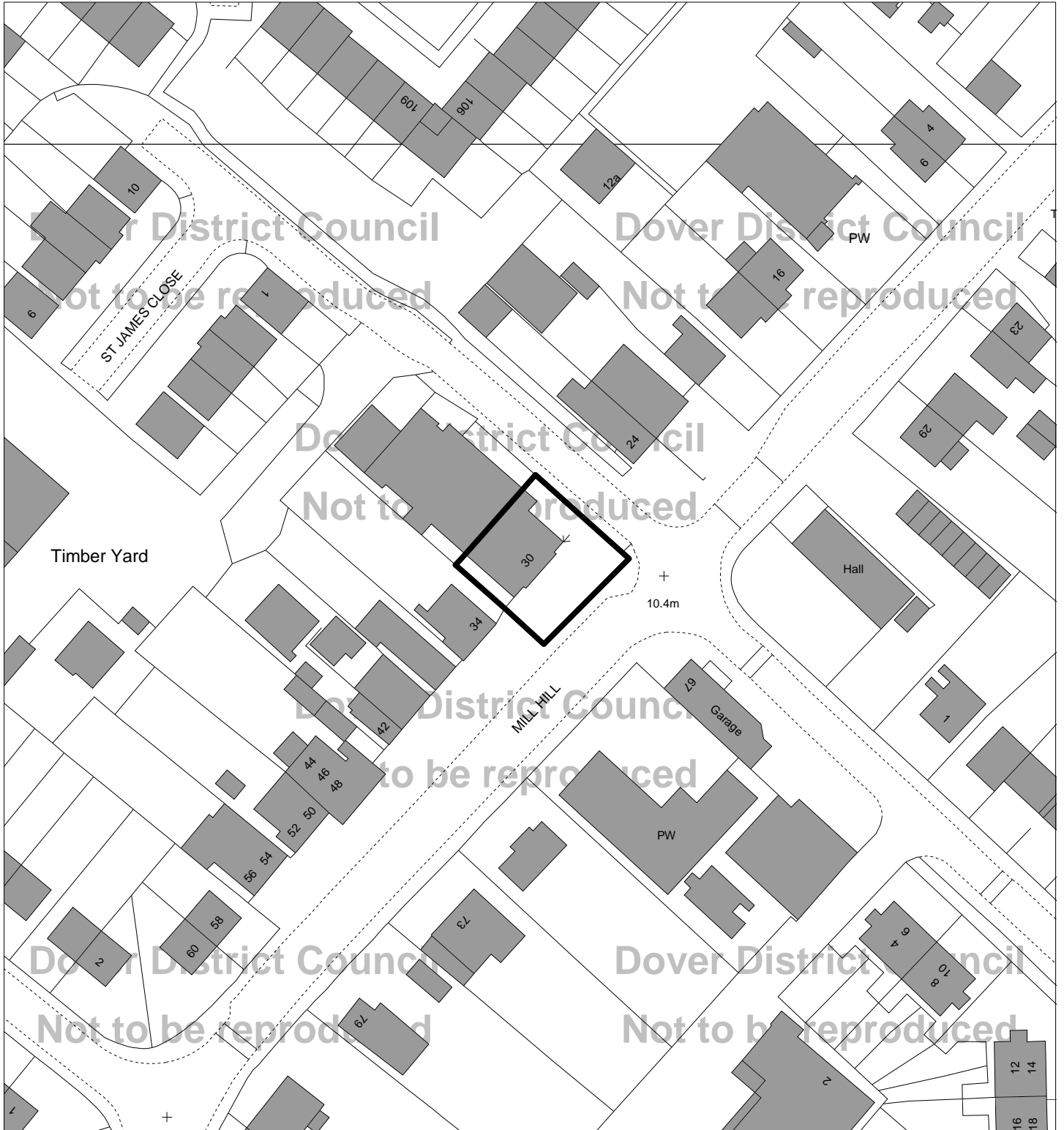


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**Application: DOV/15/01026**

**30 Mill Hill**

**Deal**

**CT14 9EW**

**TR36585143**



a) **DOV/15/01026 – Change of use to Class D2 Use (assembly and leisure) and single storey extension (retrospective application) – 30 Mill Hill, Deal**

Reason for Report – Level of public interest

b) **Summary of Recommendation**

Planning Permission be granted

c) **Planning Policy and Guidance**

Core Strategy

- DMI – Development should be within urban boundaries.
- DM13 – Provision for parking should be design led process and be informed by Kent County Council Guidance SPG4 or any successor.

