

## DEVELOPMENT CONTROL BOARD

6 June 2019

**Reference:** 19/00538/RCON **Officer:** Matthew Apperley

**Location:** Beefs & Babes Gymnasium  
217 London Road  
Stone  
Kent  
DA9 9DQ

**Proposal:** Removal of condition 2 of planning permission DA/15/01452/VCON (granted on appeal) to allow the Gym to operate as a 24hr Gym

**Applicant:** Nicole Scott  
  
Beefs & Babes Gymnasium  
217 London Road  
Stone  
Kent  
DA9 9DQ

**Parish / Ward:** Stone

### RECOMMENDATION:

Approval for the Removal of Condition

### SITE DESCRIPTION

(1) The application site is located on the southern side of Main Road and is occupied by a gym (Beefs and Babes) which occupies a former factory and warehouse building. The site also incorporates No. 215 London Road to the west of the gym, which is a detached two storey property also used for commercial purposes (Swift Home Improvements). Immediately in front of the gym building(s) is a hard surfaced area which the original 2009 planning permission for the said gym (reference DA/09/00701/COU), approved for the parking of 7 cars. The change of use permission also approved 2 parking spaces for the gym in front of No. 215 London Road and a further 7 off street car parking spaces (to be used after the adjacent commercial operation closes after 18:00 hours) in the south west corner of the site, to the south of No. 215 London Road.

(2) To the west of the site on the opposite side of Oak Road is another large commercial premises (a bathroom and lighting showroom). To the south of that and to the south west of the site there are residential properties in Oak Road. To the east and south east of the site there are more residential properties along London Road and in Acacia Road.

### THE PROPOSAL

(3) This application seeks to remove condition 2 of application reference DA/15/10452/VCON that was allowed at appeal and increased the original opening times of the gym. The said condition restricts the opening hours of the gym and reads as follows:  
"The use hereby permitted shall not be open to customers outside the hours of 06:00 to 23:00 Mondays to Fridays inclusive and 08:00 to 20:00 on Saturdays and Sundays and 10:00 to 18:00 hours on Bank Holidays and at no time on Christmas Day or New Year's Day."

(4) The application to remove the above mentioned condition seeks to allow the gym to operate 24 hours a day / seven days a week.

(5) The applicant has stated that there will be no music played at the premises during the proposed increased hours of opening.

(6) The proposal would not result in any physical works to the site.

#### RELEVANT HISTORY

(7) Planning permission for the change of use of the former factory / warehouse building(s) to a gym (Class D2) with associated parking was approved in September 2009 under application reference DA/09/00701/COU.

(8) An application to vary the opening hours of the gym (reference DA/15/01452/VCON) as originally approved in application reference DA/09/00701/COU, was allowed at Appeal in October 2016. The Inspector's decision restricted the opening hours to 06:00 to 23:00 Mondays to Fridays inclusive and 08:00 to 20:00 on Saturdays and Sundays and 10:00 to 18:00 hours on Bank Holidays and at no time on Christmas Day or New Year's Day.

#### COMMENTS FROM ORGANISATIONS

(9) Environmental Health Manager - Advises that as the applicant does not intend to play music at the premises during the additional hours of operation, they do not have any objections to the proposal. They advise that they consider the playing of music is the only activity likely to have resulted in an adverse impact during the additional operating hours.

#### NEIGHBOUR NOTIFICATION

(10) A total of 139 representations have been received in relation to this application which consists of 127 letters of support and 12 letters of objection.

(11) The letters of support raise the following issues:

- The Gym is a positive and important facility for the community, which promotes health, fitness and wellbeing.
- Local businesses such as this should be supported.
- The additional hours will provide opportunities for those members of the community who work long hours and / or shift work to be able to use the gym.
- The more flexible hours would allow members more flexibility when they could use the gym and allow them more time to spend with their families.
- The nearest other (24 hour) gyms are in the Dartford town centre, which are inconvenient for local people to get to.
- The music currently played in the Gym is not audible to local residents at present and as no music is to be played in the extended hours the proposal would not create any noise issues.
- The proposed extended opening hours would not result in any parking issues.
- The owners of the gym have always been respectful to neighbours and done all they can to be good neighbours.

(12) The letters of objection raise the following issues:

- The gym already creates noise and disturbance via loud music being played at the gym. The playing of loud music 24/7 would not be acceptable.
- People using the gym late at night also cause disturbance via cars pulling up outside adjacent local residential properties and people coming and going at all hours.
- The gym already creates parking issues and congestion in the adjacent residential streets.
- People using the gym park right on the junction of London Road and Oak Road, which creates visibility and highway safety issues.
- The area already has a huge litter problem.

- There are other 24 hour gyms people could use in Dartford, Northfleet, Bexleyheath, Belvedere and Gravesend. Other 24 hour gyms are not located near residential properties.

## RELEVANT POLICIES

(13) The Dartford Core Strategy 2011, the Dartford Development Policies Plan 2017 and the Kent Minerals and Waste Local Plan 2016 form the Dartford's Development Plan and the application should be determined against this unless material considerations indicate otherwise.

