

Location: **Hub Fitness
Unit 1-4
Glovers Court
Hitchin, Hertfordshire
23-25 Bury Mead Road
SG5 1RP**

Applicant: **Mr Fenton Hancock**

Proposal: **Changes to wording of condition 3 of planning permission 87/01900/1 granted 04.02.1988 for erection of single storey building for 6 work shop units and parking spaces. (Revised by plans received 28/01/1988)**

Ref. No: 26/01125/S73

Officer: **Saffron Loasby**

Date of expiry of statutory period: 29th September 2026, further neighbour consultation expires 18th October 2026. The published committee report was written before the expiration of the neighbour consultation period. Responses have been received which are addressed at Section 3 of this report. Any further responses received before the meeting will be reported in an update to this report and made available to view via Public Access.

Extension of statutory period: 2nd November 2026

Reason for Delay: Due to additional neighbour notifications.

Reason for Referral to Committee: Call-in by Cllr Albert

1.0 Planning Policy

1.1 North Hertfordshire District Local Plan (The Local Plan) 2011 – 2031

Policy SP1: Sustainable Development in North Hertfordshire
Policy SP2: Settlement Hierarchy and Spatial Distribution
Policy SP3: Employment
Policy SP6: Sustainable Transport
Policy SP9: Design and Sustainability
Policy SP10: Healthy Communities
Policy SP11: Natural resources and sustainability

Policy ETC1 – Appropriate uses in Employment Areas
Policy D1 – Sustainable Design
Policy D3 – Protecting Living Conditions
Policy D4 – Air quality
Policy NE8 – Sustainable Drainage Systems
Policy NE11 – Contaminated Land
Policy T1 – Assessment of Transport Matters
Policy T2 - Parking

1.2 National Planning Policy Framework (NPPF) (August 2026)

National Planning Policy Framework

Section 4 – Achieving sustainable development
Section 5 – Meeting the challenge of climate change
Section 7 – Delivering a strong, effective economy
Section 12 – Making effective use of land
Section 14 – Achieving well-designed places
Section 15 – Promoting sustainable transport
Section 16 – Promoting healthy communities
Section 17 - Pollution, Public protection and Security
Section 18 – Managing flood risk and coastal change

1.3 Supplementary Planning Guidance

Vehicle Parking at New Development SPD (2011) (Plus Appendix 4 in North Herts Local Plan 2011 – 2031)

Sustainability SPD (2024)

1.4 Neighbourhood Plan

There is no Neighbourhood Plan for Hitchin.

2.0 Relevant site and surrounding site history

- 2.1 17/01719/1 – Change of Use of part of ground floor from B1 to D2 (personal training fitness centre). Conditional permission granted 08/11/2017
- 2.2 90/00146/1 – Temporary siting of a Portakabin – Conditional Permission granted 28/02/1990
- 2.3 87/01900/1 – Erection of single storey building for 6 workshop units and parking spaces. (Revised by plans received 28/01/1988). Conditional Permission granted 04.02.1988

3.0 Representations

3.1 **NHDC Environmental Health** – No objections raised subject to appropriate conditions. The Environmental Protection officer considers that, whilst occasional noise from music, instructors and external activities is audible, this is generally low-level and not excessive in the context of the surrounding commercial area. Conditions are recommended to secure compliance with the Noise and Operational Management Statement and control amplified sound, operating hours, outdoor activities, doors/windows and acoustic mitigation. Further minor acoustic works have also been identified to address noise escape from the premises.

3.2 There have been 9 representations from residents; 1 is of support, 7 are objections to the proposal and 1 comprises details of Noise Nuisance Record Sheets detailing ongoing noise nuisances. 3 are from the same neighbour. In addition to the above a petition has been submitted with 25 names and addresses and Noise Nuisance sheets submitted to the Councils Environmental Health Team dating back to January 2026. The summary of the objections is as follows:

3.3 Material planning considerations

- Noise and residential amenity
- Impact on use and enjoyment of neighbouring properties
- Noise and disturbance from outdoor activities
- Noise transmission from open doors and windows remaining open
- Hours and intensity of operation
- Use of amplified voices/microphones
- Adequacy, effectiveness and enforceability of noise mitigation
- Need for acoustic assessment, background noise survey and sound insulation measures
- Suitability/intensity of the use in proximity to residential properties
- Compliance with Local Plan Policy ETC1 relating to the safeguarded employment area
- Impact on living conditions/compliance with Local Plan policy D3
- Appropriateness of the Section 73 application and adequacy of the application details and plans
- Compliance with existing planning restrictions and the need for precise, measurable and enforceable planning conditions.

