
FREETHS

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31st March 2021

Dear Sir/Madam

144 FORTRESS ROAD, TUFNELL PARK, NW5 2HP
SECTION 73 PLANNING APPLICATION TO REMOVE CONDITION 2 OF PLANNING
PERMISSION E12/10/19/37170

We have been instructed to submit the following S73 Application to remove Condition 2 of Planning Permission Ref: E12/10/19/37170 ("the Permission") on behalf of our client, Bromley Park Garden Estates Limited ("the Applicant") at 144 Fortress Road, Tufnell Park ("the Site").

The Application comprises the following documentation:

- Application Form;
- Site Location Plan identifying the extent of the Site in red (Drawing Reference 88104470.1/1);
- Planning Permission Ref: E12/10/19/37170 dated 24th January 1984;
- Historic Site Plans; and
- The application fee of £234 by way of BACS Bank Transfer.

We also request that the contents of this Supporting Letter are taken into account in the consideration of this application.

The Site & Surrounding Area

The Site is currently in use as a gymnasium / cross fit centre and is located on the east side of Fortress Road, Tufnell Park. It is a mid-terrace property and whilst pedestrian access is from 144 Fortress Road, the majority of the building forming the Site is located behind the east side of Fortress Road. It is located in the Tufnell Park Neighbourhood Centre.

Tufnell Park Underground Station is located less than 100m to the north of the Site (Northern Line), this, along with a number of nearby bus stops translates into a PTAL score of 5.

The Site has been in use as a gym since 1984 following the grant of Planning Permission in January 1984 which is the subject of this planning application. It was formerly in use as a warehouse for clothes manufacturing.

The surrounding area is mixed in character consistent with its position in a Neighbourhood Centre. Fortess Road itself has a number of uses on the ground floor typical of a Neighbourhood Centre including shops, restaurants, takeaways, cafes and estate agents amongst other uses, the upper floors generally consist of residential flats. There is a similar situation to the north of the Site on Brecknock Road. To the west of the Site / Fortess Road are further residential properties, the only exception to this being Acland Burghley School. To the south of the Site are newly constructed residential units in Gottfried Mews. To the east of the Site are residential dwellings along Brecknock Road.

Planning History

The key Planning Permission of relevance to this planning application is Ref: E12/10/19/37170 dated 24th January 1984 which allowed the change of use from a warehouse / industrial use to a gymnasium with ancillary retail and office uses and the installation of a new shop front. This was approved on 24th January 1984.

Clive Manley was the operator of the gym business that benefitted from the Planning Permission. Condition 2 of this permission was made personal to the now former tenant Clive Manley and required that once he vacated the premises the Site will revert back to a warehouse use. This condition was imposed due to the special circumstances of the case and the Council wishing to have the opportunity to exercise control over any subsequent use in the event that Clive Manley vacated the premises. There are no published planning history documents which confirm what the special circumstances of the case were at the time of the decision. We therefore have to assess if there is any continued justification for such a conditional restriction and for the property to revert to warehouse use.

There are a number of more historic planning applications at the Site which relate to its previous use in an industrial / warehouse use.

There has been one recent planning application in December 2017 (LPA Ref: 2017/5924/P) which proposed to extend the opening hours of the gym by varying condition 1 and also removing condition 2, to allow for Fortess Fitness to take over operations of the Site. This application was withdrawn with nothing online indicating as to why the application was not determined.

The remainder of this Supporting Letter will outline why the Condition should be removed.

Justification

There are two reasons that support the removal of Condition 2:

- (i) Inappropriateness of a personal condition; and
- (ii) No need for the planning condition in land use planning terms.

We explain these reasons overleaf.

Inappropriateness of a personal condition

The Planning Practice Guidance in Paragraph: 015, Reference ID: 21a-015-20140306 states a condition limiting the benefit of the permission to a company (such as Clive Manley as the former operator) is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company. Conditions can also only be limited to a particular class of people based on an exceptional need. The use of such a personal condition is therefore no longer justified and should be removed on this ground alone.

Need for the planning condition

Since the Permission was issued, there has been considerable change in the Site and immediate surrounding area. This change has superseded the requirement for the condition.

When the Planning Permission was issued, it was a standalone warehouse building situated at the back of Fortress Road. This benefitted from an external yard in the north-eastern part of the Site. The presence of the warehouse was consistent with the presence of other such premises generally in backland locations.

It is noted from historic location plans (mid-1950s and 1974) that have been submitted with this planning application that there were a number of warehouses / workshops that are now no longer in such a use in the locality. This demonstrates that over this period of time there has been shift away from the industrial uses that were scattered amongst the local area with a number of these now being redeveloped or changed in use. Examples of these include:

- The warehouse at 105 Burghley Road (now the Acland Burghley School);
- the warehouse at 104-106 Burghley Road (now in use as offices, LPA Ref: P9601641R1), Otts Yard workshops (LPA Ref: P101326 (London Borough of Islington));
- Gottfried Mews (LPA Ref as above); and
- 18 Ingestre Road (Burghley Court) former Printing Works (LPA Ref: PEX0100801) all of which are now in a residential use.

A key indicator of this change is the land uses to the south of the Site, namely, Gottfried Mews. This was previously in use a warehouse / garage, similar to the Site, however, it has been redeveloped into residential units (LPA Ref: 2013/1289/P) and lies on the immediate southern boundary of the Site. This is one example of how the local area has clearly shifted in terms of overall land uses and is now predominantly residential.

These examples demonstrate that Tufnell Park has changed from an area which has a number of warehouses and workshops, to one that has residential mews, schools, shops and restaurants. To return this property to industrial / warehouse use would be inappropriate as it would result in an industrial / employment use being located in close proximity to primarily residential uses. If this were to be considered today as a new development in isolation, it would not be considered appropriate due to the impact on residential amenity.

The Site is also landlocked as a consequence of development that has taken place and the changing character of the area. The only vehicular access for the Site is via Fortress Road. This is a shopfront / High Street style entrance and does not offer any opportunity to access the remainder of the Site

to the rear by vehicles. The yard on the north-eastern boundary is also landlocked and cannot support access to the site. There are residential properties to the south accessed via Gottfried Mews which also blocks access to the site.

On this basis, there is no reasonable prospect of the site being re-used for warehouse purposes as it cannot be accessed and would conflict with surrounding residential properties. In this regard, if this scheme were to be considered for industrial / warehousing use today, it would not be in compliance with Camden Local Plan policies E1 or E2 given the surrounding land uses, inaccessibility for delivery vehicles and other warehousing traffic and the likely noise and disturbance this would cause for neighbouring occupiers' amenities.

In addition, the Site is not allocated for an employment use in the current Local Plan and there is no highlighted need for the Site to be retained in an employment use given the other employment land use allocations that are designated in the Local Plan in more appropriate areas Kentish Town, Kilburn, West Hampstead and other locations as described in paragraph 5.28 of the Local Plan. As the Site has not been in use as a warehouse for in excess of 40 years, there is clearly no identified need or planning reason for the Site to return into its previous use.

As the Site lies in the Tufnell Park Neighbourhood Centre, the use of the Site for Class E (which the Gym use falls within) would be entirely appropriate and consistent with Local Plan policy TC2. There is no preference to retain warehouse / industrial uses under TC2. This further emphasises how there is no land use planning reason to retain the condition.

Conclusion & Next Steps

From this assessment, we have concluded there is no reason to retain Condition 2 of Planning Permission Ref: E12/10/19/37170 on the following basis:

- A personal permission is now considered inappropriate under the PPG.
- There are no land use policy reasons for the site to revert to warehousing use and the re-introduction of such a use will conflict with the residential surroundings. A Class E use is entirely consistent with the position in Tufnell Park Neighbourhood Centre and in accordance with Local Plan Policy TC2.

I trust that the above justification and the enclosed plans and documents are sufficient to fully assess this planning application and we look forward to receiving acknowledgement of the application.

Yours faithfully

This document is "unsigned" as it is electronically forwarded. If you require a signed copy please contact the sender.

Daniel Hyde
Associate – Planning & Environmental Group
Please respond by e-mail where possible