

Application ref: 2019/3270/P  
Contact: Sofie Fieldsend  
Tel: 020 7974 4607  
Date: 20 December 2019

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Nexus Planning  
5th Floor Thames Tower  
Station Road  
Reading  
RG1 1LX

Dear Sir/Madam

### **DECISION**

Town and Country Planning Act 1990 (as amended)

#### **Full Planning Permission Granted**

Address:  
**5 Harben Parade**  
**Finchley Road**  
**London**  
**NW3 6JR**

Proposal: Change of use and subdivision of the unit from A1 (retail) to form an A1 (retail) unit and a D2 (gymnasium) unit at ground floor level and D2 (gymnasium) at lower ground floor level, with associated alterations to shop front.

Drawing Nos: PLAN\_01; PLAN\_02; PLAN\_03; PLAN\_04; PLAN\_05; PLAN\_06;  
PLAN\_07; PLAN\_08 AND Letter dated 31/10/19 from Gilleron Scott Acoustic Design.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless

otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

PLAN\_01; PLAN\_02; PLAN\_03; PLAN\_04; PLAN\_05; PLAN\_06; PLAN\_07; PLAN\_08 AND Letter dated 31/10/19 from Gilleron Scott Acoustic Design.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, CC1, D1, A1, and A4 TC1, TC2 and TC4 of the London Borough of Camden Local Plan 2017.

- 5 Noise and vibration mitigation measures identified in the Gilleron Scott Acoustic Design letter reference: 'Anytime Fitness Swiss Cottage- 5 Harben Parade, London, NW3 6JR' shall be put in place prior to first use of the gym and shall thereafter be retained.

Reason: To safeguard the amenities of the premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 6 A post-completion noise survey and report shall be undertaken to assess noise from the gym usage and associated sound systems at the nearest residential receptor and submitted to the Council within one month of operation.

Amplified music from the premises shall comply with the following criteria:

i) Noise Rating Curve NR20\* in bedrooms - 2300 to 0700

ii) Noise Rating Curve NR30\* in all habitable rooms - 0700 to 2300

(Noise Rating Curves should be measured as a 5 minute linear Leq at the octave band centre frequencies)

Individual noise events from typical gym usage measured as LAmax shall not exceed 45 Db in bedrooms at night.

Reason: To safeguard the amenities of the premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 7 Before the use commences, the cumulative noise level from all fixed plant

associated with the application, when at a point 1m external to sensitive facades shall be at least 10 dB(A) less than the existing background measurement (LA90), expressed in dB(A), when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that is distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses(bangs, clicks, clatters, thumps), then the noise levels from the plant/equipment at any sensitive façade shall be at least 15 dB(A) below the background noise level.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 8 Prior to first occupation of the approved use, an approved S278 agreement (Highways Act 1980) must have been entered into with Transport for London with respect to the provision of 6 secure cycle parking spaces on the footway in the general vicinity of the site.

Reason: To ensure visitors and users of the development have sufficient secure cycle parking in line with Policy T1 of the Camden Local Plan.

- 9 The D2 (gym) use hereby permitted shall not be carried out outside the following times 6am-11pm Mondays to Saturdays, on Sundays and Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, CC1, D1, A1, A4, TC2 and TC4 of the London Borough of Camden Local Plan 2017.

- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), the premises shall be used for no other use than that falling within D2 (gym) use of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: In order to maintain the character and function of the premises and the Finchley Road Town Centre as a whole, and to protect the residential amenities of neighbours in accordance with policies G1 and A1 of the London Borough of Camden Local Plan 2017.

#### Informative(s):

- 1 Reasons for granting permission:

The proposal involves the change of use and subdivision of the unit from A1 (retail) to form an A1 (retail) unit of 37sqm at ground floor and a D2 (gymnasium) unit at ground and basement level. It is noted that this primary shopping frontage is below 75% for A1 use, the subdivision of the unit to retain an A1 premises would result in no further loss of retail in this frontage. The unit would be occupied as a coffee shop/juice bar operated by the same owner as the D2 unit and the Council is satisfied that the size of the unit is viable to

operate. In this instance the change of use is acceptable in this town centre location and complies with Policy TC2. It is considered that this proposal overcomes the previous reason refusal under planning ref. 2018/6271/P.

The shopfront would be altered to provide two separate double door entrances for the new units. The existing frontage is larger than the neighbouring premises and the subdivision would allow for a proportionate frontage within this parade. The materials would match existing and the detailed design is not considered to detract from the character and appearance of the host property and wider streetscene.

Given their scale, siting and design, the shopfront alterations are not considered to have any amenity impacts on the neighbouring properties. It relies on an acoustic letter outlining noise mitigation measures based off two noise surveys which were submitted under planning ref. 2018/6271/P. The Council's Environmental Health Officer has reviewed the information and considers it to be acceptable subject to the conditions. Noise conditions including compliance with mitigation measures, a post completion noise survey, music and noise levels have been attached to ensure that the development would not result in a material impact on the amenity of neighbouring properties in terms of noise.

A 24 hour use was proposed, which is not considered appropriate as potential comings and goings of visitors at all hours of the day could disturb local residents, including those living at upper levels of the parade on Finchley Road. The hours of operation would be restricted to 6am until 11pm daily, which is in keeping with recent permissions of gyms in the borough and those within the surrounding area. A condition would secure the new use as a gym and not include other D2 uses which could create amenity issues.

10 cycle parking spaces are required to comply with the London Plan, however 6 spaces have been proposed by the applicant. This has been accepted by the Council's Highways Officers in this instance as it would take up less of the footway and as it is a conversion rather than a new build. A condition has been attached requiring the applicant to enter into a S278 agreement with TFL who are the highways authority to install these spaces.

One objection was received prior to making this decision and duly taken into consideration. The planning history of the site and surrounding area were taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies G1, A1, D1, TC1, TC2, TC4 and TC5 of the London Borough of Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2019.

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

- 3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 4 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at [www.camden.gov.uk/cil](http://www.camden.gov.uk/cil) for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 5 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 6 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is positioned above the printed name and title.

Daniel Pope  
Chief Planning Officer