



**TO:** Planning Committee (North)  
**BY:** Head of Development  
**DATE:** 4 December 2018  
**DEVELOPMENT:** Removal of condition 6 to previously approved application DC/07/0272  
(Change of use from retail warehouse to fitness centre)  
**SITE:** Evolution Fitness Gladstone Road Horsham West Sussex RH12 2NN  
**WARD:** Horsham Park  
**APPLICATION:** DC/17/2123  
**APPLICANT:** **Name:** Mrs Sam Stocker **Address:** Evolution Fitness Gladstone Road  
Horsham West Sussex RH12 2NN

**REASON FOR INCLUSION ON THE AGENDA:** Following receipt of a Noise Management Plan, Ward Councillors have requested a decision is made at committee.

**RECOMMENDATION:** To grant planning permission subject to appropriate conditions.

## **1. CASE DETAILS**

- 1.1 The case concerns Evolution Gym, who have been operating from the application site since 2016. The gym provides coaching through workouts, open gym sessions and Pilates classes, involving weightlifting, gymnastics and 'high intensity interval training'. Equipment within the gym includes a fixed rig for resistance exercises (such as pull-ups) located in the rear part, as well as free weights, weighted balls, training mats, ropes and step boxes, located in the open front area. The flooring is covered in a thick rubber matting and double-glazed uPVC windows have been fitted to the northern elevation.
- 1.2 Prior to the current occupants (Evolution Gym), the building was in use by Curves Gym, a 'ladies only' gym and weight-loss management centre, involving cardio, strength training and stretching, with an associated focus on diet and meal planning advice. Approval for a change of use to a 'fitness centre' was granted in 2007 (DC/07/0272), subject to a number of planning conditions including provision of cycle parking, limited opening hours, restrictions over air-con and external lighting and a parking management scheme. Condition 6 of planning consent DC/07/0272 restricts the use of the 'back room' to a changing room and in connection with the instructions of weight-loss program only
- 1.3 It is noted that prior to its conversion to a fitness centre in 2007, the application site has had a historic commercial history, with references to an earlier retail warehouse (pool services and sales) operating from the site, and wider industrial / warehouse use before this, including

storage use for motor parts. The building appears to date from the late Victorian / Early Edwardian era and may have been a stable block.

- 1.4 The Council's Environmental Health team has been involved with the application site over the last two years, responding to a noise complaint at a neighbouring residential property, relating to impact / vibrations created by weights being dropped at the gym. The Council's officers have been proactively involved with the management at the gym in order to address these concerns, undertaking site visits to neighbouring properties and the application site, and offering to install noise measuring/monitoring equipment at adjacent properties.
- 1.5 As a result of this involvement, the Council's Environmental Health Officers have been able to secure mitigation measures against potential undue noise events experienced at neighbouring residential properties, and are satisfied that any residual harm has been adequately mitigated and can be controlled on an ongoing basis. Mitigation measures include the heavy-grade rubber matting, use of the weighted balls moved to another part of the building, free weights also moved to the front part of the building, sound deadening material in the step boxes, installation of the uPVC windows, limited use of music, and more control and guidance on how the weights are dropped. Furthermore, the gym operates strictly in accordance with the restrictions in opening hours imposed under DC/07/0272, with no classes after 8pm (Mon- Fri) and midday on Saturdays.
- 1.6 The current planning application concerns the use of the back room area (deep end) in a way that differs from the stated use set out under Condition 6 of DC/07/0272, as it would appear that prior to the current occupants taking on the premises, this separating internal wall had been removed. Evolution Gym therefore operates as a single use space, with WC's store rooms and lockers provided at the front of the building, and effectively breaches this planning condition.
- 1.7 At the time of an Officer site visit to Evolution Gym, at the end of 2017, a fixed rig / frame was installed in the deep end of the premises, which is used for resistance work (pull-ups, chin-ups etc).
- 1.8 A site visit was also carried out at the neighbouring property, 34 Hurst Road, which includes an annexe at the rear that adjoins the application site by way of a party wall, and where the main area of concern is considered to lie with regard to the use of the gym within the deep end of the building. This annexe is laid out with a garage adjoining the party wall at the ground floor. Above, the open plan studio living space (living / dining / bed room) adjoins the party wall. The annexe has a small kitchen, hallway and bathroom located at ground floor, adjacent to the garage. At the time of the site visit, the annexe was not occupied and no noise was audible, although it is unknown if the gym was open and/or holding a class at the time.
- 1.9 Planning history reveals that this annexe was permitted as incidental accommodation to the main house at No.34 in 1989 (HU/458/89), with a planning condition that restricts independent occupation (cond 4). Condition 8 also required submission of details to secure adequate sound insulation of the annexe along the Party Wall with the application site, which conformed to the relevant Building Regulations at the time. Planning records show these details were submitted, showing a stud wall to be constructed with voids filled with 100mm fiberglass quilt and plasterboard.
- 1.10 Officers note that this annexe is now provided with an independent address point, although there is no associated planning consent to sever the 'incidental' tie and create a self-contained independent dwelling.
- 1.11 The current planning application was submitted following complaints received in relation to the use at the premises operating apparently in breach of the planning consent. Following

investigations by Enforcement Compliance Officers, it was considered that there had been no breach in the use of the premises, but that the removal of the separating wall to the deep end / back room resulted in a breach of condition 6. The current planning application seeks to regularise this breach.