(14) Adopted Dartford Core Strategy 2011  
CS15: Managing Transport Demand  
CS22: Sports, Recreation and Culture Facilities

(15) Adopted Dartford Development Policies Plan 2017  
DP1: Presumption in Favour of Sustainable Development  
DP3: Transport Impacts of Development  
DP5: Environmental and Amenity Protection

(16) Dartford Parking Standards Supplementary Planning Document (2012)

(17) The NPPF is also a material consideration.

## COMMENTS

### Key Issues

(18) I consider the key issues to be the impact on residential amenities and parking and highway safety issues.

### Impact on residential amenities

(19) Concerns have been raised with regard to potential noise disturbance from music being played in the gym during the proposed additional opening hours. The applicant has stated that no music will be played at the gym during the proposed additional opening hours (i.e. outside the hours of 06:00 to 23:00 Mondays to Fridays inclusive and 08:00 to 20:00 on Saturdays and Sundays and 10:00 to 18:00 hours on Bank Holidays). On this basis the Council's Environmental Health officer has no objections to this proposal, as he considers that as long as no music is played at the gym during the proposed additional opening hours, then the proposal would not result in any noise issues which would detrimentally affect the amenities of the adjoining residential occupiers or the wider locality.

(20) Objectors have also raised concerns over noise and disturbance being generated by the comings and goings of vehicles, the opening and closing of car doors, car engines being started, people chatting etc... during the proposed additional hours. However, I am of the opinion that the numbers of people using the gym during these times would likely be relatively low and that there would be sufficient parking provision on site and in London Road during the extended opening times so as to preclude the need for people using the gym to park in adjacent residential streets. I would, however, suggest that a management plan condition requiring details of exactly how gym users will be advised / allowed to park and how noise generated from patrons of the gym will be kept to a minimum (i.e. through control via staff and / or via signage) is imposed should Members resolve to grant planning permission in order to deter parking on the adjacent residential streets and ensure good management which will protect the amenities of adjoining residential occupiers (Condition 4).

(21) The applicant has requested that the gym be allowed to open on Christmas Day and New Year's Day. However, I consider that local residents would rightfully expect a high level of peace and quiet with limited activity from the adjoining commercial businesses during these days. I do not consider it appropriate therefore that the business be allowed to open on these

specific holidays which were constrained by the Inspector's previous decision on hours. I do not believe that not opening on these two days would harm the business of the gym or its members and therefore, I consider it appropriate to add a condition to continue to restrict operation on these two days (Condition 6) in order to ensure residential amenity is protected.

(22) In order to monitor and ensure that the increased opening times of the gym do not detrimentally affect the amenities of any adjoining residential owner, I believe a one year temporary condition should be imposed upon the amended permission (Condition 2). This would allow the Council to review any potential impacts of the extended hours and review the situation at a later date. The applicants have the fallback position of the existing approved opening hours so this does not constrain the continued operation of the business. In addition, I have suggested the requirement for a noise limiter at the premises cuts amplified music off during the extended opening hours.

(23) I conclude that subject to the imposition of the above mentioned conditions, no harm can be demonstrated as a result of the additional hours of operation which would justify the refusal of planning permission.

#### Parking and highway safety

(24) As highlighted previously within the report, I consider the likely patronage of the gym in the proposed additional night-time opening hours to be significantly less than during the current approved opening hours. I consider that the on-site parking provision combined with the available on-street parking on the opposite side of London Road to the site (especially during the proposed additional hours) is adequate to ensure that the proposal would not result in any congestion or highway safety issues which would justify the refusal of planning permission. I consider it important to note that the management plan to be agreed by way of a condition (Condition 4) would reinforce the available parking areas.

#### Other issues

(25) My site visit to the site did not reveal an obvious littering problem at the site or in the surrounding streets which was raised by objectors. I consider that the proposal to extend the hours of use and the nature of the existing use will not in itself give rise to litter. The matter of how individuals behave is not something that can be controlled under planning legislation.

#### FINANCIAL BENEFITS

(26) Under section 75ZA of the Town and Country Planning Act officer reports to the Development Control Board are required to include a list of 'financial benefits' which are likely to be obtained by the authority as a result of the development. A 'financial benefit' must be recorded regardless of whether it is material to the Council's decision. Government advice is that the decision maker should consider whether it is a material consideration in the consideration of a planning application.

(27) In this particular case as the proposal is simply for extended opening hours of an approved gym, I do not consider that there are any financial benefits for the authority as a result of this proposal.

#### HUMAN RIGHTS IMPLICATIONS

(28) I have considered the application in the light of the Human Rights Act 1998. I am satisfied that my analysis of the issues in this case and my consequent recommendation are compatible with the Act.

#### PUBLIC SECTOR EQUALITY DUTY

(29) Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## CONCLUSIONS AND REASONS FOR RECOMMENDATION

(30) I am satisfied that the current proposal would have no adverse impact on neighbouring properties and the surrounding area and that the proposed additional opening times would not result in significant harm in terms of traffic generation and parking which would justify the refusal of planning permission.