Non-material planning considerations

- Individual physical and mental health circumstances and medical diagnoses
- Health and safety legislation and regulatory matters
- Alcohol and café licencing matters

3.4 The letter of support has been received from one neighbour whose garden boundaries abut the application site car park and is very close to the building. The letter advises that any noise disturbance experienced has been communicated with the owner and mitigation put in place promptly. The Hub has recognised that their business has caused frustration for some residents and it has made genuine efforts to address this. At present, noise levels have been comfortable to allow enjoyment of home and garden. Sporadic noise is to be expected when living alongside business uses.

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 The application site comprises Units 1–4 at Glovers Court, 23–25 Bury Mead Road, Hitchin. Glovers Court forms part of an established employment area containing a range of commercial and employment premises. Vehicular access to the site is obtained from Bury Mead Road, with areas of parking and circulation provided within the wider Glovers Court site.
- 4.1.2 Units 1–4 comprise part of a single-storey building originally permitted as six workshop units under planning permission 87/01900/1. The four units are presently occupied together by HUB Fitness and operate as a fitness facility. Units 5 and 6 do not form part of the gym use and remain subject to the existing employment use restriction.
- 4.1.3 The wider surroundings have a mixed character. Commercial and employment premises extend to the north and east of the application site, including premises fronting Bury Mead Road. Railway infrastructure lies further to the north-east. Notwithstanding the established employment character of the area, residential development lies immediately to the west and south-west of Glovers Court, principally comprising properties within Heathfield Road and Stormont Road.
- 4.1.4 Of relevance to this application is the relatively close relationship between the employment premises and these neighbouring residential properties. The rear gardens of several dwellings on Heathfield Road and Stormont Road adjoin, or lie close to, the boundary of the Glovers Court employment area. The external circulation and parking areas associated with the premises also lie between parts of the building and neighbouring residential properties.

4.2 Proposal

- 4.2.1 Planning permission 87/01900/1 was granted on 4 February 1988 for the “erection of a single storey building for 6 workshop units and parking spaces” at Glovers Court. The current application is made under Section 73 of the Town and Country Planning Act 1990 and seeks to vary the wording of Condition 3 of that permission.
- 4.2.2 Condition 3 of the original permission restricts the use of the workshop units to purposes falling within Class B1 (Business) and Class B8 (Storage or Distribution) of the Town and Country Planning (Use Classes) Order 1987, or any equivalent provision in subsequent legislation. The stated reason for the condition was:

“To safeguard the level of residential amenity currently enjoyed by the occupiers of nearby dwellings.”

- 4.2.3 Following amendments to the Use Classes Order in September 2020, the former Class B1 uses were incorporated into Class E(g) (offices, research and development and certain industrial processes). Ordinarily, movement between uses within Class E, including from E(g) to E(d) indoor sport, recreation or fitness, would not constitute development requiring planning permission. However, the existing Condition 3 restricts the range of uses

permitted at the site and therefore prevents reliance upon the wider flexibility otherwise available within Class E.

- 4.2.4 The applicant consequently seeks to vary Condition 3 to expressly permit the existing gym use within Units 1–4. The proposed replacement condition would restrict Units 1–4 to Class E(d) (indoor sport, recreation or fitness) and Class B8 (storage and distribution), whilst Units 5 and 6 would remain restricted to Class E(g) and Class B8 uses.
- 4.2.5 The effect of the application is therefore not to seek an unrestricted Class E use of the premises, but to amend the historic restriction to specifically allow E(d) gym use within Units 1–4 whilst retaining restrictions over the future use of all six units. The proposed replacement condition retains a residential amenity reason, namely “to safeguard the amenities of nearby residential occupiers.”
- 4.2.6 Accordingly, a principal consideration in determining this application is whether the variation of a condition originally imposed specifically to protect the residential amenity of nearby occupiers to permit the E(d) gym use would remain consistent with that objective, including whether any effects arising from the use can be satisfactorily controlled through appropriate planning conditions.
- 4.2.7 The application has been submitted with one location plan, a Noise Operations Statement, Planning Statement, photos of the site, operational and compliance log and four letters of support (from users of the facility, the landlord and another local business on site).

4.3 **Key Issues**

4.3.1 The key issues are: -

- *Principle of Development* – Whether the proposed variation of Condition 3 to permit Class E(d) indoor sport, recreation or fitness use within Units 1–4 is acceptable in principle, having regard to the site's location within a designated Employment Area, Policy ETC1 of the North Hertfordshire Local Plan 2011–2031, and relevant national planning policy.
- *Impact on Residential Amenity* – Whether the E(d) gym use would result in unacceptable harm to the living conditions of neighbouring occupiers, particularly through noise and disturbance, having regard to the nature and intensity of the use, proximity of neighbouring dwellings, the submitted noise evidence and representations, and the original reason for imposing Condition 3. This includes consideration of the adequacy of the noise mitigation measures and operational controls contained within the submitted Noise and Operations Management Statement.
- *Planning Conditions and Enforceability* – Whether the proposed variation can be made acceptable through necessary, relevant, precise, reasonable and enforceable planning conditions, including controls relating to operating hours, external activities, amplified sound, doors and windows, and the implementation and retention of acoustic mitigation.

Principle

- 4.3.2 The application site lies within a designated Employment Area and Policy ETC1 of the North Hertfordshire Local Plan 2011–2031 is therefore relevant.
- 4.3.3 Policy ETC1 seeks primarily to safeguard Employment Areas for office, research and development, industrial and storage/distribution uses, identified in the Local Plan as B1, B2 and B8 uses. The policy does, however, allow other employment-generating uses where certain exceptions apply. These include where the proposed use would provide benefits comparable to a B-class use in the same location or would make use of premises that would otherwise be likely to remain vacant for an extended period.
- 4.3.4 The supporting text to Policy ETC1 provides some flexibility when considering such uses and requires proposals to be assessed on their individual merits. Relevant considerations include the employment generated, benefits to the community or surrounding businesses, accessibility by non-car modes and, where relevant, the continuing need or suitability of the premises for traditional employment purposes.
- 4.3.5 The planning history and subsequent changes to the Use Classes Order are also relevant. The original permission restricted the six workshop units to B1 and B8 uses. Following changes to the Use Classes Order in 2020, former B1 uses now fall within Class E(g), while indoor sport, recreation and fitness falls within Class E(d). Although E(g) and E(d) are now within the same Use Class, the historic Condition 3 continues to restrict the uses of these premises. The applicant cannot therefore rely on the normal flexibility within Class E and this Section 73 application is required to expressly permit the E(d) gym use within Units 1–4.
- 4.3.6 The fact that E(g) and E(d) are now within the same Use Class does not, however, mean that the gym automatically complies with Policy ETC1. The policy was prepared to protect the employment functions associated with the former B1, B2 and B8 uses. The gym must therefore be considered against the exceptions allowed by ETC1.
- 4.3.7 In this case, the key consideration is whether the gym provides benefits comparable to the employment uses normally supported within the Employment Area. HUB Fitness is an established business which provides employment and a service to the local community. These benefits weigh in favour of the proposal. This must be balanced against Units 1–4 no longer being specifically reserved for the types of employment use traditionally protected by ETC1.
- 4.3.8 The August 2026 National Planning Policy Framework (NPPF) is also a material consideration. It confirms that applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Of relevance, Policy E2 gives substantial weight to the economic benefits of commercial development which enables businesses to invest, expand or adapt, particularly where this supports the economic vision and strategy for the area.

