

COMMITTEE REPORT

Planning Committee on
Item No
Case Number

13 December, 2017
05
17/2545

SITE INFORMATION

RECEIVED	8 June, 2017
WARD	Queensbury
PLANNING AREA	Brent Connects Kingsbury & Kenton
LOCATION	634-640 Kingsbury Road, London, NW9 9HN
PROPOSAL	Variation of condition 8 (gym opening hours) of application reference 98/0338 and condition 1 (car parking opening hours) of application reference 98/1106, to allow 24 hour operation of the first floor gym and associated car parking area.
APPLICANT	The Gym Ltd
CONTACT	RPS CgMs
PLAN NO'S	<ul style="list-style-type: none">Suitability of Premises for Gym Use – Acoustic Appraisal, ref: Report AS9578.170410.NVIA, dated 18th May 2017.Planning Statement in respect of 632-640 Kingsbury Road, ref: JCG23168, dated June 2017.Site Location Plan, Licence number 100022432
LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION	<p><u>When viewing this on an Electronic Device</u></p> <p>Please click on the link below to view ALL document associated to case https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_134709</p> <p><u>When viewing this as an Hard Copy</u> .</p> <p>Please use the following steps</p> <ol style="list-style-type: none">1. Please go to pa.brent.gov.uk2. Select Planning and conduct a search tying "17/2545" (i.e. Case Reference) into the search Box3. Click on "View Documents" tab

RECOMMENDATIONS

That the Planning Committee resolve to grant planning permission subject to conditions as set out below.

That the Head of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

Conditions:

- Restriction on use of the first floor to be used only for the purpose of a health and exercise club and for no other purpose within Use Class D2.
- Restriction on music and loud amplified sound.
- Plant noise.
- Sound insulation measures.

That the Head of Planning is delegated authority to make changes to the wording of the committee's decision (such as to delete, vary or add conditions or informatives) prior to the decision being actioned, provided that the Head of Planning is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the committee.

SITE MAP



Planning Committee Map

Site address: 634-640 Kingsbury Road, London, NW9 9HN

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This map is indicative only.

PROPOSAL IN DETAIL

Variation of condition 8 (gym opening hours) of application reference 98/0338 and condition 1 (car parking opening hours) of application reference 98/1106, to allow 24 hour operation of the first floor gym and associated car parking area.

EXISTING

The application site consists of a large mixed use building which includes retail on the ground floor and residential flats on the second floor. There is gym use on the first floor which was approved under application ref: 98/0338. The building is situated on the north side of Kingsbury Road, nearby to a junction with Berkeley Road. It is located within the primary shopping frontage of Kingsbury District Centre. There is an ancillary car park to the rear of the building.

To the north and east of the car park are residential properties located on Leybourne Road and Berkeley Road.

SUMMARY OF KEY ISSUES

The key planning issues for Members to consider are set out below. 5 objections have been received regarding some of these matters. Members will need to balance all of the planning issues and the objectives of relevant planning policies when making a decision on the application:

- **Representations Received:** Following this consultation five letters of objection were received from neighbouring properties including three of the residential flats within the same building. Another letter of objection was received from Kingsbury Road Residents Company Limited which seeks to represent the interests of all seven flats within the same building. The representations raised concerns regarding the impact of the proposals on the amenity of nearby properties in terms of noise disturbance. There is also concern raised regarding a possible increase in traffic.
- **Proposed variation of conditions:** The application proposes the variation of condition 1 (car park opening hours) and condition 8 (Gym opening hours) of application ref: 98/0338. The variation of the condition would allow the gym use to operate on a 24 hour basis.
- **Noise impacts:** The council's environmental health team have reviewed the submitted Acoustic Appraisal as well as environmental health records for the site. The environmental health team have found the appraisal acceptable in principle and have recommended conditions which would secure the submission of further details regarding noise mitigation measures. The 24 hour use of the gym is therefore subject to the provision of satisfactory noise mitigation measures.
- **Car Park:** Concerns have been raised regarding the 24 hour use of the car park. Given that the application site is within a local district centre and on a busy main road it is unlikely that outside noise from the car park would be more harmful than existing noise disturbance in the area so as to constitute material harm to the amenities of local residents.

