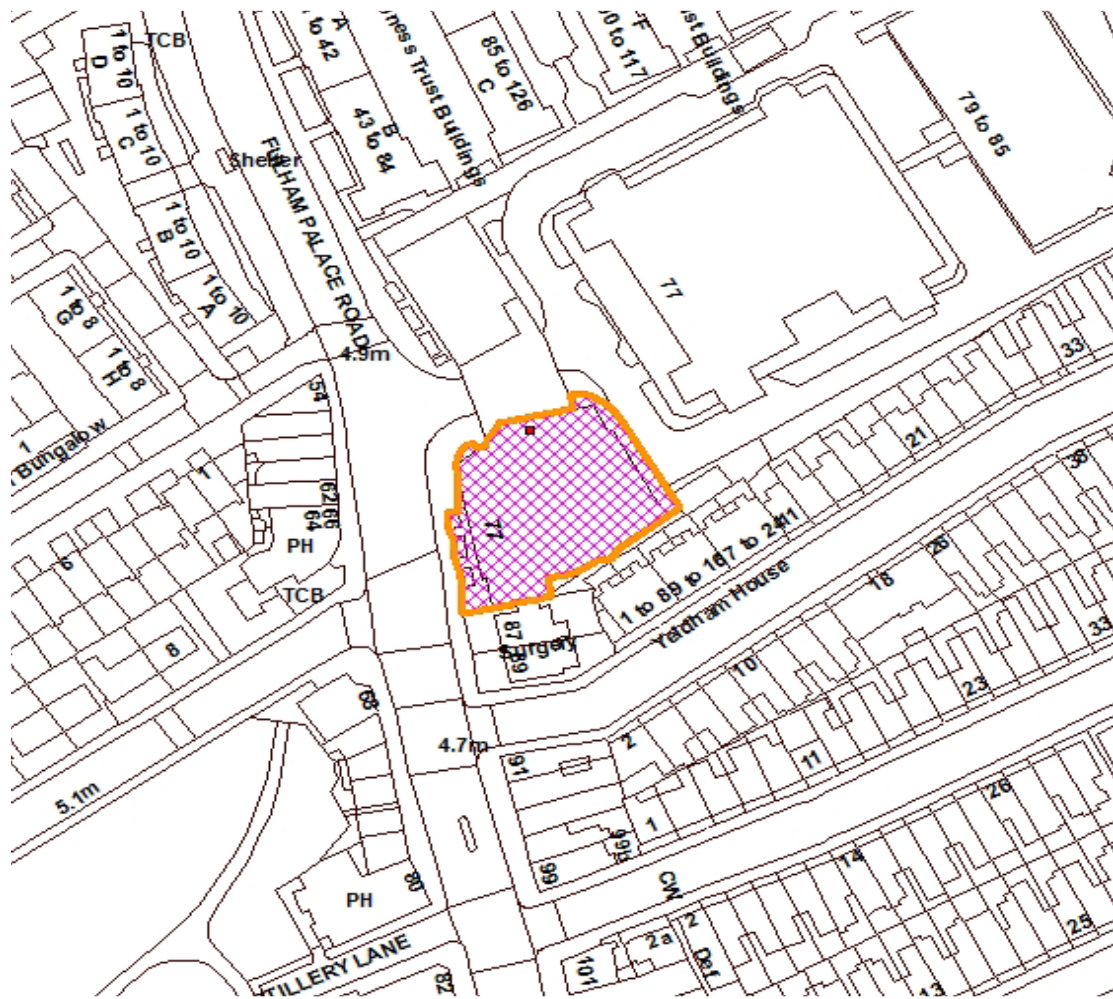


**Ward:** Hammersmith Broadway

**Site Address:**

Units B, B1 And C 77 Fulham Palace Road London W6 8JA



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**For identification purposes only - do not scale.**

**Reg. No:**  
2021/02298/FUL

**Case Officer:**  
Sian Brown

**Date Valid:**  
10.09.2021

**Conservation Area:**

**Committee Date:**  
08.02.2022

**Applicant:**

C/O Agent

**Description:**

Change of use and amalgamation of Units B, B1 and C from Class E to use as a 24 hour indoor gym (Use Class E(d)).

Drg Nos: 0004.1 Rev A; 0004.2 Rev A; Jetts Fitness Management Plan, dated June 2021; Flood Risk Assessment dated 06/01/2021 REV A; Noise Assessment Ref: 784-B026110 Rev 4, dated June 2021, prepared by Tetra Tech; Delivery and Servicing Management Plan, dated 16 June 2021, by Motion; Construction Management Plan, Revision 2, dated July 2021, prepared by Hendrix and Walker; Planning Fire Statement prepared by 3-FE dated 12th August 2021

**Application Type:**

Full Detailed Planning Application

**Officer Recommendation:**

- 1) That the Committee resolve that the Chief Planning Officer be authorised to grant planning permission subject to the conditions listed below;
- 2) That the Committee resolve that the Chief Planning Officer, after consultation with the Assistant Director, Legal Services and the Chair of the Planning and Development Control Committee be authorised to make any minor changes to the proposed conditions, which may include the variation, addition or deletion of conditions, any such changes shall be within their discretion.

**Conditions:**

- 1) The development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.

Condition required to be imposed by section 91(1)(a) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

- 2) The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

To ensure full compliance with the planning application hereby approved and to prevent harm arising through deviations from the approved plans.

- 3) The premises shall be used for purposes specified within Use Class E(d) and for no other purpose (including any other separate purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

In granting this permission, the Council has had regard to the special circumstances of the case. Certain other uses within the same use class may be unacceptable due to effect on residential amenity or traffic generation, in accordance with Policies DC1, DC4, HO11, CC11, CC13 and T1 of the Local Plan (2018).

- 4) Prior to commencement of the development hereby permitted, a detailed Construction Logistics Plan in accordance with the Transport for London Guidance on Construction Logistics Plans shall be submitted to, and approved in writing by the Council. The details shall include the numbers, size and routes of construction vehicles, provisions within the site to ensure that all vehicles associated with the construction works are properly managed, washed and cleaned to prevent the passage of mud and dirt onto the highway, and other matters relating to traffic management to be agreed with the Network Management and the Permit Coordinators of the council. Approved details shall be implemented throughout the project period and any changes to the document must be reported back to the council's planning and highways department.

To ensure that appropriate steps are taken to limit the impact of the proposed construction works on the operation of the public highway in accordance with Policy T7 of the London Plan (2021), Policies T1, T6, T7 of the Local Plan (2018) and Key Principles of the Planning Guidance SPD (2018).

- 5) The development hereby permitted shall be implemented in accordance with the approved Construction Management Plan, Revision 2, dated July 2021, prepared by Hendrix and Walker.

To ensure that occupiers of surrounding premises are not adversely affected by noise, vibration, dust, lighting, or other emissions from the building site in accordance with Policy D14 of the London Plan (2021), Policies DC1, CC6, CC7, CC10, CC11 and CC12 of the Local Plan (2018) and Key Principles of the Planning Guidance SPD (2018).

- 6) The development hereby permitted shall be implemented in accordance with the approved Jetts Fitness Management Plan, dated June 2021.

To ensure that occupiers of surrounding premises are not adversely affected by noise and disturbance from the operation, activities or people at or leaving the site, in accordance with Policy D14 of the London Plan (2021), Policies CC11 and CC13 of the Local Plan (2018) and Key Principles of the Planning Guidance SPD (2018).

- 7) The development hereby permitted shall be implemented in accordance with the approved Noise Assessment Ref: 784-B026110 Rev 4, dated June 2021, prepared by Tetra Tech.

To ensure that occupiers of surrounding premises are not adversely affected by noise and disturbance from the application site in accordance with Policy D14 of the London Plan (2021), Policies CC11 and CC13 of the Local Plan (2018) and Key Principles of the Planning Guidance SPD (2018).

- 8) Noise from uses and activities within the building/development site shall not exceed the criteria of BS8233:2014 at neighbouring noise sensitive/ habitable rooms and private external amenity spaces.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise, in accordance with Policy D14 of the London Plan (2021), Policies CC11 and CC13 of the Local Plan (2018) and Key Principles of the Planning Guidance SPD (2018).

- 9) The external sound level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background sound level by at least 10dBA in order to prevent any adverse impact. The assessment shall be made in accordance with BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment, in accordance with Policies CC11 and CC13 of the Local Plan (2018).

- 10) Prior to use, machinery, plant or equipment, extract/ ventilation system and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by vibration, in accordance with Policies CC11 and CC13 of the Local Plan (2018).

- 11) No part of the development hereby approved shall be occupied or used until the cycle storage arrangements at ground floor level have been implemented in accordance with the details provided on drawing no. 0004.1 Rev A. Thereafter the provision for cycle storage shall be so maintained for the life of the development.

To ensure satisfactory provision for the bicycle and thereby promote sustainable and active modes of transport, in accordance with Policy T5 London Plan (2021) and Policy T3 of the Local Plan (2018).

- 12) The development hereby permitted, shall be carried out in accordance with the Delivery and Servicing Management Plan, dated 16 June 2021, by Motion, hereby approved. The Delivery and Servicing Management Plan shall be regularly monitored and reviewed and any subsequent modifications or alterations to The Plan should be submitted to and approved in writing by the LPA.

To ensure that satisfactory provision is made for refuse storage and collection and that servicing activities do not adversely impact on the highway, in accordance with Policy T7 of the London Plan (2021) and Policy T2 of the Local Plan (2018).

- 13) Prior to commencement of the development hereby permitted, a Ventilation Strategy Report to mitigate the impact of existing poor air quality for indoor gym (Use Class E(d)) receptor locations where the World Health Organisation Air Quality Guideline Values (2005) for Nitrogen Dioxide (NO<sub>2</sub>), and Particulate Matter

(PM2.5, PM10) are already exceeded and where current and future predicted pollutant concentrations are within 5 % of these limits shall be submitted to and approved in writing by the Local Planning Authority. The report shall include the following information:

- a) Details and locations of the ventilation intake locations at rear roof level or on the rear elevations of all floors
- b) Details and locations of the restricted opening windows (maximum 100mm for emergency purge ventilation) on all floors
- c) Details and locations of ventilation extracts, to demonstrate that they are located a minimum of 2 metres away from the air ventilation intakes, openable windows, terraces
- d) Details of the independently tested mechanical ventilation system with Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM<sub>2.5</sub>, PM<sub>10</sub>) filtration with ventilation intakes on the rear elevation to remove airborne pollutants. The filtration system shall have a minimum efficiency of 75% in the removal of Nitrogen Oxides/Dioxides, and Particulate Matter (PM<sub>2.5</sub>, PM<sub>10</sub>) in accordance with BS EN ISO 10121-1:2014 and BS EN ISO 16890:2016.

The whole system shall be designed to prevent summer overheating and minimise energy usage. The maintenance and cleaning of the systems shall be undertaken regularly in accordance with manufacturer specifications and shall be the responsibility of the primary owner of the property. Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

In the interests of air quality, in accordance with Policy SI1 of the London Plan (2021) and Policy CC10 of the Local Plan (2018).

- 14) Prior to occupation of the development hereby permitted, details of a post installation compliance report of the approved ventilation strategy as required by condition 13 to mitigate the impact of existing poor air quality shall be submitted to and approved in writing by the Local Planning Authority. The report shall be produced by an accredited Chartered Building Services Engineer (CIBSE). Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

In the interests of air quality, in accordance with Policy SI1 of the London Plan (2021) and Policy CC10 of the Local Plan (2018).

- 15) Prior to occupation of the development hereby permitted, details of the installation of the Zero Emission MCS certified Air/Water Source Heat Pumps or Electric Boilers to be provided for space heating and hot water shall be submitted to and approved in writing by the Local Planning Authority. Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

In the interests of air quality, in accordance with Policy SI1 of the London Plan (2021) and Policy CC10 of the Local Plan (2018).

- 16) Prior to occupation of the development hereby permitted an Ultra Low Emission Strategy (ULES) for the operational phase of the development in order to mitigate the impact of air pollution shall be submitted to and approved in writing by the Local Planning Authority. The ULES must detail the remedial action and mitigation measures that will be implemented to protect receptors (e.g. design solutions). This Strategy must make a commitment to implement the mitigation measures that are required to reduce the exposure of poor air quality and to help mitigate the development's air pollution impacts, in particular the emissions of NOx and Particulates (PM2.5, PM10) from on-road vehicle transport by the use of ULEZ compliant Vehicles in accordance with the emissions hierarchy 1) Cargo bike (2) Electric Vehicle, (3) Alternative Fuel e.g. CNG, Hydrogen, LPG , (4) Petrol/Diesel Euro 6 (AIR Index <https://airindex.com/> Urban NOx rating A) and Euro VI. A monitoring report of the implementation of the ULES shall be submitted on annual basis to the LPA. Approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

In the interests of air quality, in accordance with Policy SI1 of the London Plan (2021) and Policy CC10 of the Local Plan (2018).

- 17) The development shall be carried out and completed in full accordance with the details contained within the Flood Risk Assessment dated 06/01/2021 REV A submitted with this application. No part of the development shall be used or occupied until all flood prevention and mitigation measures have been installed in accordance with the submitted details and the development shall be permanently retained in this form thereafter.

To reduce the impact of flooding to the proposed development and future occupants, in accordance with Policy SI12 of the London Plan (2021) and Policies CC2, CC3 and CC4 of the Local Plan (2018).

- 18) No alterations shall be carried out to the external appearance of the building hereby permitted, including the installation of air-conditioning units, ventilation fans or extraction equipment not shown on the approved drawings, without planning permission first being obtained. Any such changes shall be carried out in accordance with the approved details.

To ensure a satisfactory external appearance and to prevent harm to the amenities of the occupiers of neighbouring residential properties, in accordance with Policies D3, D14 and HC1 of the London Plan (2021) and Policies DC1, DC4, DC8, CC11, CC13 and H011 of the Local Plan (2018).

- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no aerials, antennae, satellite dishes or related telecommunications equipment shall be erected on any external part of the approved buildings, without planning permission first being obtained.

In order to ensure that the Council can fully consider the effect of telecommunications equipment upon the character and appearance of the building

and its setting, in accordance with Policies D3 and HC1 of the London Plan (2021) and Policies DC1, DC4 and DC8 of the Local Plan (2018).

- 20) No advertisements shall be installed on the building hereby permitted without the prior written approval of the Council.

To ensure a satisfactory external appearance of the development in accordance with Policies DC1, DC4, DC8 and DC9 of the Local Plan (2018) and Key Principles of the Planning Guidance SPD (2018).

- 21) The development must be carried out in accordance with the provisions of the Planning Fire Statement prepared by 3-FE dated 12th August 2021 unless otherwise approved in writing by the Local Planning Authority.

To ensure that the development incorporates the necessary fire safety measures in accordance with the Mayor's London Plan (2021) Policy D12.

### **Justification for Approving the Application:**

- 1) 1. Land use: The proposal would not result in a demonstrable shortage of shops and other local services to meet local needs in the local vicinity or harm the vitality or viability of Fulham Palace Road. The provision of a sports facility would deliver social, health and wellbeing benefits to the local community. The principle of the development is therefore considered to be in accordance with Policy S5 of the London Plan (2021) and Policies TLC4 and CF3 of the Local Plan (2018).

2. Residential Amenity: Subject to the implementation of the measures set out in the submitted management plan, noise assessment and a construction management plan, the proposal would not have an unacceptably harmful impact on neighbouring residential amenity in terms of noise disturbance from either the operational phase or the building phase. In this regard, the development would respect the principles of good neighbourliness, and would therefore be acceptable in accordance with the NPPF (2021), Policy D14 of the London Plan (2021), Policies CF3, TLC5, CC11 and CC13 of the Local Plan (2018) and Key Principles of the Planning Guidance Supplementary Planning Document (2018).

3. Highways matters: It is considered that the scheme would not have a significant impact on the highway network or local parking conditions and is thus considered to be acceptable. Satisfactory provision would be made for the storage of bicycles and refuse as well for servicing and deliveries. Subject to conditions, the development accords with the NPPF (2021), Policies T1 and T4 to T7 of the London Plan (2021), Policies T1 to T7 and CF3 of the Local Plan (2018) and Key Principles of the Planning Guidance Supplementary Planning Document (2018).

4. Flood Risk: Due to the nature of the works and subject to the implementation of the measures set out in the submitted flood risk assessment the proposal would not have a significant effect on flood risk or surface water run-off. The proposed development therefore accords with the NPPF (2021), London Plan (2021) Policy SI12, Local Plan (2018) Policies CC2, CC3 and CC4, and Key Principles of the Planning Guidance SPD (2018).

5. Air Quality: Subject to the proposed conditions the proposal would not have a

significant effect on local air quality. The proposed development therefore accords with the NPPF (2021), Policy S11 of the London Plan (2021), Policies CC1 and CC10 of the Local Plan (2018) and Key Principles of the Planning Guidance Supplementary Planning Document (2018).

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## **LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS**

### **All Background Papers held by Andrew Marshall (Ext: 4841):**

Application form received: 12th July 2021

Drawing Nos: see above

**Policy documents:** National Planning Policy Framework (NPPF) 2021  
The London Plan 2021  
LBHF - Local Plan 2018  
LBHF – Planning Guidance Supplementary Planning Document  
2018

### **Consultation Comments:**

<b>Comments from:</b>	<b>Dated:</b>
Environment Agency - Planning Liaison	14.09.21
Crime Prevention Design Advisor - Hammersmith	15.09.21
Health And Safety Executive	13.12.21
Environment Agency - Planning Liaison	08.11.21

### **Neighbour Comments:**

<b>Letters from:</b>	<b>Dated:</b>
Town Hall Extension King Street London W6 9JU	24.01.22

## **1.0 SITE CONTEXT, CONSTRAINTS AND PLANNING HISTORY**

### **+ Site Context:**

- 1.1 The subject site is located on the eastern side of Fulham Palace Road and relates to the Assembly, which is a new commercial development to the former Elsinore House. The northern and southern blocks of the Assembly are split into several units. Unit A occupies the northern block at both ground and mezzanine levels, and Units B, B1, C and D occupy the ground floor level of the southern block, with Unit C also occupying the mezzanine level.
- 1.2 Units B, B1 and C, to which this application relates, are not currently occupied. The floors above are in office use.
- 1.3 The property is not a listed building nor is it located in a conservation area. The site is however immediately adjacent to the Hammersmith Odeon Conservation Area, which is located to the north and west of the site, and the Crabtree



Conservation Area, which is located to the south west of the site.

- 1.4 The site is not located in a designated town centre or protected shopping parade. On the opposite side of Fulham Palace Road is a designated Shopping Parade, and to the north is Hammersmith Town Centre.
- 1.5 The site has a PTAL of 6a meaning it has excellent access to public transport.
- 1.6 The site is located within Flood Risk Zone 3, as defined by the Environmental Agency.

## 2.0 RELEVANT PLANNING HISTORY

- 2.1 In December 2015 planning permission (ref: 2015/00266/FUL) was granted for 'Alterations and extensions to existing building including new cladding, installation of a glass walkway to north elevation, and the erection of a part single, part two and three storey extension to south elevation (350sq.m of new GIA) in connection with the change of use of ground and first floors from Class B1a offices to flexible use within Classes A1, A2, A3 (1,975 sq.m GIA); alterations to existing vehicle access from Fulham Palace Road.'

Condition 13 states 'The development hereby permitted shall consist of four separate A1, A2 or A3 units in accordance with the approved plans. No amalgamation of units shall take place without planning permission first being obtained'

This permission was implemented and was completed in 2017. The lawful use class of these units at time of completion was a flexible A1/A2/A3 use, now covered by Class E. As noted, Units A and D are occupied at present, but units B, B1 and C remain vacant.

- 2.2 In April 2017 planning permission (ref: 2016/01184/FUL ) was granted for the 'Change of use of Unit C from flexible use of Class A1 (retail) A2 (financial and professional services) and A3 (restaurant) to a flexible use of Class A1 (retail), A2 (financial and professional services), A3 (restaurant) and A4 (drinking establishment), insertion of a ventilation louvers on southern elevation and enlargement to the previously approved bin store, and creation of front and rear seating areas.'

This was not implemented, and this planning permission has now lapsed.

- 2.3 In August 2018 planning permission (ref: 2018/01601/FUL) was refused for the 'Subdivision of unit C into two units (C1 and C2), and change of use from flexible A1-A4 to flexible A1-A4 (Unit C1), and flexible A1-A3, B1a, D2 (gymnasium) (Unit C2).'

This application was submitted and determined prior to the Use Class legislation changes (2020). Furthermore the proposal had different operating characteristics and as such was refused due to the impact on neighbouring amenity in terms of noise and disturbance.

### 3.0 PROPOSAL

- 3.1 This application seeks planning permission for the amalgamation of Units B, B1 and C (Class E) to use as a 24 hour indoor gym (Use Class E(d)). The combined total floor area is 1,053 sqm. The proposed gym will be operated by Venture 247 Fitness Limited (trading as Jetts Fitness Hammersmith).
- 3.2 Due to condition 13 on the extant planning permission, the amalgamation of the existing units requires planning permission. To ensure clarity the applicants have referenced the change to the gym use and the likely impacts are considered below.
- 3.3 No external alterations are proposed to the existing building. The proposals exclusively comprise internal alterations associated with the amalgamation of the units, and the fit out required by the future occupier. Associated signage would require the submission of a separate application for advertisement consent.
- 3.4 The current application is supported by an operational management plan and a noise assessment to address the previous concerns regarding noise and disturbance caused by the 24 hour, 7 day a week use of the gym. The assessment of these documents is considered in the residential amenity section of this report.

