

19<sup>th</sup> December 2023



Planning and Building Control  
Barnsley Metropolitan Borough Council  
PO Box 634  
Barnsley  
S70 9GG

Dear Sir/Madam,

**RE: S73 APPLICATION TO REMOVE CONDITION – UNIT 6 BARNSELY RETAIL PARK,  
WOMBWELL LANE, BARNSELY**

Please find enclosed a planning application submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) for the removal of condition no.3 of planning permission ref. 2017/1540 dated 3<sup>rd</sup> May 2018. This application relates to the former Jack's store at Barnsley Retail Park and seeks to enable unrestricted opening times.

**Background**

Planning permission for the application site was granted in May 2018 and it opened as a discount supermarket in December 2018. This planning permission was for the erection of a new retail unit and associated car parking and servicing arrangements. The foodstore was operated as a 'Jack's' but closed in 2022 when Tesco discontinued this format.

The applicant, Pure Gym Limited ('PureGym'), is the prospective new tenant for the former Jack's store. It is the largest gym group in the UK with over 350 locations, providing flexible and accessible health and fitness facilities on a low-cost, no-contract basis. There are currently no PureGym sites in Barnsley, the nearest existing facilities being in Doncaster and Wakefield.

Planning permission ref. 2017/1540 did not seek to control the permitted retail use and did not otherwise restrict the normal operation of the Use Classes Order. Following changes to the Use Classes Order in September 2020, the lawful use of the application site will now fall within Class E ('Commercial, Business and Service'). Gymnasiums also fall within Class E and Section 55(2)(f) of the Town and Country Planning Act 1990 confirms that the use of buildings or land for any other purpose within the same use class does not involve development for the purposes of the Act. Planning permission is not therefore required for the use of the application site as a gym.

Planning permission ref. 2017/1540 is subject to condition no. 3 which restricts the opening times of the application site. This states that:

*'The use hereby permitted shall be carried out only between the hours of 07.00 to 23.00  
Mondays to Sundays'*

The reason for the condition was in the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40 ('Pollution Control and Protection').

As part of its flexible offer, PureGym operates on a 24-hour basis. This allows members to fit their fitness routines into their lifestyles, providing access to those who work at night or to different shift patterns. This application therefore seeks to remove condition no. 3 to enable unrestricted opening times. The application is supported by an Environmental Noise Impact Assessment prepared by RBA Acoustics and the justification for this proposal is set out in the accompanying statement.

## Planning Assessment

Barnsley Retail Park is located to the south-east of Barnsley with access from Wombwell Lane (A633). The application site is a freestanding building to the north of the retail park and shares a large surface car park with the Tesco Extra store. To the north and west of the site there are commercial and industrial premises, whilst to the east there are residential properties off Wombwell Lane.

As the Council may be aware, there has been a significant growth in affordable, 24-hour health and fitness facilities in recent years. Such gyms are significantly less busy during the night-time period but their opening provides access to those who wish to use the gym during these quieter times, including shift and key workers. Gym classes are not held after 22.30 so there is no playing of amplified music at night (with only background music in the main gym areas). This application is supported by an Environmental Noise Impact Assessment that has been prepared by RBA Acoustics and considers the impacts of 24 hour opening. Its assessment is based on environmental sound monitoring at the application site and includes consideration of airborne sound breakout, plant noise and noise associated with use of the car park.

The analysis of sound breakout to the environment confirms that in a worst-case scenario, activity noise is expected to be at least 5dB below the prevailing ambient sound levels at the façade of the nearest affected noise sensitive properties at the majority of frequencies. Should the studio area (where classes take place) be located to the northeast elevation then it is recommended that mitigation should be installed in the form of drywall lining and making good any unused ventilation openings. In the alternative, it is recommended that a noise limiter is applied to audio systems. These recommendations could be secured by a condition requiring implementation in accordance the findings of the Environmental Noise Impact Assessment.

In terms of plant noise, the assessment sets appropriate targets based on the Council's preferred standards and finds that predicted noise levels will meet the adopted plant noise limits for both the day-time and night-time periods (we note that a separate planning application for replacement plant will be made in due course). Finally, the acoustic assessment has addressed noise associated with use of the car park at night. This has examined noise from both vehicle manoeuvres in the car park and door slam activity and finds that, with reference to appropriate guidance, impacts on nearby residential properties will be negligible.

In such circumstances, it is clear that the 24/7 operation of the gym at the application site would not have any unacceptable impacts on the amenities of the nearby residential properties. The existing planning permission of 2018 refers to the policies of the Council's previous Core Strategy but we note that a new Local Plan was adopted in January 2019. Policy Poll1 of the Local Plan now addresses Pollution Control and Protection, stating that development will be expected to demonstrate that it is not likely to result in an increase in pollution (including noise) that would unacceptably affect or cause nuisance to the natural and built environment or to people. It goes on to say that developers will be expected to minimise the effects of any possible pollution and provide mitigation measures where appropriate. The current proposal satisfies these requirements and therefore accords with Policy Poll1 of the Local Plan.

We look forward to hearing from you in due course. If you have any queries or require any further information, then please don't hesitate to contact me.

Yours sincerely,



**JONATHAN WADCOCK**  
Director