(31) As such, I consider that the proposed development is in accordance with adopted Development Plan Policy and also guidance within the National Planning Policy Framework, and is thereby recommended for approval.

### **RECOMMENDATION:**

Planning permission is granted for the reasons set out in the report and subject to the following conditions:

- 01 The 24-hour use of the gym premises shall be for a limited period of one year only, commencing from when the gym first starts operating the extended opening hours hereby approved. At the expiration of one year of operating the extended 24 hour opening hours the gym should revert back to the opening hours of 06:00 to 23:00 Mondays to Fridays inclusive and 08:00 to 20:00 on Saturdays and Sundays and 10:00 to 18:00 hours on Bank Holidays and at no time on Christmas Day or New Year's Day granted under planning permission DA/15/01452/VCON.
- 01 To enable the Local Planning Authority to review the circumstances under which this permission is granted in accordance with Policies DP3 and DP5 of the adopted Local Plan.
- 02 The Local Planning Authority shall be notified in writing of the date of commencement of the extended opening hours hereby approved. If notice of commencement has not been provided within 1 year of the date this permission then the planning permission for 24 hour opening shall be deemed to have expired.
- 02 In order to ensure that the extended opening hours operate for only one year in order to enable the Local Planning Authority to review the circumstances under which this permission is granted in accordance with Policies DP3 and DP5 of the adopted Local Plan.
- 03 The development shall be carried out in accordance with the following plans and documents: Site Location Plan; D 220/03 (Approved Gym Floor Plans); and a letter dated 22nd August 2009 (version 3 - parking proposal).
- 03 For the avoidance of doubt and to ensure a satisfactory form of development.
- 04 The increased opening hours for the gym set out in the description of development shall not commence until a Management Plan detailing signage, activity and parking management actions to include measures to:
  - provide a mechanism to prevent activity / parking issues from patrons and or vehicles;
  - details of available parking and guidance relating to avoiding littering to be supplied to customershas been submitted to and approved in writing by the Local Planning Authority. The operation of the gym shall be maintained in accordance with the approved details thereafter.
- 04 To enable the Local Planning Authority to review the circumstances under which this permission is granted in accordance with Policies DP3 and DP5 of the adopted Local Plan. Such details have not yet been provided and need to be agreed before additional operating hours are commenced to ensure adjoining residential occupiers are not detrimentally affected.

- 05 A sound limiting device shall be installed on the music system of the gym in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority. The details shall include two trigger levels covering the period 21:30 and 07:30 with the levels switching via a pre-set timer and for music to be cut off after 23.00 and before 06.00 Mondays to Fridays and after 20.00 and before 08.00 Saturdays and Sundays and after 18.00 and before 10.00 on Bank Holidays. The limiting device shall be installed in accordance with the approved details prior to the extending opening hours being brought into operation and shall be subsequently maintained as such.
- 05 To avoid unreasonable disturbance to nearby residential properties contrary to Policy DP5 of the adopted Local Plan. Such details have not yet been provided and need to be agreed before additional operating hours are commenced to ensure adjoining residential occupiers are not detrimentally affected.
- 06 The use hereby permitted shall not be open to members / customers on Christmas Day or New Year's Day.
- 06 To avoid unreasonable disturbance to nearby residential properties contrary to Policy DP5 of the adopted Local Plan.
- 07 Notwithstanding the details hereby approved, no music shall be played at the gym outside the hours of 06:00 to 23:00 Mondays to Fridays inclusive and 08:00 to 20:00 on Saturdays and Sundays and 10:00 to 18:00 hours on Bank Holidays.
- 07 To avoid unreasonable disturbance to nearby residential properties contrary to Policy DP5 of the adopted Local Plan.
- 08 The car parking spaces, manoeuvring spaces and means of access shown on the approved plans shall be kept available for such use at all times and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 or not, shall be carried out on that area of land or to preclude vehicular access thereto.
- 08 To ensure the permanent retention of satisfactory car parking facilities in accordance with the Local Planning Authority's standards and Policies DP2 and DP4 of the adopted Dartford Local Plan.
- 09 The use hereby permitted shall be only for the gym and for no other uses, including any other falling within Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or for any order amending, revoking and re-enacting that Order) and any other use whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not.
- 09 In the interests of amenities and highway safety in accordance with Policy DP5 of the adopted Dartford Local Plan.
- 10 The number of work stations shall be restricted to a maximum of 60 and shall subsequently be maintained as such unless otherwise agreed in writing by the Local Planning Authority.
- 10 In the interests of amenities and highway safety in accordance with Policy DP5 of the adopted Dartford Local Plan.
- 11 Apart from for access and egress, all doors and windows shall be kept closed at any time the gym and associated facilities are in use.
- 11 In the interests of amenities in accordance with Policy DP5 of the adopted Dartford Local Plan.



Dartford Borough Council 100025870 2019

<b>Application No.:</b>	19/00538/RCON
<b>Address :</b>	Beefs & Babes Gymnasium 217 London Road Stone Kent DA9 9DQ
<b>Date:</b> 22 May 2019	<b>Scale:</b> Not to Scale