### 4.0 PUBLICITY AND CONSULTATION RESPONSES

#### + Public Engagement

- 4.1 A Statement of Community Involvement (SOI) supports the current planning application and summarises the pre-application engagement undertaken.
- 4.2 Letters were sent to 198 properties in the surrounding area (including residential properties on Yeldham Road, within the Guinness Trust buildings and to flats across the road). The letters provided details of two public consultation events at the application site (Friday 11th June at 3pm to 7pm and Saturday 12th June at 11am to 3pm), together with a dedicated email address and phone numbers to enable comments to be made. A specific website was also created with details about the applicant (Jetts Fitness) and the proposed development.
- 4.3 In total, 15 people attended the engagement events, and paper feedback forms were received from all attendees. One email was received following the letter drop. All feedback received from the local community was positive, and 100% of respondents supported the proposals.

#### + Statutory Consultation

- 4.4 A Site and press notice were published to advertise this application and notification letters were sent to the occupants of 138 surrounding properties.

4.5 No representations have been received.

+ Technical Consultations

4.6 Metropolitan Police Designing Out Crime Officer states as this is a change of use application with internal alterations only he has no comments at this time.

4.7 Environment Agency raises no objection following receipt of a revised flood risk assessment.

4.8 HSE confirm the proposals do not fall under the remit of planning gateway.

## 5.0 POLICY FRAMEWORK

5.1 The Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011 are the principal statutory considerations for town planning in England.

5.2 Collectively the three Acts create a plan led system which requires local planning authorities to determine planning applications in accordance with an adopted statutory development plan unless there are material considerations which indicate otherwise (section 38(6) of the 2004 Act as amended by the Localism Act).

5.3 In this instance the statutory development plan comprises the London Plan (2021) and the Local Plan (2018). A number of strategic and local supplementary planning guidance and other documents are also material to the determination of the application.

+ National Planning Policy Framework (2021)

5.4 The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and was subsequently revised in 2019 and more recently in 2021 and is a material consideration in planning decisions. The NPPF, as supported by the Planning Practice Guidance (PPG), sets out national planning policies and how these are expected to be applied.

5.5 The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up to date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

+ London Plan

5.6 The London Plan was published in March 2021. It forms the Spatial Development Strategy for Greater London and sets out a framework for how London will develop over the next 20-25 years and the Mayor's vision for Good Growth. It forms part of the development plan for Hammersmith and Fulham.

+ Local Plan

5.7 The Council adopted the new Local Plan on 28 February 2018. The policies in the Local Plan together with the London Plan make up the statutory development plan

for the borough. The Planning Guidance Supplementary Planning Document (SPD) (February 2018) is also a material consideration in determining planning applications. It provides supplementary detail to the policies and is organised around key principles.

## 6.0 PLANNING ASSESSMENT

6.1 The main considerations material to the assessment of this application have been summarised as follows:

- Principle of the change of use, including the amalgamation of 3 Class E units into 1 large Class E(d) unit and the impact on the viability and vitality of the local shopping area;
- Impact on amenities of neighbouring residential properties from the 24/7 gym use;
- Transportation and highways matters; and
- Environmental considerations

## LAND USE

6.2 While planning permission is not required to change the use of the individual units to a different use within Class E including to a gym (Class E(d)) condition 13 on the extant planning permission prevents the amalgamation of any of the existing units without first obtaining planning permission. As such the principle of the amalgamation of the units and the proposed gym use will be assessed against relevant policies in the Local Plan.

6.3 The proposal would in effect result in the net loss of 2 commercial units within the southern block and in turn reduce the potential range of uses on the site.

6.4 The site does not fall within any designated town or local centre, although the boundary of Hammersmith Town Centre lies a short distance to the North. Local Plan Policy TLC4 relates to "small non-designated parades, clusters and corner shops", and would cover the Assembly development. The Policy states the Council will seek to retain shops and other local services to meet local needs. In assessing an application in a non-designated parade or cluster for a change of use the Policy states the council will take into account: the proximity and the range of shops in the locality to meet local needs (where town centres, key local centres, protected parades and satellite parades are not within 400 metres); and the length of time that the application premises may have been vacant and the marketing of the premises.

6.5 The existing units have remained vacant since their completion in 2017. A marketing report supports the application and confirms the site has been marketed throughout by two estate agents, without success. The report includes details of the range of potential tenants who were contacted, expressed interest or visited the units, as well as the reasons why they chose not to proceed. The Marketing Report demonstrates that the small units and the lawful retail use on site is not a viable and attractive proposition and therefore the site is yet to be operated for its intended use.

- 6.6 Additionally, due to the quantum of retail shops nearby, including the large convenience retail unit to the north of the site within the same complex, the local shops on the opposite side of the road, and the proximity of Hammersmith Town Centre to the north it is not considered the proposal will result in a demonstrable shortage of shops and other local services to meet local needs in the vicinity or harm the vitality or viability of Fulham Palace Road.
- 6.7 London Plan Policy S5 acknowledges that sport and recreation facilities are important components of social infrastructure, and encourages the provision of both formal and informal facilities to encourage physical activity and deliver a range of social, health and wellbeing benefits to communities. Local Plan Policy CF3 states that the council will support entertainment, leisure and recreation uses, subject the development having an acceptable impact on local residential amenity, noise, traffic and parking, ensuring any impacts have been mitigated and minimised. The principle of a gym use is therefore supported under these policies.
- 6.8 Accordingly, officers do not raise any specific objections to the amalgamation of the units or the proposed change. This was also established by previous application ref 2018/01601/FUL. Despite the refusal of the previous application the officer report stated that the "proposal would not be considered to result in a demonstrable shortage of A1 uses, and therefore the proposed office and gymnasium uses are considered acceptable in principle."
- 6.9 The key issues to be assessed are the environmental nuisance for neighbours, and the highways impact of the scheme. These matters are considered below.

