:

F/TH/16/1255

Project

25 Westbury Road Westgate On Sea Kent CT8 8QX

Scale:

