

Planning and Rights of Way Panel 10th January 2017
Planning Application Report of the Service Lead Planning, Infrastructure and Development Manager

Application address: Easy Gym, 366-368 Shirley Road			
Proposed development: Application for removal of condition 2 of planning permission Ref 980772/2683/W to allow 24 hours a day.			
Application number	16/01698/FUL	Application type	FUL
Case officer	Stuart Brooks	Public speaking time	5 minutes
Last date for determination:	28.11.2016	Ward	Millbrook
Reason for Panel Referral:	Referred by local ward Councillor	Ward Councillors	Cllr Sarah Taggart Cllr Mike Denness Cllr David Furnell
Referred to Panel by:	Cllr David Furnell	Reason:	Concerns about amenity

Applicant: Fitness Limited T/A Easygym	Agent: Savills (UK) Ltd
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Recommendation Summary	Conditionally approve
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP16, REI5 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Decision notice 980772/2683/W

Recommendation in Full

Conditionally approve

1.0 The site and its context

- 1.1 The application site lies within the ward of Millbrook, located on the south-west side of Shirley Road with vehicle access from Villiers Road. The building falls within the boundary of the Shirley Town Centre, which is a safeguarded area under saved policy RE15 to provide local shopping and service opportunities as an important employment location. The site is bounded by residential properties to the south and west in Villiers Road, Henry Road and Randolph Street, including the recently built residential development at Selby Place.
- 1.2 The site contains a large 2 storey flat roofed clad building containing the Shirley Post Office sorting office on the ground floor and the gym on the first floor. The building is served by a parking area accessed from Villiers Road, and pedestrian access as well as Shirley Road.
- 1.3 The first floor was granted permission to change use to a gym in 1997 and the current permitted hours of use are set out in section 4 of the report. The conversion of the ground floor to a sorting office was granted permission in 1998. The operating hours of the sorting office are unrestricted, apart from a restriction on delivery vehicles to only allow the tailgates of lorries to be raised or lowered on the site between the hours of 20.00 and 07.00, unless the vehicle is positioned within the loading bay of the building.

2.0 Proposal

- 2.1 It is proposed to extend the opening hours of the gym use to be 24 hours.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Saved policy SDP1 (Quality of Development) seeks to protect the amenity of local residents, whilst policy SDP16 (Noise) will not permit noise generating development if it would cause an unacceptable level of noise impact to nearby sensitive noise uses. Policy CLT15 supports night time uses within Town Centre locations.

4.0 Relevant Planning History

- 4.1 The whole building within the site was granted permission in 1984 for limited retail uses, with the first floor being granted permission change of use to a gym in 1997. The gym is currently permitted to operate between the hours of 06.30 and 23.00 Monday to Friday, between 08.00 and 23.00 on Saturdays and between 08.00 and 22.30 on Sundays and recognised public holidays. Before 08.30 and after 21.00 no use amplified sound or music is permitted.

5.0 Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and

nearby landowners, and erecting a site notice (21.10.2016). At the time of writing the report 3 representations (including from a local Ward Cllr) have been received from surrounding residents. The following is a summary of the points raised:

5.1.1 Nearby residents living in Henry Road and Randolph Street are concerned about noise and disturbance caused by air conditioning units and amplified music during the late and early morning hours.

Response

The Environmental Health Officer has requested a noise report to be secured through condition to ensure that the night time noise associated with the use does not adversely affect the amenity for the nearby residents. The noise report will agree a written scheme for the control of noise from the extractor fans and other equipment (including amplified music) in relation to the gym use. Any necessary mitigation and soundproofing measures outlined by the report must be secured by the gym business before it is allowed to operate 24 hours.

Consultation Responses

5.2 SCC Environmental Health (Pollution & Safety) – No objection subject to conditions

6.0 Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

- Principle of Development
- Impact on Character and Amenity

6.2 Principle of Development

6.2.1 This is an established business within a defined commercial centre that currently operates early morning and late night hours. Being within a defined town centre, the Council's policies promote service opportunities and night time uses in important employment locations such as Shirley Town Centre. This is, however, subject to balancing the impact on the amenity of the neighbouring residents from extending the use of the gym during the night time hours to increase its viability and level of service to customers.

6.3 Impact on Character and Amenity

6.3.1 The location of the car park entrance on Villiers Road is accessible from Shirley Road, reducing the likelihood that customers will drive through nearby residential roads. It is, therefore, considered that the noise disturbance associated with increased traffic during the night time period would be minimal. The location of the customer entrance to the gym on the far side of the car park would also minimise any noise disturbance to the nearest residential properties within Villiers Road.

6.3.2 The drive through service of McDonalds restaurant located on Shirley Road is permitted to operate 24 hours, however, this does not permit customers to eat or order food within the restaurant itself. The Council has a clear approach to limit the opening hours of food and drink uses within its commercial centres, however, the comings and goings associated with a gym use are different in nature with respect to the patrons using food and drink premises late at night. It should be noted that other fitness clubs and gyms operate on a 24 hour basis elsewhere in the city, including the PureGym in Bitterne District Centre and the retail park on Winchester Road. There is no record of noise complaints being received with regards to the late night operation of these premises.

6.3.3 The Environmental Health Officer raises no objection to the noise impact on nearby residential properties from the night time operation of the gym use. This is provided that suitable noise mitigation measures are installed before the extension of hours takes place. A noise assessment can be secured through a planning condition to specify the method of controlling the noise levels of the plant equipment (including air conditioning units) and the activities taking place within the building including the restricting the volume of amplified music and not allowing the opening of doors and windows etc. Such measures would provide effective mitigation to ensure that the proposed use is acceptable.

7.0 Summary

7.1 In summary, it is considered that the impact to the amenity of local residents from noise and disturbance associated with the comings and goings during the night time period would be minimised by the location and nature of the use, whilst a scheme of noise insulation measures can be further agreed to control the noise impact associated with the plant equipment and activities taking place inside the gym including the playing of amplified music.

8.0 Conclusion

8.1 In conclusion, the proposal is considered to accord with the Council's policies and guidance and, therefore, can be recommended for approval.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 6(a), 6(b)

SB for 10/01/16 PROW Panel

PLANNING CONDITIONS

01. Extract Ventilation - control of noise, fumes and odour

The use shall not commence operating during the extended hours hereby permitted until a written scheme for the control of noise, from extractor fans and other equipment in association with the gym use including the playing of amplified music have been submitted to and approved in writing by the Local Planning Authority. The written scheme shall be implemented as approved prior to the use operating during the extended hours and thereafter retained as approved.

Reason: To protect the amenities of the occupiers of existing nearby properties

02. Restricted Use (Performance)

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking, amending, or re-enacting that Order, the development hereby approved shall be used only for leisure purposes as a fitness suite and not for any other purpose, including any other use within Use Class D2.

Reason: In the interest of the amenities of neighbouring occupiers and highway safety as a 24 hour operation for alternative D2 Uses could result in noise and disturbance to nearby residents.

POLICY CONTEXT

City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP16	Noise
CLT1	Location of Development
CLT15	Night Time Uses in Town, District and Local Centres
REI4	Secondary Retail Frontage
REI5	District Centres

Local Development Framework Core Strategy Development Plan Document (partial review
Mach 2015)

CS3	Town, District and local centres, community hubs and community facilities
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Other Relevant Guidance

The National Planning Policy Framework (2012)

Application No. 980772/2683/W

DETERMINATION OF APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990
Town and Country Planning General Development Order 1988

FITNESS FIRST PLC
51 QUEENS PARK SOUTH DRIVE
BOURNEMOUTH
DORSET BH8 9BJ

In pursuance of its powers under the above Acts and Order, the Southampton City Council, as the District Planning Authority, hereby gives notice that the application described below is:

CONDITIONALLY APPROVED

Proposal	VARIATION OF CONDITION 2 OF PLANNING CONSENT 970997/2683/W TO EXTEND OPENING HOURS
Site Address	368 SHIRLEY ROAD SOUTHAMPTON
Application No	980772/2683/W

In accordance with Application No 980772/2683/W and details submitted therewith Until 29 February 2000 subject to the conditions specified below:-

01

The use hereby permitted shall be discontinued at or before the expiration of the period specified in this permission.

REASON

To enable the Local Planning Authority to give further consideration to this use at the expiration of this permission having regard to the circumstances existing at that time.

02

The first floor leisure use shall only be open for business between the hours of 6.30 am and 11.00 pm Monday to Friday, between 8.00 am and 11.00 pm on Saturdays and between 8.00 am and 10.30 pm on Sundays and recognised public holidays. Before 8.30 am and after 9.00 pm such use shall not include activities which involve the use of amplified sound or music.

REASON

To protect the amenity of neighbouring residential properties.

03

Noise emissions from the leisure use shall at no time exceed 3 dB (A) above background levels as measured 1 metre from the rear facade of the neighbouring properties No 22 Villiers Road and No 1 Henry Road.

REASON

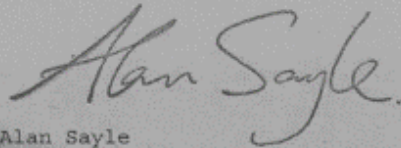
In order to protect the amenity of neighbouring residential properties.

04

The premises shall only be used for leisure purposes as a fitness suite and for no other purpose, including any other purpose in Class D2 - Assembly and Leisure in the Schedule to the Town and Country Planning (Use Classes Amendment) Order 1991 (or in any equivalent provision or re-enacting that Order).

REASON

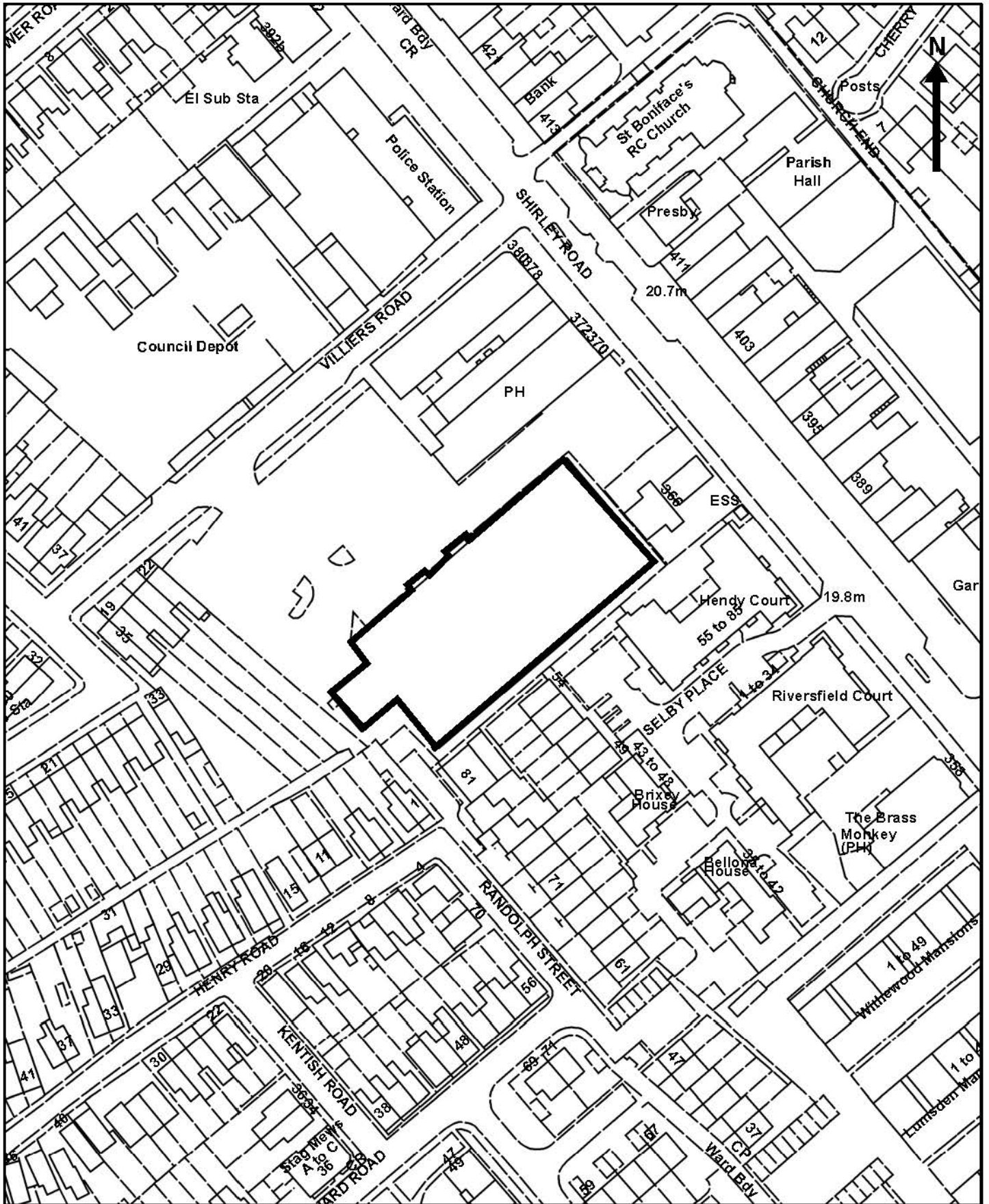
To protect the amenities of neighbouring residential properties.

A handwritten signature in cursive script that reads "Alan Sayle".

Alan Sayle
Development Control Manager

Dated 16th February 1999
DLE

16/01698/FUL



Scale: 1:1,250

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