#### IMPACT TO RESIDENTIAL AMENITY

- 6.10 The nearest residential properties to the application site are the Guinness Trust apartments immediately to the north, the houses and flats along Yeldham Road to the south and flats on the opposite side of Fulham Palace Road above the ground floor shops. The upper floors of Elsinore House itself are in office use.
- 6.11 There would be no external alterations or enlargements to the building which may otherwise result in harm to neighbouring properties in respect to light, outlook and privacy. The main considerations with regards to neighbouring amenity are noise and nuisance from comings and goings of customers as well as noise generated from inside the unit itself given the gym facility would operate 24 hours 7 days a week.
- 6.12 NPPF Paragraph 185 states that new development should be appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and the quality of life.
- 6.13 London Plan Policy D14 states in order to reduce, manage and mitigate noise to improve health and quality of life, development proposals should manage noise by avoiding significant adverse noise impacts on health and quality of life.
- 6.14 Local Plan Policy CC11 seeks to control the noise and vibration impacts of developments, requiring the location of noise and vibration sensitive development 'in the most appropriate locations'. Noise assessments providing details of noise levels on the site are expected 'where necessary'. Local Plan Policy CC13 seeks

to control pollution, including noise, and requires proposed developments to show that there will be 'no undue detriment to the general amenities enjoyed by existing surrounding occupiers of their properties'.

- 6.15 For developments that have the potential to increase noise or vibration levels Planning Guidance SPD Key Principle NN1 requires the submission of a noise and/or vibration survey and report. SPD Key Principle NN4 requires all noise generating uses, including plant, machinery and equipment, will be subject to requirements to minimise noise to relevant criteria in order to protect residential and other noise sensitive amenity.

+ Operational Phase

- 6.16 Local Plan Policy TLC5 specifies that leisure uses will be subject to conditions controlling their hours of operation, as follows:
- a. except in predominantly commercial areas, such as parts of town centres - premises shall not be open to customers later than the hour of 23:00; and
  - b. within predominantly commercial areas, such as parts of town centres - premises shall not be open to customers later than the hour of 24:00.
- 6.17 The proposal to operate 24 hours 7 days a week substantially exceeds the hours of operation outlined in Policy TLC5. However, Policy TLC5 states extended opening may be permitted where the activities would not be likely to cause impact especially on local residents.
- 6.18 It is noted that planning permission for a 24-hour gym was recently refused at Unit C on grounds relating to residential amenity (Ref. 2018/01601/FUL). In particular, concern was raised to the impact on nearby residential properties as well as to the office floors directly above from noise from both comings and goings, particularly as the entrance was to the rear of the site within only 8.5m of the rear elevation of residential properties along Yeldham Road, and in terms of noise from inside the unit from the use of machines, classes and the impact of free weights, as well as from noise generating plant (such as air conditioning units) required to cool the gym, given that the application premises was not purpose built for a gymnasium use.
- 6.19 The current application has considered these potential impacts and includes an operational management plan and a noise assessment which propose a range of measures to mitigate any potential harm and demonstrate the negligible impact the proposals will have on the surrounding amenity.
- 6.20 In terms of noise from comings and goings of customers, the proposed entrance to the unit will now remain on Fulham Palace Road as per the existing, therefore mitigating any associated noise implications on the nearby land uses, notably the offices and residential uses to the rear of the site. During night-time hours it is expected that noise from patrons using the existing entrance on Fulham Palace Road will be limited. The management plan confirms that all members are required to book their gym session in advance via the Jetts app which in turn controls the capacity in the gym at any one time. Access is granted to members only by a key fob and soft closing doors will be used. Based on statistics from their nearest gym on Clapham Road it is anticipated that between the hours 12:00am and 5:00am there will be typically only one member or less in the gym, and between a more

extended time period of 10:00pm to 5:00am, there is typically only two members or less in the gym. Whilst it is anticipated that the majority of patrons are likely to be local residents who travel to the gym by foot or bicycle, the noise assessment addresses the impact of idling taxis and concludes that the existing residential receptors are predicted to experience a negligible increase in noise levels. In terms of any anti-social behaviour, the gym will be monitored using CCTV, and remotely monitored via a system that has audio and visual access to the facility. This system is in operation both during staffed and non-staffed times. Accordingly, it is not considered there would be undue noise disturbance from patrons entering/exiting the gym.

- 6.21 The noise assessment also sets out a range of noise abatement measures that will be built into the design of the Jetts Fitness club to reduce environmental nuisance from the internal use of the building. In summary, all windows will be non-openable and fixed shut at all times; all the cardiovascular equipment will have individual screens and members will wear headphones to listen to the sound; there will be no loud bass beats typically associated with most gyms, rather, the proposed gym will have low volume background music playing throughout, which is set and locked by the manager in the administration office; there will be no classes operating during the night-time period; and high impact resilient flooring will be used under the free weights area to absorb the impact of dropping weights onto the surface and to mitigate any potential noise.
- 6.22 Whilst no building services plant (BSP) are proposed under this scheme, the noise assessment has nevertheless considered the maximum external noise levels from potential BSP for both daytime and night-time periods. It is anticipated that any BSP will be located in the already dedicated area for plant on the roof, and it is acknowledged that noise will need to be below set limits and any BSP should have anti-vibration mounts. Whilst a separate planning application would nevertheless be required for the installation of any BSP officers consider that they would likely support a future planning application on this basis.
- 6.23 In conclusion, on the basis of the above, the officers are satisfied that the management of the gym and the proposed mitigation measures will ensure the proposal will have a negligible impact on residential amenity, throughout the proposed 24 hour use. On this basis the proposal is judged to comply with the policies cited above. The implementation of the management plan and the mitigation measures set out in the noise assessment will be secured by conditions.

