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Planning Statement

S73 application - Variation of condition to extend opening hours for a gym

47 Crogsland Road
London
NW1 8AY

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Document Reference: 2530/JDCM
London Borough of Camden

Introduction

1. This Planning Statement has been prepared by Plainview Planning Ltd in support of a S73 planning application for a minor material amendment to allow the variation of a condition on an existing planning permission to allow a gym to operate on a 24/7 basis at 47 Crogsland Road, Camden, London, NW1 8AY.
2. The gym is operated by Anytime Fitness, a well regarded worldwide gym company who successfully operate 160+ 24/7 gyms around the country inclusive of gyms in close proximity to residential properties, similar to this site.

Regulatory Background

3. Under Section 73 (S73) of the Town and Country Planning Act 1990, conditions attached to a planning permission can be varied or removed. S73 can also be used to seek a minor material amendment to a permitted scheme.
4. Whilst there is no statutory definition of a 'minor material amendment' the NPPG sets out at paragraph 07 Reference ID: 17a-017-20140306, that it is likely to include any amendment where its scale and nature results in a development which is not substantially different from the one that has been approved.

Site Context and Designations

The Site

5. The application site is situated to the north-east of Haverstock Hill and the west of Crogsland Road. The focus of this application is the basement level where the gymnasium is located.

Planning Policy Map Designations

6. According to the Camden Local Plan policy map the site is within the Camden Town Centre. The site is not within a Conservation Area and is not listed. These considerations are discussed in the planning policy section of this report.

7. The south of the site fronting Haverstock Hill is also designated as a 'sensitive frontage'. However this application does not relate to built development or changes to the frontage. For this reason no further consideration has been given to it.

Planning History

8. There have been a number of historic planning applications on the site, confirmed by the online planning application database. Most relate to the discharge of conditions of the base permission which is detailed below.

Date	Reference	Description	Decision
10-02-2021	2020/1487/P	Variation of condition 2 (approved plans)...of planning permission ref. 2015/0487/P dated 22/12/2016 (as amended by ref. 2020/3347/P dated 30/7/2020 and 2017/3018/P dated 13/6/2017)...namely for addition of plant, reconfiguration of basement and ground floor layout to provide gym (Class D2), supermarket (Class A1) and restaurant (Class A3) and elevational alterations.	Granted - subject to a Section 106 legal agreement
30-07-2020	2020/3347/P	Amendment to description of development of planning permission ref. 2015/0487/P (dated 22/12/2016)...namely to replace the reference to cinema (Class D2) with assembly & leisure (Class D2)	Granted
10-01-2019	2018/6077/P	Alterations to internal unit configuration as an amendment to planning permission ref. 2015/0487/P...	Granted
19-04-2018	2018/1323/P	Details of brickwork relating to Condition 3 (vi) of 2015/0487/P...	Granted
08-06-2017	2017/3018/P	Reduction in the depth of the basement and provision of internal cycle store at ground floor level, as an amendment to planning permission ref 2015/0487/P...	Granted
26-5-2-17	2017/3001/P	Details of SUDS in relation to Condition 7 of planning permission 2015/0487/P...	Granted
26-05-2017	2017/2967/P	Details of Acoustic insulation in relation to Condition 17 of planning permission 2015/0487/P...	Granted
26-05-2017	2017/2678/P	Details of Landscaping in relation to Condition 5 of planning permission 2015/0487/P...	Granted
26/05/2017	2017/2271/P	Details of temporary works in relation to condition 20 of planning permission (2015/0487/P)...	Granted
26/05/2017	2017/2269/P	Details of contaminated land in relation to condition 13 (a) of planning permission 2015/0487/P...	Granted
12-05-2017	2017/2270/P	Details of bin storage (condition 9) and cycle storage	Granted

		(condition 10) in relation to planning permission (2015/0487/P)...	
03-06-2016	2016/2778/P	Demolition of existing building (with retention of existing facade on Crogsland Road) in advance of redevelopment of site (as proposed in planning application reference 2015/0487/P)	Prior approval required - approval refused
02-02-2015	2015/0487/P	Demolition of existing buildings, with retention of facade at 45-47 Crogsland Road and construction of a part 4/part 5 storey building with basement comprising flexible use of cinema (class D2) at basement and ground level with ancillary restaurant and bar (class A3/A4) at ground level or retail class (class A1 at basement and ground floor level and 19 residential dwellings (8 x 1 bed, 9 x 2 bed and 2 x 3 bed units) on upper floors with associated cycle parking, amenity space and refuse and recycling storage.	Granted

9. In summary, on 30 July 2020, a NMA approval (ref. 2020/3347/P) was granted to replace the reference to cinema (Class D2) with assembly and leisure (Class D2). Then on 10 February 2021, a fresh permission was granted (ref. 2020/1487/P), by way of a S73 to vary the approved plans condition to reconfigure the basement layout to provide a gym (Class D2), in addition to other things.