- 4.3.9 The NPPF therefore provides support for the economic benefits of allowing an established business to continue and adapt. This weighs in favour of the proposal but does not override the more locally specific requirements of Policy ETC1.
- 4.3.10 On balance, Officers consider that the continued occupation of Units 1–4 by HUB Fitness maintains an active commercial and employment-generating use within the Employment Area. The employment, economic and community benefits provided by the business are considered comparable to those associated with the uses identified in Policy ETC1. The proposal therefore satisfies criterion ETC1(iii). The previous prolonged vacancy of Units 1–4 provides additional support under criterion ETC1(iv).
- 4.3.11 The proposed E(d) gym use is therefore considered acceptable in principle within the designated Employment Area.
- 4.3.12 This conclusion relates only to the principle of the use. Residential amenity must be considered separately, particularly as the original restriction was imposed specifically “to safeguard the level of residential amenity currently enjoyed by the occupiers of nearby dwellings.” Whether the proposed variation is acceptable overall therefore depends on whether the gym can operate without causing unacceptable harm to neighbouring residents.

Impact on residential amenity

- 4.3.13 The application site lies within an established employment area but is close to residential properties in Heathfield Road and Stormont Road. The effect of the proposed use on the living conditions of neighbouring occupiers, particularly in relation to noise and disturbance, is therefore a key consideration.
- 4.3.14 The current application seeks to vary that condition to expressly permit Units 1–4 to be used for Class E(d) indoor sport, recreation or fitness purposes. Therefore, it is necessary to consider whether the proposed use, subject to any necessary controls, would continue to adequately safeguard neighbouring living conditions.

Policy Context

- 4.3.15 Policy D3 of the North Hertfordshire Local Plan 2011–2031 seeks to protect the living conditions of existing and future occupiers, including from unacceptable noise and disturbance. National Planning Policy Framework Policy P3 similarly requires consideration of noise, living conditions and whether development is appropriate for its location.
- 4.3.16 The assessment is therefore concerned not simply with whether a gym is acceptable in principle, but with the way this particular use operates. Relevant considerations include amplified music, coaches' voices, group exercise, external activity and the times at which these activities take place.

- 4.3.17 The applicant has pointed out that the B1 and B8 uses permitted under the existing condition could themselves generate noise through machinery, servicing, deliveries, vehicle movements and loading. Officers acknowledge this point. However, the noise associated with a gym is different in character and timing and must therefore be considered on its own merits.

Representations and Noise Complaints

- 4.3.18 A significant number of representations have been received from neighbouring occupiers concerning the operation of the gym. The principal concerns relate to amplified music and bass, coaches' voices and shouting, group exercise, outdoor activities and the opening of doors while classes are taking place. Residents have also raised concerns about early morning, evening and weekend activity and its effect on the enjoyment of their homes and gardens.
- 4.3.19 Residents have also submitted Noise Nuisance Record Sheets covering a period of approximately five months, together with recordings made using a noise application. A petition has also been received from residents living close to the premises.
- 4.3.20 Officers have carefully considered these representations. They provide important evidence of residents' experiences of the use over an extended period. However, the existence or number of complaints does not demonstrate that the use results in unacceptable harm for planning purposes. The representations, both in support and objection, must be considered alongside the observations and professional judgement of Environmental Health, the characteristics of the surrounding area and the mitigation and operational controls now proposed.

Environmental Health Assessment

- 4.3.21 Environmental Health has been involved with the premises both before and during its operation as a gym. Prior to the conversion of the units, the operator sought advice from Environmental Health regarding the suitability of the premises. The Environmental Protection Officer (EPO) advised that the Planning Service should be contacted to establish whether planning permission was required and discussed potential noise impacts with the operator, having regard to the proximity of residential properties.
- 4.3.22 Following complaints from residents, Environmental Health investigated noise associated with the operation of the gym. This included discussions with the business and visits to the site while the gym was operating. Those discussions resulted in additional measures being introduced to reduce noise escaping from the building, several of which are now incorporated within the submitted Noise and Operations Management Statement (NOMS).
- 4.3.23 During the investigation, the EPO found that noise was occasionally audible from amplified music, coaches' voices and people using the external areas. However, the noise observed was generally considered to be low level, non-intrusive and not excessive in the context of the surrounding area. The EPO also noted the established commercial character of Glovers Court, where a degree of operational noise is to be expected.

- 4.3.24 Further visits resulted in similar observations. Although gym-related noise could occasionally be heard, the EPO did not consider it excessive and noted that other existing background noise, including passing trains and aircraft, could at times mask noise from the premises.
- 4.3.25 Environmental Health has nevertheless identified circumstances where greater noise escape has occurred. Earlier classes involving amplified music appear to have taken place with the former shutter doors open. This allowed considerably more noise to escape from the premises and demonstrates the importance of appropriate operational controls.
- 4.3.26 During a more recent visit while a class was taking place, the EPO identified low-level noise escaping through a poorly sealed rear fire door and unattenuated air bricks. These matters have been raised with the operator and can be addressed through further acoustic mitigation. Importantly, the EPO reported that no other operational noise of note was evident from the boundary of the neighbouring residential properties during that visit.

Noise Mitigation and Operational Controls

- 4.3.27 The submitted Noise and Operations Management Statement (NOMS) contains a range of measures intended to minimise noise from the premises. These include controls over amplified music, bass reduction through audio equalisation, use of a zoned sound system, controls over coaches' voices, restrictions on amplified sound externally and physical improvements to the building.
- 4.3.28 A substantial proportion of the identified physical acoustic mitigation has already been undertaken. Environmental Health advises that the principal remaining matters include improvements to a rear fire exit door, attenuation associated with the air bricks and works to the roof. The roof works are understood to be the responsibility of the landlord and are being undertaken by a third-party contractor rather than the applicant.
- 4.3.29 No standalone technical Noise Impact Assessment has been submitted with the application. Officers acknowledge the concerns raised by residents regarding this. However, this must be considered alongside the direct involvement of the Council's Environmental Health service, including investigation of complaints and observations undertaken while classes were in progress.
- 4.3.30 Environmental Health has not requested a further Noise Impact Assessment as a prerequisite to determining the application and raises no objection to the proposal, subject to appropriate conditions. In these circumstances, Officers consider that it would be difficult to justify withholding planning permission solely because a separate technical acoustic assessment has not been provided.

Hours of Operation

- 4.3.31 The NOMS identifies normal business operating hours of 05:30–21:00 Monday to Friday and 07:00–12:00 on Saturdays. Classes normally operate between 06:00–10:00, 12:00–14:00 and 16:00–20:00 Monday to Friday and between 07:00–11:00 on Saturdays.

- 4.3.32 Officers consider that the timing of customer activity is relevant because noise associated with group exercise, amplified music and coaches' voices has greater potential to cause disturbance during more sensitive periods.
- 4.3.33 Environmental Health agrees that a condition restricting customer hours is necessary. The EPO considers operation until midday on Saturdays to be reasonable and raises no objection to Bank Holiday use, provided the other noise-control measures apply. The EPO has, however, advised that there should be no noise-generating use on Sundays.
- 4.3.34 Officers therefore consider that clearly defined customer operating hours should be imposed by condition. This would provide certainty to both the operator and neighbouring residents and would prevent an unrestricted intensification of the use during noise-sensitive periods.

External Activities

- 4.3.35 The NOMS allows some elements of training to take place externally, including running intervals, loaded carries and the use of portable cardio equipment. Residents have raised particular concerns regarding outdoor activity because it does not benefit from the acoustic containment provided by the building.
- 4.3.36 Environmental Health does not object in principle to outdoor exercise but considers that appropriate controls are required. In particular, amplified sound should not be used externally and noisy activities involving the dropping, throwing or striking of weights or equipment should be controlled. The EPO has also suggested that very early morning external activity should be avoided, with 08:00 identified as an appropriate earliest starting point.
- 4.3.37 Officers agree that this represents a proportionate approach. A complete prohibition on all outdoor activity would go further than officers consider necessary and it is questionable as to whether this would meet the relevant condition tests. While a condition controlling the nature and timing of external activity would directly address its potential impact upon neighbouring residents.

Doors and Windows

- 4.3.38 The opening of external doors during classes has been a particular concern raised by residents. Environmental Health has also identified that greater noise escape previously occurred when amplified music was played with the former shutter doors open.
- 4.3.39 However, the EPO does not consider it necessary or reasonable to require all doors and windows to remain closed whenever the gym is operating. Where significant noise is not being generated, there is no identified acoustic reason why doors should not be opened, including for ventilation.
- 4.3.40 Officers therefore consider that the condition should be targeted towards the circumstances in which it is necessary. Relevant external doors and windows should remain closed during classes involving elevated levels of amplified music, other than as required for access, egress or emergencies. This would address the identified noise pathway without unnecessarily restricting ventilation at other times.

Amplified Sound

- 4.3.41 Environmental Health supports a condition preventing the use of amplified sound externally. This would directly address concerns regarding the transmission of music or amplified speech from the external areas towards neighbouring properties.
- 4.3.42 The EPO also supports a condition controlling the amplified music system within the premises and recommends that this is linked to the arrangements set out within the NOMS. Officers agree that this is necessary to ensure that the sound system and associated noise-control measures are retained and appropriately managed.

Noise and Operational Management Statement

- 4.3.43 Environmental Health recommends that the premises are required to operate in accordance with the submitted NOMS. Importantly, the EPO also recommends that the condition allows the management plan to be amended in liaison with the Local Planning Authority where necessary.
- 4.3.44 Officers consider this to be particularly useful in this case. The investigations undertaken to date demonstrate that relatively specific operational matters, such as the sealing of a door, attenuation of air bricks, management of amplified music or use of external areas, can affect the level of noise experienced outside the premises. Retaining an approved management plan provides a mechanism for those controls to be reviewed and adapted should operational circumstances change.
- 4.3.45 However, Officers also consider that the NOMS should operate alongside, rather than replace, specific planning conditions where a particular restriction is necessary to make the development acceptable. Matters such as customer operating hours, amplified sound externally and the timing and nature of external activities are more appropriately secured through clear conditions. The NOMS can then provide the more detailed operational framework within which the business operates.

Conclusion on Residential Amenity

- 4.3.46 Officers recognise the strength and consistency of the concerns expressed by neighbouring residents. The reported disturbance, particularly from amplified music, coaches' voices, external activity and earlier operation with doors open, is a material consideration and has been afforded significant weight.
- 4.3.47 There is also evidence that noise has escaped from the premises and that improvements have been necessary. Environmental Health's investigations have identified specific noise pathways and the operation of the premises has been modified in response to complaints.
- 4.3.48 The key consideration, however, is whether the use as now proposed can operate without causing unacceptable harm to neighbouring living conditions. In this respect, significant weight is given to the professional assessment of Environmental Health. The EPO has investigated residents' complaints, undertaken observations while classes were taking place and considered the mitigation already introduced. Although gym-related noise was audible, it was generally found to be low level, non-intrusive and not excessive. During the

most recent observation, no operational noise of note, other than low-level noise associated with identified defects in the rear fire door and air bricks, was evident at the boundary of the residential properties.

- 4.3.49 Environmental Health raises no objection to the application and considers that the remaining potential impacts can be satisfactorily controlled through a combination of specific planning conditions and compliance with the NOMS.
- 4.3.50 Officers therefore consider that, subject to those controls, the Class E(d) use would not result in unacceptable harm to the living conditions of neighbouring occupiers. The proposal is consequently considered to accord with Policy D3 of the North Hertfordshire Local Plan and the relevant provisions of the National Planning Policy Framework.

Mitigation, Conditions and Enforceability

- 4.3.51 As the application is made under section 73 of the Town and Country Planning Act 1990, any permission granted would constitute a new planning permission. The Local Planning Authority may therefore impose new conditions if they are lawful and do not fundamentally alter the development originally permitted.
- 4.3.52 In this case, the proposed controls arise directly from permitting the Class E(d) use within Units 1–4 and are intended to manage its effects upon neighbouring residential occupiers. They are therefore directly related to the variation sought and consistent with the purpose of the original Condition 3.
- 4.3.53 Having regard to the advice of Environmental Health, Officers consider that conditions should address:
- the hours during which customers may use the premises;
 - the timing and nature of activities undertaken externally;
 - the prohibition of amplified sound externally;
 - the use and management of amplified music within the premises;
 - the closing of relevant doors and windows during classes involving elevated amplified music;
 - the completion, retention and maintenance of necessary acoustic mitigation; and
 - continued operation in accordance with the approved Noise and Operations Management Statement, including provision for its subsequent review where reasonably required by the Local Planning Authority.
- 4.3.54 This combination of conditions provides a more proportionate and effective approach than either relying entirely upon the NOMS or attempting to prescribe every operational detail through individual planning conditions. The principal restrictions necessary to protect residential amenity would be clearly established by the permission, while the NOMS would provide an appropriate mechanism for the detailed management of noise during the ongoing operation of the business.

4.4 Planning Balance and Conclusion

- 4.4.1 The application seeks to vary Condition 3 of planning permission 87/01900/1 to permit Units 1–4 to be used for purposes falling within Class E(d) and Class B8, while Units 5 and 6 would remain restricted to Class E(g) and Class B8 uses.
- 4.4.2 The proposed Class E(d) use is considered acceptable in principle within the safeguarded Employment Area. It maintains Units 1–4 in active commercial use, generates employment and provides a fitness facility serving the local community. Officers consider that these benefits are sufficient to satisfy the relevant exception within Policy ETC1.
- 4.4.3 The principal issue is the effect of the gym upon neighbouring residential occupiers. This carries particular weight because the condition being varied was originally imposed specifically to safeguard residential amenity. Officers have therefore carefully considered the representations and noise records submitted by residents, together with the operational characteristics of the gym and the findings of Environmental Health.
- 4.4.4 Residents have experienced and reported noise associated with amplified music, coaches' voices, group exercise and external activities. Environmental Health's investigations also confirm that gym-related noise can occasionally be audible and that greater noise escape occurred previously when amplified music was used with doors open. Further minor weaknesses in the acoustic containment of the premises have also been identified.
- 4.4.5 However, Environmental Health's observations found the noise generally to be low level, non-intrusive and not excessive in the context of the surrounding commercial area. During the EPO's most recent visit while a class was taking place, no operational noise of note was identified at the boundary of neighbouring residential properties, other than low-level noise escaping through the rear fire door and unattenuated air bricks. These are matters capable of further mitigation.
- 4.4.6 Environmental Health raises no objection to the application subject to appropriate conditions. Officers give significant weight to that professional advice, particularly as it follows investigation of the complaints, discussions with the operator and observations of the premises during actual classes.
- 4.4.7 Officers consider that the remaining potential impacts can be appropriately managed through conditions controlling customer hours, external activity, amplified sound, relevant doors and windows and acoustic mitigation, together with a requirement for continued compliance with the approved NOMS.
- 4.4.8 This approach does not disregard the experiences reported by neighbouring residents. Rather, it recognises that some noise is associated with the use while considering whether that noise amounts to unacceptable planning harm and whether it can be appropriately controlled. On the evidence available and having regard to the professional advice of Environmental Health, Officers consider that the use can operate without causing

unacceptable harm to neighbouring living conditions provided the identified controls are imposed and observed.

- 4.4.9 In the overall planning balance, the economic, employment and community benefits associated with the continued occupation of Units 1–4 weigh significantly in favour of the proposal. The potential effects upon residential amenity also carry significant weight but are considered capable of satisfactory mitigation through the proposed conditions.
- 4.4.10 The proposed variation of Condition 3 is therefore considered to accord with Policies ETC1 and D3 of the North Hertfordshire Local Plan 2011–2031 and the relevant provisions of the National Planning Policy Framework. Planning permission is recommended subject to the conditions set out below and the reimposition, where necessary, of relevant conditions attached to the original planning permission.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

- 6.1 That planning permission be GRANTED under section 73 of the Town and Country Planning Act 1990 for the variation of Condition 3 of planning permission 87/01900/1, subject to the conditions set out below and the reimposition of those conditions attached to planning permission 87/01900/1 which remain relevant and capable of taking effect.