#### + Building phase

- 6.24 In terms of disturbance during building works SPD Key Principle NN7 requires the submission of a Demolition Management Plan (DMP) and/or Construction Management Plan (CMP) for substantial developments close to other premises. Accordingly the application is supported by a Construction Management Plan (CMP). The Environmental Protection Team has considered the CMP and is satisfied the amenity of neighbouring properties would not be adversely affected during the building works. The implementation of these measures as submitted will be secured by a condition.

## HIGHWAYS ISSUES

- 6.25 The NPPF requires developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised; and that development should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people.
- 6.26 London Plan Policies T1, T4, T5, T6 and T7 set out the intention to encourage consideration of transport implications as a fundamental element of sustainable transport, supporting development patterns that reduce the need to travel or that locate development with high trip generation in proximity of public transport services. The policies also provide guidance for the establishment of maximum car parking standards, the provision of appropriate levels of cycle parking, and the facilitation of safe, clean, and efficient deliveries and servicing.
- 6.27 Local Plan Policy T1 sets out the Council's intention to 'work with strategic partners to improve transport provision, accessibility and air quality in the borough, by improving and increasing the opportunities for cycling and walking, and by improving connections for bus services, underground, national and regional rail'.
- 6.28 Local Plan Policy T2 relates to transport assessments and travel plans and states "All development proposals would be assessed for their contribution to traffic generation and their impact on congestion, particularly on bus routes and on the primary route network".
- 6.29 Local Plan Policy T6 stipulates that development on London distributor roads will not be permitted if it would prejudice the effectiveness of these roads to provide links to the strategic route network, provide access to and between town centres, and distribute traffic to and around, but not within, local areas.
- 6.30 Local Plan Policies T3, T4, T5 and T7 relate to opportunities for cycling and walking, vehicle parking standards, blue badge holders parking and construction logistics.
- 6.31 The above policies are supported by Key Principles TR1 -TR4, TR7, TR21 and TR27 of the Planning Guidance SPD.
- 6.32 In addition Local Plan Policy CC7 sets out the requirements for all new developments to provide suitable facilities for the management of waste.
- 6.33 The site has a Public Transport Accessibility Level (PTAL) of 6a meaning it has excellent access to public transport. There are a number of bus stops within walking distance of the site, and the Hammersmith underground station is approximately 350 metres north of the site which is served by the District Line, Piccadilly Line, Circle Line and the Hammersmith & City Line.
- 6.34 The application is submitted with a Transport Statement, a Travel Plan Statement and a Servicing and Delivery Plan. In order to quantify the impact upon the highway the documents use the original consented scheme for The Assembly (Ref: 2015/00266/FUL) as a baseline.



- 6.35 Compared to the approved flexible retail use it is suggested that trip generation will be reduced as the overall number of staff would be less. Under the consented scheme it was estimated that the retail uses would generate 53 staff related trips in the peak morning and evening hours. Under the current proposal there will be a manager on site from 09:00 to 17:00 hours Monday to Friday, with one or two personal trainers attending the site in the early mornings and evenings. On weekends there will likely be a maximum of two staff members at the site at any one time. As such, the maximum number of staff at the site at any one time would be three. Like the approved use it is also expected that gym customers are likely to be from the local area and pass by trips. The development is also proposed to be car free with no car parking provided on-site.
- 6.36 In line with the London Plan 12 cycle spaces will be provided at the entrance of the new gym unit consisting of 1 long stay space and 11 short stay spaces for staff and visitors respectively. Additionally, there are a number of cycle parking opportunities within the local area, including 20 spaces to the rear of the site, where visitors and staff can park cycles. A condition will secure the implementation of the cycle parking.
- 6.37 A Servicing and Delivery Plan also supports the application. It is expected the gym use would have significantly lower servicing/delivery requirements compared to the approved retail uses. The number of deliveries are likely to comprise mainly fortnightly deliveries of cleaning supplies. The existing waste store to the rear of the unit would be utilised, although it is noted that waste generated by the proposed gym use is likely to be limited and substantially less than the approved flexible retail uses. The Plan indicates that deliveries and servicing will take place on site to the rear accessed via the service road as per the planning approval for the wider development. The service road provides a circular route for delivery and refuse vehicles allowing vehicles to enter and leave the site in forward gear. Where practicable, schedule deliveries so as to avoid any peaks in servicing and delivery activity and minimise deliveries that occur during busy periods on the local road network. The applicant confirms the Plan will be monitored and modified as appropriate to respond to any issues as they arise or in response to any comments received from site management or neighbouring residents/ businesses. The implementation of the Delivery and Servicing Management Plan will be secured by a condition.
- 6.38 The Highways Officer has considered the proposals and supporting documents. Subject to several conditions it is considered that the proposed development would not impact detrimentally on the highway network and would be in accordance with the policies cited above.

#### + Building Works

- 6.39 In accordance with Local Plan Policy T7 and Planning Guidance SPD Key Principle TR21 an outline Construction Logistics Plan (CLP) has been submitted.
- 6.40 The Council's Highways Officer considers the draft document to be acceptable. A final CLP will be secured by a condition, and will remain live a document with ongoing consultation with the Council's Highways Officers

## ENVIRONMENTAL ISSUES

### + Flood Risk

- 6.41 The NPPF states that 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere'.
- 6.42 London Plan Policy SI12 states that development proposals should ensure that flood risk is minimised and mitigated, and that residual risk is addressed. Policy SI13 sets out the same requirement and additionally states that proposals for impermeable paving should be refused and that drainage should be designed and implemented to address water efficiency, water quality, biodiversity and recreation.
- 6.43 Local Plan Policy CC2 requires major developments to implement sustainable design and construction measures, including making the most efficient use of water. Local Plan Policy CC3 requires that new development is required to reduce the use of water and to minimise current and future flood risk. This is supported by Policy CC4 which seeks that developments manage surface water run-off and requires all major developments to implement SuDS and to provide a sustainable drainage strategy.
- 6.44 This site is in Flood Zone 3 and inside the breach extent area. A flood risk assessment (FRA) has been submitted, which confirms amongst other things that the proposal will not change the flood vulnerability classification (which is regarded as "less vulnerable"). The report also states that SuDs would be difficult to achieve given there are no external alterations. In line with Policy CC3 the FRA confirms water efficient fittings and appliances will be provided. This has been reviewed by the Council's Environmental Policy Officer who agrees with the findings.
- 6.45 On this basis, officers consider that the proposed development would not detrimentally impact on flood risk or surface water run-off and would be in accordance with the policies cited above.