RELEVANT SITE HISTORY

Relevant planning history

98/1277: Details pursuant to condition 6 (noise insulation) of full planning permission reference 98/0338 dated 05/05/98 for ground-floor shopfront alterations and minor elevational amendments with change of use of first floor to leisure use (health & exercise club) - Granted, 22/11/2000.

98/1006: Variation of condition 7 of full planning permission 98/0338 from: "The car-parking area shall be so regulated so as to ensure that it is not open to the general public, between the hours of 9 p.m. and 9 a.m. daily without the prior approval of the Local Planning Authority." to: "The car-parking area shall be so regulated so as to ensure that it is not open to the general public between the hours of 11.30pm and 7am daily without the prior approval of the Local Planning Authority." - Granted, 30/03/1999.

98/0338: Proposed ground-floor shopfront alterations and minor elevational amendments with change of use of first floor to leisure, with associated car-parking and landscaping amendments - Granted, 05/05/1998.

CONSULTATIONS

Public Consultation

As part of the statutory consultation process undertaken during the determination of this application letters consulting neighbouring residents were sent to 41 properties on the 29th of June.

Following this consultation four letters of objection were received from neighbouring properties. In addition, a letter of objection was received from Kingsbury Road Residents Company Limited which seeks to represent the interests of the seven flats located directly above the gym. The managing agents for Flats 1 and 3, 632 Kingsbury Road also wrote in to object to the proposal.

A summary of the material planning concerns raised in these letters of objection is laid out below;

Point of objection	Response
Loss of amenity to the flats located above the gym due to increased noise	This matter is discussed within paragraphs 5 to 10 of the remarks section below
Increased level of noise and disturbance as a result of the users of the gym entering and exiting the building and car park throughout the night.	This matter is discussed within paragraphs 5 to 10 of the remarks section below
Unclear if noise impact and vibration surveys have been carried out	The application is supported by an Acoustic Appraisal that considers both noise and vibration. This document has been reviewed by officers in Environmental Health. See paragraphs 5 to 10 below.
Loss of amenity to the flats located above the gym due to increased levels of vibration from the gym equipment and classes.	This matter is discussed within paragraphs 5 to 10 of the remarks section below
Increased traffic in locality due to 24 hour operation of gym.	Given the anticipated low number of users to the gym during the extended hours, it is not considered that there will be a materially detrimental increase in traffic in the locality during the extended hours. It should be noted that
Loss of value to properties	This is not a planning consideration.
Likelihood of increased crime in locality due to 24 hour operation of gym.	There is no evidence to suggest that the increased operating hours of the gym will result in increased crime in the locality. The applicant has set out details within its Planning Statement regarding access arrangements to the building during the extended operating hours, and details of CCTV cameras that operate both within the premises and external entrances.

Internal Consultation

Environmental Health

Officers in Environmental Health have confirmed that they have no objections to the principle of the extension to the Gym operating hours, subject to a number of conditions being secured as part of any forthcoming

planning consent relating to sound insulation measures and restricting on music or loud amplified sound.

POLICY CONSIDERATIONS

National Planning Policy Framework 2012

London Plan consolidated with alterations since 2011 (March 2016)

Policy 2.15 Town Centres

Policy 4.7 Retail and Town Centre Development

Policy 4.8 Supporting a successful and diverse retail sector and related facilities and services