National Planning Policy Framework

- Para 14 - Presumption in favour of sustainable development.
- Para 32 - Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- Para 69 - Planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities.

d) **Relevant Planning History**

DOV/91/112 – permission granted for 7 dwellings.

DOV/11/639 – permission granted for change of use and conversion into 7 houses and erection of rear extension.

e) **Consultee and Third Party Responses**

Environmental Protection – No objections to proposed hours of use. Originally raised concerns about potential for noise nuisance given proximity of adjoining properties. Following receipt of noise report is now satisfied that concerns have been adequately addressed.

KCC Highways – Has informally commented that highway safety would not be compromised as there is on road parking available within the vicinity.

Public Representations - 20 public representations object on following grounds:

- Too many fitness centres in local area – 2 within ¼ of a mile from site.
- Traffic and parking concerns
- Busy area with parking at a premium because of commercial uses nearby
- Lack of information in support of application
- Recent development in area causes problems
- Noise pollution for neighbouring properties at unsocial hours
- Works and use have already commenced

Deal Town Council – Objects on grounds of lack of parking in area and may encroach on public pathway.

7 public representations support the proposal on the following grounds:

- No parking problems since use has commenced
- Building transformed from derelict building to well-maintained site
- Objections on grounds of competition with other gyms not valid

f) 1. **The Site and the Proposal**

1.1 The application site comprises an imposing two storey building with basement below, located on the corner of Mill Hill and St. James's Close and opposite Freeman's Way. The building was originally attached to an industrial building extending along the St. James Close Frontage and apparently was originally used as a brush factory. Records from Environmental Health reveal that it was used variously for disco/ballroom dancing, auction rooms and a youth club in the 1990s. More recently it was used for the selling and repairs of cycles and nursery equipment. Following the grant of permission in 2011 referred to above, the scheme was part implemented so that a terrace of 5 properties were erected along the St. James's Close frontage, physically adjoining the frontage building itself, but the approved conversion to 2 dwellings in that frontage building, was not carried out.

1.2 The local area comprises mixed uses with a parade of shops to the west and further commercial premises to the east, including a fitness studio. Directly opposite are two vehicle repair premises and a church, with residential properties elsewhere along Mill Hill and to the rear along St. James's Close.

1.3 The proposal, which has now been fully implemented, is to use the ground floor and basement of the premises for a gym and fitness studio with a first floor residential unit above which will be used by the applicant. A single storey extension on the south western side of the building has been constructed to improve access and fire escape. There is parking for 7 vehicles on the forecourt frontage to Mill Road.

1.4 Following requests for further information on the nature of the proposed use, the applicant has commented as follows: the ground floor has been laid out with the usual range of fitness equipment, with the intention being to use the basement area for classes such as cycle spinning. Membership will be 100-130 although peak usage at any one time is expected to be around 20 plus staff. Hours of operation will be 0600-2200 Monday - Friday and 0900-1700 Saturdays and Sundays. The gym has been lined with acoustic soundproofing to restrict transition of noise.

2. **Main Issues**

2.1 The main issues are; the principle of the development; the effect of the proposal on residential amenity of occupiers of nearby residential properties; and the effect of the proposal on on-street parking within the area.

3. **Assessment**

*Principle of development.*

- 3.1 Given the previous and longstanding commercial use of the building and the mixed character of the adjoining area, officers consider that the use is appropriate in this location particularly as it is sustainable in terms of being located in a wholly urban location with proximity to other local services and public transport. Although a number of representations have referred to proximity of other fitness centres nearby, members will be aware that these are primarily matters relating to commercial competition rather than land use planning considerations, and should therefore not have a direct bearing on whether the proposal is acceptable or not. It is for the applicant to decide whether it will be successful from a commercial point of view. Accordingly, officers are satisfied that the principle of a gym use in this location is acceptable.