### + Air Quality

- 6.46 London Plan Policy SI1 states that development proposals should not lead to deterioration of existing poor air quality, create any new areas that exceed air quality limits or create unacceptable risk of high levels of exposure to poor air quality.
- 6.47 Local Plan Policies CC1 and CC10 seeks to reduce potential adverse air quality impacts arising from new developments and sets out several requirements. These are supported by Planning Guidance SPD Key Principles AQ1 to AQ5.
- 6.48 The application is supported by an Air Quality Assessment which confirms the site is within the borough wide area of existing poor air quality due to the road traffic emissions from Fulham Palace Road (A219). The development proposal will introduce new receptors into an area of very poor air quality. In respect to this development site the air quality specifically the PM10, and PM2.5 concentrations at the proposed property even in the background currently fail the WHO Air Quality

Guideline values.

- 6.49 The Council's Environmental Quality officer has considered the proposal and has recommended conditions relating the submission of a ventilation strategy and Ultra Low Emission Strategy (ULES) as well as details of the installation of Zero Emission MCS certified Air/Water Source Heat Pumps or Electric Boilers for space heating and hot water.
- 6.50 On this basis officers consider that the proposed development would not detrimentally impact on Air Quality and would be in accordance with the policies cited above.

#### OTHER MATTERS

##### + Accessibility

- 6.51 The NPPF, London Plan D5, and Local Plan Policy DC1 all seek to ensure that future development achieves the highest standards of accessible and inclusive design. These are supported by the Planning Guidance SPD Key Principles contained within the Accessible and Inclusive Design Chapter.
- 6.52 The existing building entrance has double doors and can be accessed by a ramp to allow wheelchair users direct access from the street. There will be a doorbell at the front of the entrance which can be used to notify a member of staff if a member requires additional assistance to enter the building. Within the gym there will be a DDA compliant accessible bathroom and shower room that can also be used as a changing room on the ground floor. The emergency exits in the gym are also wide double doors and have a ramp so they are suitable for the needs of disabled people and wheelchair users. The proposal in this respect will be accessible and inclusive both internally and externally, to all who may visit or use the building in accordance with the relevant aims and requirements of the policies cited above.

##### + Fire Safety

- 6.53 Policy D12 of the London Plan (2021) states that the fire safety of developments should be considered from the outset, with all development proposals achieving the highest standards of fire safety. In accordance with subsection B the application is supported by a Fire Statement, produced by a third party, suitably qualified assessor which identifies the fire safety objectives and performance requirements of this development. This has been considered by the Building Control Team and is deemed to be acceptable. The statement will be secured by a condition.

#### 7.0 COMMUNITY INFRASTRUCTURE LEVY (CIL)

##### + Mayoral and Local CIL

- 7.1 The Mayor's CIL (Community Infrastructure Levy) came into effect in April 2012 and new fee rates came into effect in April 2019. This would contribute towards the funding of Crossrail. The GLA expect the Council, as the Collecting Authority, to secure the levy in accordance with London Plan Policy DF1. This development would be subject to a London wide community infrastructure levy. This

development is liable for an estimated Mayoral CIL of £84,160.00 (plus indexation).

- 7.2 The Council's Community Infrastructure Levy (CIL) is also a charge levied on the net increase in floorspace arising from development in order to fund infrastructure that is needed to support development in the area. The CIL Charging Schedule was presented to Council and approved 20 May and has formally taken effect since the 1st September 2015. This development is liable for an estimated local CIL of £84,160.00 (plus indexation).

## 8.0 CONCLUSION

- 8.1 In considering planning applications, the Local Planning Authority needs to consider the development plan as a whole and planning applications that accord with the development plan should be approved without delay, unless material considerations indicate otherwise and any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 8.2 In the assessment of the application regard has been given to the NPPF, London Plan, and Local Plan policies as well as guidance.
- 8.3 In summary, the proposals would not result in a demonstrable shortage of shops and other local services to meet local needs in the local vicinity or harm the vitality or viability of Fulham Palace Road. The provision of a sport facility would deliver social, health and wellbeing benefits to the local community. Subject to conditions the proposal would not result in unacceptable impacts upon the amenities of neighbouring residential properties in terms of environmental nuisance. Highways, transportation and environmental matters including flood risk and air quality have also been satisfactorily addressed and will be subject to conditions. In these respects, the proposals comply with the relevant Policies of the NPPF (2021), the London Plan (2021), the Local Plan (2018) and the relevant Key Principles within the Planning Guidance Supplementary Planning Document (2018).
- 8.4 Officers have taken account of all the representations received and in overall conclusion for the reasons detailed in this report it is considered, having regard to the development plan as a whole and all other material considerations, that planning permission should be granted subject to the conditions listed.

## 9.0 RECOMMENDATION

- 9.1 Therefore, officers support the proposals in line with the recommendations at the start of the report.