The Proposal

10. This S73 application seeks to vary Condition 14 of planning permission 2020/1487/P to allow for 24/7 opening of the gym.

11. Condition 14 of 2020/1487/P currently reads:

“The D2 and A3 uses hereby permitted shall not be carried out outside the following times: 08:00 to 23:00 Sunday to Thursday and 08:00 to 00:30 Friday and Saturday.

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 Camden Local Plan 2017.”

12. Since the granting of permission 2020/1487/P via S73 application, there has been a use class change whereby Classes D2 and A3 do not exist anymore. They are subsumed by Class E.

13. This application seeks to vary Condition 14 of planning permission 2020/1487/P to allow for 24/7 opening of only the gym at basement level. This application does not seek to vary the opening hours of the other uses restricted by Condition 14 of permission 2020/1487/P.

14. Therefore, it is proposed that the varied Condition 14 will read as follows:

“The Class E uses hereby permitted shall not be carried out outside the following times 08:00 to 23:00 Sunday to Thursday and 08:00 to 00:30 Friday and Saturday unless the Class E use is a gymnasium, in which case, it can operate 24/7 providing it is operated in line with the approved acoustic report”

15. It is pertinent to note at this juncture that use of the basement as a gymnasium has been approved. This application does not seek to confirm the acceptability of the use of the basement as a gym - it is merely to extend the opening hours which are currently restricted.

16. The gym will be operated by Anytime Fitness who successfully operate a large number of 24/7 gyms around the country inclusive of gyms in close proximity to residential properties, similar to this site. It is intended to operate the gym on this basis.

17. In support of the application, an Acoustic Design Review and Noise Impact Assessment of Proposed Gym to Basement prepared by HA Acoustics, and a Noise Assessment has been prepared by KP Acoustics.

Planning Policy

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

19. The Development Plan comprises the Camden Local Plan (Local Plan) was adopted in 2017 and the London Plan 2021. A material to consideration is the National Planning Policy Framework 2021 (NPPF).

20. The relevant policies of the Local Plan are set out below:

- Policy C3 Cultural and leisure facilities
- Policy C5 Safety and security
- Policy A1 Managing the impact of development
- Policy A4 Noise and vibration
- Policy TC4 Town centre uses

21. The relevant policies of the London Plan are set out below:

- D14 Noise

Planning Considerations

Principle of Development

22. Policy TC4 of the Local Plan notes that in certain cases it is appropriate to use planning conditions and obligations to address certain issues. These include hours of operation and noise/vibration. This application seeks to ensure certain elements are controlled by condition - more on this later.

Operation of a Gymnasium 24/7

23. Policy C3 - Cultural and leisure facilities of the Local Plan supports the provision and retention of sports facilities. It notes that there is a very high level of demand for sports facilities in the Borough and that they should be located in central locations to allow as many people as possible to enjoy their benefits, providing they do not have an adverse impact on the surrounding area or the local community.

24. Policy HC6 Supporting the night-time economy of the London Plan, at paragraph 7.6.1 notes that the night-time economy is becoming increasingly important to London's economy, with the Mayor keen to promote London as a 24-hour global city with the night-time economy generally focused within town centres.

25. The site is within an area of regional/sub-regional importance according to Figure 7.6 - Town centres and night-time economy roles - distinguishing those of international, sub-regional and more than local importance.

26. The 24 hours operation would meet the Mayor's objectives, cementing London's status as a global city, and meeting the needs of its diverse population with different working hours. A 24 hour gym provides services to people who work in shifts or unsociable hours. Many of the Applicant's active members are nurses, in the police force and firefighters - key workers who are vital to ensure London is safe and functions as a global city. Other members are employees of the 'night time economy'. A 24 hour gym provides leisure opportunities for workers who finish in late evenings or early mornings.

27. It should also be noted at this juncture that Anytime Fitness has a successful track record in operating gyms in close proximity to residential uses. Indeed, they have secured approval for 24/7 operations at: Anytime Ruslip, which is located below

residential units at a busy junction in west London; Anytime Fitness Woolwich, which is co-located in a mixed-use development with Tesco Extra on the second floor and residential units on a podium; Anytime Fitness Tulse Hill; and Anytime Fitness Raynes Park.

28. The proposed 24/7 operation of the gymnasium in the Town Centre is therefore considered to be in line with the aims of policy C3 of the Local Plan, the London Plan and Paragraph 185 of the NPPF subject to its impact on the amenity of the area.

Impact on Neighbouring Amenity - Noise

29. Condition 12 of planning permission 2020/1487/P relates to noise levels at the development and notes that noise levels should not exceed 10dB(A) below the existing background measurement (LA90). This indicates a level of noise which is considered to be acceptable by the Council.
30. Condition 19 of planning permission 2020/1487/P sets out, *"No music shall (sic) emitted from the commercial part of the development shall be audible at any residential/noise sensitive premises"*.
31. In support of the application, an Acoustic Design Review and Noise Impact Assessment of Proposed Gym to Basement report was prepared by HA Acoustics, and a Noise Assessment has been prepared by KP Acoustics.
32. The scope of the Acoustic Design Review and Noise Impact Assessment of Proposed Gym report extended to the *proposed* construction of the gym and that at the time of their survey/assessment, and due to incomplete construction, only a theoretical breakout assessment and acoustic design review had been completed as opposed to a real survey.
33. The report finds that the typical night time background noise level at the site is 51dB LA90 (daytime readings were taken but were higher, as the proposal is for a 24/7 operation, the lower figure has been used). The report makes recommendations to improve the sound insulation of the space in order to ensure that an acceptable sound level from a 24/7 gym is achieved.
34. Appendix C of the acoustic report demonstrates that a level of 41db is achievable with the proposed sound insulation. This assessment also includes an average music level from the gym.
35. This level of 41dB is 10dB below the night time background noise level recorded of 51dB LA90. The proposal is therefore considered to comply with conditions 12 and 19 of the permission 2020/1487/P.

36. The report also concludes that *'considering the results of the noise survey, the illustrative layouts and the calculations, the predicted resultant noise levels from the gym are predicted to meet appropriate and reasonable guidance and the relevant noise criteria.'*
37. Further to this, a Noise Assessment has been prepared by KP Acoustics. The main objective of the report was to provide recommendations for gym floor coverings to mitigate against any noise impact on surrounding commercial or residential units. 'Smashtiles' have been recommended by the acousticians. The recommended floor covering has since been installed in order to avoid excessive sound transferal to the commercial units above.
38. As noted in the proposed wording for varied Condition 14, the Applicant is happy to accept a condition requiring that the acoustic protection is included.
39. It has therefore been demonstrated that any noise generating use can be operated without causing harm to the amenity of neighbouring properties or the surrounding area. The application is therefore considered to be in line with the aims of Policies A1 and A4 of the Local Plan, Policy D14 of the London Plan, paragraph 185 of the NPPF, and with Conditions 12 and 19 of permission 2020/1487/P.
40. Therefore the use of the space itself should not cause any nuisance or disturbance to neighbours, including those using and living above the gym.

Safety and Security and Movement of People

41. It has been noted previously by an Inspector at a site in Lewisham, London under appeal reference APP/C5690/A/13/2207484 (see Appendix A) that the 24/7 operation of a gymnasium would be very unlikely to generate more than a trickle of patrons during unsocial hours and that a small number of visitors, spread out through the night should not be significant within such a densely built-up residential area where there must be occasional comings and goings to and from residential properties. The Inspector also noted that they saw no reason why gym patrons would be particularly prone to committing acts of anti-social behaviour.
42. A 24 hour gym is materially different from the night time economy (bars and entertainment) in that users are unlikely to informally congregate outside the premises.
43. Data has been collected by Anytime Fitness for their existing 24/7 gym operations in Balham, Stratford East, and Kilburn. 'Gym usage' refers to average visiting hours.
44. The following trends have been identified:

- Usage is generally flat from 5am to 4pm with two peaks, in the early morning and lunch hours
 - There is a distinct peak between 4pm and 8pm
 - Usage decreases significantly from 8pm
 - Usage is negligible from 9pm to 5am
45. Gym usage in off-peak hours from 9pm to 5am is insignificant. It does not exceed 10% of daily usage.
46. The extended operation of the gymnasium on a 24/7 basis is not considered to have a negative effect on the safety and security of the area and may in fact improve passive surveillance. The proposed 24/7 operation of the gymnasium is therefore considered to be in line with the aims of policy C5 of the Local Plan.
47. It should also be noted that opposite the site, on Crogsland Road, 'Selina Hotel' is open 24/7. Next door to the site is a pub/hotel with the reception open 24/7. This demonstrates that neighbouring uses operate on a 24/7 basis and therefore would not be particularly sensitive noise receptors that would be negatively impacted by the extended opening hours of the gym proposed.

Material Considerations

Local Benefits

48. The proposal will provide 24/7 access to a high quality sports facility operated by a worldwide gym company. Sports facilities are noted as being in demand within the Local Plan and will also provide additional employment opportunities in line with Policy GG5 of the London Plan and potentially provide a boost to the local economy.
49. The 24/7 operation of a gymnasium could also aid community health and well-being by providing facilities for local residents to remain active.

Conclusion

50. The purpose of the original condition 14 of 2020/1487/P was to safeguard the amenities of the adjoining premises and area generally from noise and disturbance. It has been demonstrated in this statement and supporting Noise Assessments that there are no detrimental impacts as a result of the amended hours of operation that would impact upon the amenity of neighbouring properties or on the area. The

proposals accord with Development Plan policies, and the NPPF and therefore it is respectfully requested that this application is approved.

51. We trust that you have all you need to consider this application favourably, however if you require any further information from us please do not hesitate to contact us.