- 1.12 In January 2018, the Planning Committee considered the application to remove condition 6 attached to DC/07/0272 to allow Evolution Gym to use the deep end of the building as part of the open plan gym. Members sought to delegate the final decision back to Officers following receipt of a satisfactory Noise Management Plan, with a view of this forming part of an enforceable planning condition that would subsequently allow for monitoring and control.
- 1.13 Noise Management Plans are usually submitted with licensing applications for variations or new premises licenses, dealt with by the Council's Public Licensing and Environmental Health Department. These typically set out any identified source issues of noise, such as loud music, smoking areas, open windows, pub gardens, patrons leaving a premises, and then seek to detail measures by which these potential sources of noise are to be controlled or mitigated. These might include limited opening hours, not using a beer garden after a certain hour, keeping windows and doors closed, taking deliveries at certain hours.
- 1.14 Following consultations with Officers, the applicant has since undertaken to submit a Noise Management Plan (August 2018), with the details of this having been accompanied by an acoustic survey and report, which was commissioned by the Applicant. This report sets out that air-borne noise transmission between the application site and the neighbouring annexe at No.34 Hurst Road was measured. Details show a significant noise reduction value, of an air-borne noise source, between the two premises.
- 1.15 The submitted Noise Management Plan in this instance, has identified the following noise sources:
1. Music Playing;
  2. Fitness Weights Dropping;
  3. Box Jump Reverberation;
  4. Ball impacts against the party wall;
  5. General Conversation.
- 1.16 On 5 October 2018, the Council received a public representation on behalf of a number of neighbours to the site, from an independent Acoustic Consultant, raising the following concerns with the submitted documents and the Council's assessment of the data:
- Test report previously submitted is only appropriate for the assessment of sound insulation between two residential dwellings and reports a level of sound insulation that would barely pass the minimum standard under the Building Regulations (Approved Document E);
  - Test carried out and performance criterion used is unsuitable for assessment of sound insulation between a residential dwelling and adjoining building in commercial use, particularly when that use includes impact sound transmission from heavy weights and amplified noise;
  - Other irregularities with the technical documentation.

## 2 CONCLUSION

- 2.1 The Council's Officers have reviewed the details submitted in the Noise Management Plan and confirm that these form a robust and satisfactory means of controlling potentially undue

noise / vibration events at the premises. Although it is interesting to note that the testing shows a significant reduction in air-borne noise between the two premises indicating a good level of sound insulation along the party wall, Officers refer to the initial noise complaint which was investigated by the Council concerning vibration / impact noise, caused mainly by the dropping of weights.

- 2.2 If approved as part of the planning application, the Noise Management Plan would be an enforceable document, and the mitigation measures set out are clear and unambiguous.
- 2.3 Reference must be made to the wording of Condition 6 attached to DC/07/0272, which is subject to this planning application, which restricts use of the 'back room' (deep end) only. The Council is not contesting the general way in which the premises is occupied and accepts that its use as a gym is in compliance with the change of use approved in 2007 as a 'fitness centre'.
- 2.4 Officers fully acknowledge that there is no requirement for the gym to conform with Building Regulations Part E, which largely deals with the conversion of buildings into dwellings or for new-build dwellings. However, it is noted that the adjacent annexe at No.34 would have been required to ensure it complied with relevant standards at the time of conversion, fully aware that the party wall adjoined a commercial / industrial building.
- 2.5 In assessing the details submitted as part of the Noise Management Plan, Officers are satisfied that the measures included, seeking to address potentially undue noise events in the deep end, would adequately prevent undue harm occurring to neighbouring residential properties, taking note of the 'incidental' residential nature of the approved annexe at No.34 and not primary habitable living space.
- 2.6 In conclusion, Officers acknowledge that the regulatory planning conditions, including the restricted opening hours which the gym currently adheres to, and the ongoing implementation of the Noise Management Plan, would be robust and enforceable in controlling any potentially unreasonable harm to neighbouring residential amenity.
- 2.7 It is therefore recommended that the removal of condition 6 of DC/07/0272 is approved, subject to the recommended conditions.

### 3. RECOMMENDATIONS

- 3.1 It is recommended that planning permission is approved subject to the following conditions:

- 1 **List of Approved Plans**

- 2 **Regulatory Condition:** The Development hereby approved shall be implemented at all times in full accordance with the Noise Management Plan received on 02 August 2018.

Reason: In the interest of neighbour amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 3 **Regulatory Condition:** No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority. Any that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and in accordance with policy 33 of the Horsham District Planning Framework (2015).

- 4 **Regulatory Condition:** The premises shall not be open for trade or business except between the hours of Monday - Friday 8am to 8pm and Saturdays 9am to midday.

Reason: To safeguard the amenities of neighbouring properties in accordance with policy 33 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** The building shall be used for a maximum number of 20 clients at any one time unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with policy 33 of the Horsham District Planning Framework (2015).

Background Papers: DC/17/2123  
DC/07/0272