*Residential amenity*

- 3.2 As referred to above, the frontage building is now physically attached to the adjoining new terraced building in St. James's Close which is in residential use. However details requested for the construction between the two reveal that the new terrace was built to an independent foundation and that a new wall was constructed at the rear of what is now the gym at ground floor, with full insulation between the wall of the new dwelling. Internally the walls of the ground floor and basement of the gym have been lined with acoustic insulation board.
- 3.3 Because of concerns relating to potential noise transmission to adjoining residential properties and possible nuisance to other nearby residential properties, a noise study was requested from the applicants in accordance with requirements set out by Environmental Health (EH). Those requirements were in accordance with recommended BS standards for noise transmission and are in excess of Building Regulation requirements since the latter do not control acoustic performance between residential and commercial properties. Actual noise testing was carried out on both floors of the adjoining property which found that the requirements of EH were exceeded. EH officers have considered the report and agree its findings. Accordingly no objections are raised. Aside from the property at the rear, the nearest residential use is the adjacent property to the west to the rear of the shop at No 34 Mill Hill. However the two buildings are separated by the extension recently completed and an adjoining driveway to No 34. Given the results of the noise study, no adverse noise issues are anticipated in respect of that property.
- 3.4 As referred to above, since submitting the application the gym use is now in operation. Officers have visited the site during the early evening where no external noise was audible from outside the premises. Furthermore, since the opening, no complaints have been received by officers regarding noise nuisance. Both observations would seem to bear out the results of the noise study and demonstrate that internal insulation has been successful in mitigating noise.

- 3.5 Summing up the above, given the mixed use location, the previous commercial uses on the site and the noise insulation works carried out, officers are satisfied that there has/will be no significant loss of residential amenity from a noise or nuisance point of view. However in order to ensure that continues to be the case hours of use are recommended to be restricted to those proposed. Similarly, the classes are proposed to be in the basement area where there are no openable windows and noise can be more easily retained. It is therefore recommended that a condition be imposed to ensure that classes do not subsequently operate on the ground floor. Finally, whilst the applicant continues to occupy the first floor flat above, it is unlikely there would be any amenity issue arising from the ground floor use. However, that may not be the case with an independent use of the first floor and a condition linking the two uses together is recommended.

#### On-street parking

- 3.6 The Kent Vehicle Parking Standards would require parking provision ranging from a minimum 3 spaces to a maximum of 7 spaces, depending upon such factors as the sustainable nature of the site. As referred to above, 7 spaces are proposed on the site forecourt which it is understood has long been used for parking by users of the premises. Such parking does not impede the public footpath along that section of Mill Road. Additionally there is on-street parking along Mill Road in the form of a lay by serving the commercial premises to the west and additional on-street parking elsewhere in Mill Road and St. James's Close.
- 3.7 Officers acknowledge the concerns from local residents regarding increased parking pressures in the area. This appears to be exacerbated recently as a result of construction of new development in St. James's Close itself, including the site immediately to the rear, and which is still on going with a development currently under construction on the eastern side of St. James's Close. There is little doubt that on-street parking is well used, but officers observed that at both a site visit in the middle of the day and in the early evening period since the use has commenced, there was available on-street parking space.
- 3.8 The site is in a sustainable location where some patrons would be expected to arrive on foot or by public transport. For those that do not, the provision of 6 on-site spaces is considered adequate, particularly bearing in mind the previous commercial uses of the premises. Officers would also refer members to advice in the National Planning Policy Framework to the effect that permission should only be refused on transport grounds where the residual impacts of development are severe. For the reasons set out, that is not considered to be the case. Furthermore, as with the case of potential nuisance above, officers have not received any further objections in respect of parking problems since the use has actually commenced, which would seem to suggest that the above analysis is borne out by the use in practice.

### Other Matters

- 3.9 Whilst it is regrettable that the use has commenced in advance of the planning application being considered, members will be aware that the proposal should be considered on its merits and therefore the fact that the use has already commenced should have no material bearing on consideration of the application. The single storey extension on the south west side of the building has been constructed with matching materials and raises no visual issues or has any adverse impact upon the adjacent property to the south west.

### Conclusion

- 4.0 The proposal represents an appropriate use of the premises given its sustainable location and previous history of commercial uses. The noise study demonstrates that insulation will be effective in protecting residential amenity and has been accepted by EH officers. A satisfactory level of on-site parking is provided and it is not considered that there will be any significant adverse impact upon on-street parking. As noted above, no complaints have been received by officers in respect of either noise nuisance or parking since the use has commenced. Accordingly, planning permission is recommended to be granted subject to the safeguarding conditions set out below.

g) **Recommendation**

- I PERMISSION BE GRANTED subject to: 1) development to be carried out in accordance with approved plans: 2) Classes to be limited to basement area: 3) Hours of operation to be limited to 0600-2200 Monday to Friday, 0900-1700 on Saturdays, Sundays and Public Holidays: 4) No alteration to internal sound insulation: 5) Parking on forecourt to be kept available at all times: 6) First Floor flat not to be occupied independently of use of ground floor.
- II Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions and matters in line with the issues set out in the recommendation and as resolved by the Planning Committee.

### Case Officer

Kim Bennett