Town Centre Supplementary Planning Guidance (2015) GLA

Brent Local Plan 2016

DMP1 – Development Management General Policy

DMP2 - Supporting Strong Centres

DMP3 – Non-Retail Uses

Brent Local Development Framework Core Strategy 2010

CP16 – Town Centres and the Sequential Approach to Development

DETAILED CONSIDERATIONS

Background

1. It is proposed that condition 8 (of application ref: 98/0338) is varied which restricts the hours of operation of the first floor gym use to between 7 am and 11.30 pm, and that condition 1 of the same application is varied which restricts the opening hours of the associated car park. The variation of the condition would allow the gym use to operate on a 24 hour basis.
2. Condition 1 and 8 were attached to the original application for the purposes of protecting the amenities of the second floor residential flats within the building in terms of noise pollution. The primary assessment from which the application must be determined on is therefore the impact of the proposed 24 hour use on the amenities of nearby residents primarily in terms of noise disturbance. Letters of objection to the application submitted by local residents substantiate the significance of this consideration.
3. With regards to night time economy the GLA's Town centres SPG states the following; "The evening and night time economy (NTE) can make a significant contribution to town centre vitality and viability. It generates jobs and improves incomes from leisure and tourism activities, contributing not just to the vitality of the town centre but also making it safer by increasing activity and providing 'passive-surveillance'. However, it can also be associated with noise, crime, anti-social behaviour, community safety problems and detrimental effects on public health, which, without appropriate management and mitigation, impacts on the quality of life of local residents, workers and NTE customers."
4. The applicant has set out in its Planning Statement that the gym aims to reach out to a different market than conventional operators. The type of offer that it provides relates mainly to weights and cardio vascular machines, rather than organised group fitness. They have advised that the Gym has become a source of exercise/fitness for a range of local people, including those who work on a shift basis.

Noise and vibration impact on amenity on residential dwellings within the building

5. The Planning Statement submitted with the application has advised that based on an assessment of visitors to other similar operations around the country and the scale and nature of the operation proposed, only 9.29% of visitors are made between the hours of 23:00 and 06:00, with very minimal attendance between 00:00 and 06:00. It goes on to advise that during these hours, member of the gym tend to visit on an individual basis.
6. The applicant has submitted an acoustic appraisal which seeks to demonstrate that the proposed 24 hour use would not unduly impact upon the amenities of local residents. It examines airborne sound and sound and sound through transmitted noise and vibration (e.g. weights dropped onto the floor). Some mitigation measures were recommended within the report which included the fitting of a suitable floor system within the free weight area, items of resistance equipment not being located beneath residential units, fitting of isolating

collars and washers for weight stacks, making good of the residential slab where necessary and a heavy resiliently-suspended ceiling to be fitted across the residential separating slab.

7. The councils environmental health team have reviewed the submitted Acoustic Appraisal as well as environmental health records for the site and have commented that the submission demonstrates that a satisfactory noise environment can be achieved. They note that there has been no noise complaints made to the environmental health team regarding the current use of the gym at this site. This is despite concerns of noise disturbance being raised in objections received from local residents. The environmental health officer also points out that noise nuisance complaints that have been received regarding other gym uses have been related to structure borne transmission. Several conditions have been recommended to sufficiently mitigate the potential for harmful noise nuisance impact associated with the gym use on the below residential properties.

8. These conditions would secure the submission of further details regarding noise mitigation measures such as a plan of the entire gym showing areas which would receive treatment for acoustic mitigation, areas where free and assisted weights would be located, and where any plant would be located. This looks to capture the mitigation measures set out in the acoustic assessment.

9. Other conditions would limit the noise levels of machinery and any music played on the site.

10. In summary it is considered that the submitted acoustic appraisal is acceptable in terms of demonstrating that the proposed 24 hour use is acceptable in principle. It is considered that the relevant conditions will be suitable for safeguarding the amenities of the residential properties below the gym.

Impact of extended hours on amenity in relation to the car park

11. The proposed removal of restrictions to the times at which the car park can operate could result in more people using the car park during anti-social hours causing potential disturbance to neighbouring residents. Given that the application site is within a local district centre and on a busy main road it is unlikely that outside noise from the car park would be more harmful than existing noise disturbance in the area, even during antisocial hours, so as to constitute material harm to the amenities of local residents. The anticipated number of additional visitors to the gym during the extended hours is low, as discussed above. The submitted noise assessment demonstrates that the predicted maximum noise levels fall below the maximum guidance levels set out within WHO guidance.

Conclusion

12. The proposed 24 hour use is acceptable in principle and it is considered that the amenities of residential properties can be safeguarded by imposing relevant conditions. It is proposed to vary these conditions. However, allowing the operation of the first floor of the building and the car park would result in the conditions no longer serving a useful purpose (as they solely restricted those matters) and they have been removed from the draft decision notice. However, the condition relating to the use of the first floor (as a health and fitness centre) has been replicated and additional conditions have been attached regarding noise mitigation measures, amplified noise and plant noise as discussed above.

DRAFT DECISION NOTICE



Brent

DRAFT NOTICE

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

DECISION NOTICE – APPROVAL

Application No: 17/2545

To: Mr Tanner
RPS CgMs
140 London Wall
London
EC2Y 5DN

I refer to your application dated **08/06/2017** proposing the following:

Variation of condition 8 (gym opening hours) of application reference 98/0338 and condition 1 (car parking opening hours) of application reference 98/1106, to allow 24 hour operation of the first floor gym and associated car parking area.

and accompanied by plans or documents listed here:

- Suitability of Premises for Gym Use – Acoustic Appraisal, ref: Report AS9578.170410.NVIA, dated 18th May 2017.
- Planning Statement in respect of 632-640 Kingsbury Road, ref: JCG23168, dated June 2017.
- Site Location Plan, Licence number 100022432

at **634-640 Kingsbury Road, London, NW9 9HN**

The Council of the London Borough of Brent, the Local Planning Authority, hereby **GRANT** permission for the reasons and subject to the conditions set out on the attached Schedule B.

Date: 05/12/2017

Signature:

Alice Lester
Head of Planning, Transport and Licensing

Notes

1. Your attention is drawn to Schedule A of this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
2. This decision does not purport to convey any approval or consent which may be required under the Building Regulations or under any enactment other than the Town and Country Planning Act 1990.

DnStdG

SUMMARY OF REASONS FOR APPROVAL

- 1 The proposed development is in general accordance with the:-
National Planning Policy Framework 2012
The London Plan 2016
Brent Development Management Policies 2016

- 1 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015, (and including any equivalent provision in any statutory Instrument revoking and/or re-enacting these orders) the first floor of the building shall not be used other than for the purpose of a health and exercise club within Use Class D2 and shall not be used for any other purpose within Use Class D2 or any other purposes.

Reason: In the interests of the amenity of adjoining occupiers.

- 2 No music or loud amplified sound shall be played or used within the premises so as to be audible outside or impact upon neighbouring or adjoining acoustically sensitive premises.

Reason: To safeguard the amenity and prevent any significant disturbance to local residents

- 3 Any plant equipment installed externally or internally within the building shall be specified and designed so as to ensure that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 10dBA above the background levels determined near to noise-sensitive premises. The assessment of noise levels shall have been made in accordance with the current version of British Standard 4142.

Reason: To safeguard the amenity of local residents

- 4 Prior to the use of the premises as a gym between the hours of 23:00 and 07:00 the building shall have been constructed, modified, managed and/or internally laid out to provide sound insulation against internally generated structure- and airborne- noise in accordance with a scheme devised by a competent person which shall be submitted to and approved in writing by the Local Planning Authority. All approved noise mitigation measures shall be thereafter retained and maintained for the life of the development.

Reason: To safeguard the amenity of local residents.

INFORMATIVES

- 1 The applicant is advised that in order to fully comply with condition 2 the following information shall be provided:

a plan of the entire gym area outlining which areas will be subject to acoustic treatment, the nature of the treatment in all areas and where free weights and assisted weights will be located, to address structure- and airborne- noise. The plan should also include the location of plant (if this is within the building). The airborne sound insulation performance shall achieve as a minimum a 5dB increase over the minimum requirements of Approved Document E of the Building Regulations 2010.

Any person wishing to inspect the above papers should contact Nik Smith, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937