

2023/1149

Pure Gym Limited

Unit 6, Barnsley Retail Park, Wombwell Lane, Stairfoot, Barnsley, S70 3NS

Removal of condition 3 (hours of operation) of planning application 2017/1540 : (Erection of new retail unit (Use Class A1) and associated car parking and servicing arrangements and other works including realignment of the existing car parking layout)

Site Description

The site is a disused retail unit with carpark in Barnsley Retail Park off Wombwell Lane in Stairfoot. The unit used to be occupied by Jacks as part of the Tesco discount chain which closed in 2022, and the application form indicates that the site is still owned by Tesco Stores Limited and Pure Gym is a prospective tenant. The remaining Tesco car park borders the site to the South and East with industrial units to the West and residential properties, fronting Wombwell Lane, to the Northeast.

Relevant Planning History

B/05/0199/BA - Change of use of existing car park area to form park and ride facility (Withdrawn)

2006/1522 - Erection of extensions and installation of mezzanine floor to store, alterations to car park, access, servicing and landscaping and change of use to form park and ride facility (Approved)

2014/0234 - Erection of home shopping extension to existing building with additional secure parking area and relocation of existing click and collect canopy (Approved with Conditions)

2017/1540 - Erection of new retail unit (Use Class A1) and associated car parking and servicing arrangements and other works including realignment of the existing car parking layout (Approved with Conditions)

2018/1118 - Signage scheme for retail unit approved under planning application 2017/1540 including illuminated fascia sign and non illuminated wall mounted graphics (Approved with Conditions)

2019/1296 - Erection of 3 no. flag pole advertisements and 1 no. 42" LCD media screen for EV charging area located within existing car park (Approve with Conditions)

2023/0660 - Proposed new click and collect parking and canopy above, supported on steel posts and 5x new bollards, Existing Dotcom Parking Zone re-configured with 2x additional parking bays and access gate, Fence, Armco barriers with charging stations re-aligned as and 1x new pedestrian access gate (Approve with Conditions)

Proposed Development

This application is to remove condition 3 which states:

The use hereby permitted shall be carried out only between the hours of 07.00 to 23.00 Mondays to Sundays. Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.

The applicant requests that this is removed as PureGym operates on a 24-hour basis. This allows members to fit their fitness regimes around their lifestyles and provides greater access. This

application therefore seeks to remove condition no. 3 to enable unrestricted opening times. This is in relation to an approved development for the erection of a retail development (2017/1540).

Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The Local Plan was adopted in January 2019 and is also now accompanied by seven masterplan frameworks which apply to the largest site allocations (housing, employment and mixed-use sites). In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies and are a material consideration in the decision-making process.

The Local Plan review was approved at the full Council meeting on 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027 or earlier if circumstances, require it.

Local Plan Allocation – Urban Fabric

To the extent that development plan policies are material to an application for planning permission the decision on the application must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004). In reference to this application, the following policies are relevant:

Policy SD1: Presumption in favour of Sustainable Development – States that proposals for development will be approved where there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents. Development will be expected to be compatible with neighbouring land and will not significantly prejudice the current or future use of neighbouring land. Policy GD1 below will be applied to all development.

Policy GD1: General Development – Development will be approved if there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents. Development will be expected to be compatible with neighbouring land and will not significantly prejudice the current or future use of neighbouring land.

Policy D1: High quality design and place making – Development is expected to be of a high-quality design and will be expected to respect, take advantage of and reinforce the distinctive, local character and other features of Barnsley.

Policy Poll1: Pollution Control and Protection – Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.

Policy TC4: Retail Parks – Indicates that retail warehouses will be allowed in retail parks and that other uses will be allowed where the role, character and function of the retail park will not be adversely affected.

National Planning Policy Framework

The NPPF sets out the Government's planning policies and how these are expected to be applied. The core of this is a presumption in favour of sustainable development. Proposals that align with the Local Plan should be approved unless material considerations indicate otherwise. In respect of this application, relevant policies include:

Section 12: Achieving well designed places – The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. It is important to plan positively for the inclusion of high-quality design for all developments, including individual buildings, public and private spaces and wider area development schemes.

Within section 12, paragraph 139 states that *“development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes”*.

Consultations

Pollution Control were consulted and raised no objections subject to conditions.

Representations

Neighbour notification letters were sent to surrounding properties and a site notice placed in the vicinity of the site, one objection was received and in summary raised the following points.

- Due consideration hasn't been provided to the impact on resident's health and wellbeing.
- The map image used in the sound report is not to scale and is potentially misleading in its implied distance from residential properties to the gym.
- The sound monitoring carried out, looks to be a significant distance from the car park.
- Current issues in the Tesco car park with noise, however, these are generally fewer than when it was 24 hours opening and occur when Tesco is closed.
- Whilst the predicted number of evening customers is relatively low, the location of parking is not being considered given its adjacent residential properties.
- Revoking the restriction on the opening hours of the unit will be significantly detrimental to my physical and emotional health, impacting my sleep and my comfort in my own home.
- It should be considered whether the sound monitoring was accurate and a scaled model of the proximity to properties drawn so as not to mislead the viewer of the distance.
- If alternative provisions were made for example, the entrance to the building at a different point or the rearranging of the car park so the spaces next to the properties were no longer, the above could potentially be less of a concern.

Assessment

The application site is within an area designated as urban fabric in the Local Plan and in a retail park. As the proposal is for a change in operating hours for an existing retail use, the principle of the development is acceptable. It should be noted that under the use class changes in 2020, a retail use now falls under the same use class as a gym use (Class E) and so planning permission is not required.

This is a removal of condition application which is seeking to amend the opening hours for unit. The changes would allow the unit to be open 24 hours a day everyday instead of 07.00 to 23.00 Monday to Sunday. Therefore, the unit will be open an extra 8 hours a day.

Pollution Control Officers have been consulted and have raised no objections to the removal of the condition. A noise impact assessment has been provided and Pollution Control agree with its findings and therefore support the removal of the condition. However, due to the removal of the condition, additional conditions regarding the installation of a noise limiter and validation testing for the predicted noise levels have been agreed with the applicant.

In relation to the objection from a neighbouring resident, a parking policy has been agreed with the applicant and will be conditioned. This will ensure that customers parking their cars before 7:00 or after 23:00 use the parking spaces furthest away from the northern boundary and instead use the spaces closest to the adjacent Tesco car park. This will limit the possible disturbance to the residential properties set to the North of the site. With regards the potential noise impact and the data provided this has been confirmed to be acceptable by Pollution Control Officers and has additionally been re-checked on site by them as a result of the objection.

This is a removal of condition application and all other matters relating to this development remain as per the previous approval 2017/1540. The proposed is recommended for approval.

Recommendation

Approve with conditions