

No. 1	APPLICATION NO.	2022/0103/FUL
	LOCATION	3 Hattersley Way, The Hattersley Centre, Ormskirk, Lancashire.
	PROPOSAL	Variation of Condition No 8 relating to Planning Permission 2015/0736/FUL to amend hours of opening to 24 hours 7 days per week.
	APPLICANT	Matthew Sobic
	WARD	Scott
	PARISH	Unparished - Ormskirk
	TARGET DATE	23 rd March 2022

1.0 REFERRAL/DEFERRAL

- 1.1 This application was to be determined under the Council's delegation scheme; however, Councillor Thompson has requested it be referred to Committee to consider the impact of the proposal in terms of noise and loss of amenity to neighbouring residential properties.

2.0 SUMMARY

- 2.1 The proposal to vary condition 8 – opening hours- of planning permission 2015/0736/FUL is considered acceptable. It has been suitably demonstrated through the submitted Environmental Noise Impact Assessment that the proposal would not detrimentally impact upon the amenity of neighbouring properties through excessive noise or disturbance. The proposal is considered to accord with Policy GN3 of the Local Plan.

3.0 RECOMMENDATION: APPROVE subject to conditions:

4.0 THE SITE

- 4.1 The site comprises a vacant retail unit within the Hattersley Centre Retail Park, Ormskirk. The unit is at the end of a terrace of retail units and is known as Unit 1F or No. 3 Hattersley Way and was last occupied by Poundworld.

5.0 THE PROPOSAL

- 5.1 Planning permission is sought for the variation of condition 8 (hours) of planning permission 2015/0736/FUL to amend the hours of opening to 24 hours a day 7 days a week.

- 5.2 Condition 8 of planning permission 2015/0736/FUL read:

The retail unit known as postal address Unit1A (indicated as Unit 1Da on Plan Ref: Proposed Site Plan 103/05/Rev A submitted with application 2014/0348/FUL) shall be open for business during the hours of 8am to 9pm Monday to Saturday and 9am to 6pm on Sundays and Bank Holidays. The remaining retail units known as postal address Unit 1, Unit 2 and Unit 3 (indicated as Unit 1D, Unit 1E and Unit 1F on Plan Ref: Proposed Site Plan 103/05/Rev A)

shall be open for business during the hours of 8am to 8pm Monday to Saturday and 9am to 6pm on Sundays and Bank Holidays.

Reason: To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 - Development Plan Document and the NPPF.

- 5.3 It is intended that the Unit 1F would be used as a gymnasium. The proposed extension to the opening hours is proposed by the applicant to ensure the unit meets the needs of their customer base.

6.0 PREVIOUS RELEVANT DECISIONS

2021/1009/LDC - Certificate of Lawfulness - Use of the floorspace within the unit for uses within Class E is lawful with the exception of the existing controls on retail use contained within the permission that currently controls the use of the unit under permission ref. 2015/0736/FUL. APPROVED 22.11.2021

2019/1123/FUL - Variation of Condition No. 2 of Planning Permission Reference 2015/0736/FUL to allow the sale of any non-food goods, and the erection of 314 sqm of floorspace at mezzanine level. APPROVED 24.02.2020

The site originally received planning permission in 2007 for a mixed use employment and retail park. More recently, the site has been subject to a number of other various applications.

In 2019, Unit 1F received permission to sell a wider range of non-food goods (2019/1123/FUL). Last year, a certificate of lawfulness was issued confirming that the unit could operate as a gymnasium (2021/1009/FUL).

7.0 CONSULTEE RESPONSES

- 7.1 Lancashire County Council Highways Authority – 21 February 2022
No objection
- 7.2 Environmental Health – 6 May 2022
No objection

8.0 OTHER REPRESENTATIONS

- 8.1 Objections to the proposal have been received from 2 properties on Old Boundary Road; 2 properties on Burscough Road and 1 property on Brooklands. The grounds for objection can be summarised as follows:

Noise

- Noise and disturbance to neighbouring residential properties
- Already noise and disturbance from deliveries from other retail units on the site particularly at early or late hours
- A 24 / 7 hour gym would have noise from cars and music at all times of the day
- People congregating outside
- Not an appropriate location due to the proximity to residential housing.