Conditions to be replaced with and added to the original planning permission alongside all original plan numbers

Restricted use — replacement Condition 3

Units 1–4 of the development hereby permitted shall be used only for purposes falling within Class E(d) (indoor sport, recreation or fitness) and Class B8 (storage or distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order, and for no other purpose.

Units 5 and 6 of the development hereby permitted shall be used only for purposes falling within Class E(g) and Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order, and for no other purpose.

Reason: To safeguard the employment function of the site and the living conditions of neighbouring residential occupiers, in accordance with Policies ETC1 and D3 of the North Hertfordshire Local Plan 2011–2031.

2. Hours of E(d) activity

Units 1–4 shall not be open to customers and no exercise class, personal training session or other Class E(d) sport, recreation or fitness activity involving customers shall take place outside the following hours:

Monday to Friday: 06:00-20:00

Saturday: 07:00– 12:00

Sunday: 10:00-15:00

Outside these hours, access to the premises by employees or contractors shall be permitted only where such access does not involve amplified sound, the use of exercise equipment, building, repair or maintenance works, or any other noise-generating activity audible outside the premises.

Reason: To safeguard the living conditions of neighbouring residential occupiers from noise and disturbance during noise-sensitive periods, in accordance with Policy D3 of the North Hertfordshire Local Plan 2011–2031.

3. Outdoor activities

No exercise or fitness activity associated with the Class E(d) use shall take place within the external areas associated with Units 1–4 before 08:00.

The external areas associated with Units 1–4 shall not be used for any Class E(d) activity involving:

- a) amplified music or amplified speech; or
- b) the dropping, throwing or striking of weights or other exercise equipment.

All other outdoor exercise and fitness activities associated with the Class E(d) use shall be undertaken in accordance with the approved Noise and Operations Management Statement.

Reason: To safeguard the living conditions of neighbouring residential occupiers from noise and disturbance arising from activities undertaken outside the building, in accordance with Policy D3 of the North Hertfordshire Local Plan 2011–2031.

4. External doors and windows

All external doors and openable windows serving Units 1–4 shall be kept closed whenever electronically amplified sound is being played or used within the premises, except for the minimum period necessary to allow access or egress or in the event of an emergency.

Reason: To minimise the transmission of amplified sound from the premises and safeguard the living conditions of neighbouring residential occupiers, in accordance with Policy D3 of the North Hertfordshire Local Plan 2011–2031.

5. Acoustic mitigation

The acoustic mitigation measures identified in the approved Noise and Operations Management Statement, including the works to the rear fire exit door, air bricks and roof

serving Units 1–4, shall be fully implemented within 3 months of the date of this permission.

The acoustic mitigation measures shall thereafter be retained and maintained for so long as the Class E(d) use continues.

Reason: To minimise the transmission of noise from the premises and safeguard the living conditions of neighbouring residential occupiers, in accordance with Policy D3 of the North Hertfordshire Local Plan 2011–2031.

6. Amplified sound system

Any amplified sound associated with the Class E(d) use of Units 1–4 shall only be played through the sound system identified in the approved Noise and Operations Management Statement.

The sound system and associated noise control measures specified within the approved Noise and Operations Management Statement, including the zoning and equalisation settings, shall be retained and maintained for so long as the Class E(d) use continues.

No alteration or replacement of the approved sound system, or alteration to its noise control settings, shall take place unless details of the proposed alteration or replacement have first been submitted to and approved in writing by the Local Planning Authority. Any replacement or altered system shall thereafter be operated in accordance with the approved details.

Reason: To control noise arising from amplified sound and safeguard the living conditions of neighbouring residential occupiers, in accordance with Policy D3 of the North Hertfordshire Local Plan 2011–2031.

7. No amplified sound externally

No amplified sound associated with the Class E(d) use of Units 1–4 shall be played or used within any external area associated with the premises.

Reason: To safeguard the living conditions of neighbouring residential occupiers from noise and disturbance, in accordance with Policy D3 of the North Hertfordshire Local Plan 2011–2031.