Highways / Traffic

- Increase traffic in the evening through to the early hours

9.0 SUPPORTING INFORMATION

- 9.1 **Environmental Noise Impact Assessment Report**, RBA Acoustics. Received by the Local Planning Authority on 1 February 2022.

10.0 RELEVANT PLANNING POLICIES

- 10.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan (WLLP) 2012-2027 Development Plan Document (DPD) provide the policy framework against which the development proposals will be assessed.

- 10.2 The site is located within the main settlement of Ormskirk and within a Strategic Employment Site as designated in the West Lancashire Local Plan (WLLP) 2012-2027 DPD.

10.3 NPPF

Building a strong and competitive economy
Ensuring the Vitality of Town Centres

10.4 WLLP 2012-2027 DPD

Policy GN3 – Criteria for Sustainable Development
Policy IF1 – Maintaining Vibrant Town and Local Centres

11.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY

Background

- 11.1 The supporting documents provided with this application advise that the unit, which is currently vacant, is to be occupied by a gymnasium operator which operates elsewhere on a 24 hour a day basis.
- 11.2 A Lawful Development Certificate (LDC) has recently been approved for the unit, reference 2021/1009/LDC. This LDC sought clarification that the use of the floorspace at the unit could operate lawfully under Use Class E.
- 11.3 Use Class E (d) allows for *'indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public.'* As such planning permission would not be required for the change of use of the building from the retail unit to a gym as this would not be classed as 'development'.

Impact upon living conditions

- 11.4 The main issue in relation to this application is the effect that permitting the extended opening hours on a permanent basis would have on the living conditions of the residents of neighbouring dwellings with particular reference to noise and disturbance.
- 11.5 Policy GN3 of the Local Plan states that proposals for development should retain reasonable levels of amenity for neighbouring properties.

- 11.6 To support the application, an Environmental Noise Impact Report has been submitted to the Council. The report looked at two environmental noise impacts that are relevant at the site;
- airborne noise breakout from the building and impacting on nearby noise sensitive dwellings, and
 - noise impact on nearby noise sensitive properties associated with the car parking facility.
- 11.7 For clarity, the Environmental Noise Impact Report has identified the sensitive dwellings to the site as those on Atkinson Road (105m south west of the unit) and Old Boundary Way (85m north east of the unit),
- 11.8 Tests were undertaken on the sound insulation of the external walls of the building to assess the likely noise breaking out of the building due to amplified music. It was determined that the noise breaking out of the building during the worst case late evening period, where formal class activities are expected to take place, is not expected to have a significant adverse impact on the dwellings on Atkinson Road or Old Boundary Way.
- 11.9 An assessment was also undertaken to determine the likely potential impacts associated with the car parking facility during the night time. The assessment indicated that maximum noise level (LA_{max}) from car door slams was below the recognised external threshold at the façade of nearby residential dwellings. An assessment of noise from cars driving within the car park during the night time showed that the predicted levels were 17dB below the existing ambient noise level (LA_{eq}). Therefore, potential impacts associated with use of the car parking facility during the night-time were considered negligible at the nearest residential receptors.
- 11.10 As part of the determination process of the application the Council's Environmental Health (EH) Team has been consulted. They are satisfied that appropriate noise guidelines have been followed within the submitted report. Calculations show that noise emissions from the proposed extended use, both external noise breakout and vehicular usage would be sufficiently low as to cause minimal to no negative impact on nearby noise sensitive receptors. The EH Team therefore raises no objections to the proposal.
- 11.11 Based upon the above I am satisfied that the proposal would not impact upon the living conditions of nearby neighbouring dwellings and the proposal accords with Policy GN3 of the Local Plan. In line with accepted practice, previous planning conditions are re-attached where appropriate to ensure the relevant controls are retained across the retail park having regard to the continued operation of other units.

Summary and Planning Balance

- 11.12 Based upon the above I consider that the proposal accords with Policy GN3 of the Local Plan. In the absence of any other overriding material planning considerations, and in view of there being no conflict with any other relevant Local Plan Policies the applications is recommended for approval.

12.0 RECOMMENDATION

12.1 That planning permission be GRANTED subject to the following conditions: