

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/22/2354/0B1	
2.	Proposed Development:	VARIATION OF CONDITION 5 (ROLLER SHUTTER DOORS) OF PLANNING APPROVAL 4/20/2387/0F1 CHANGE OF USE FROM BUS GARAGE & WORKSHOP TO GYM	
3.	Location:	UNITS 5 AND 6, ENNERDALE MILL, BRIDGE END, EGREMONT	
4.	Parish:	Egremont	
5.	Constraints:	ASC;Adverts - ASC;Adverts, Flood Area - Flood Zone 2, Coal - Off Coalfield - Data Subject To Change, Outer Consultation Zone - Sellafield 10KM	
6.	Publicity Representations &Policy	Neighbour Notification Letter	Yes
		Site Notice	Yes
		Press Notice	No
		Consultation Responses	See Report
		Relevant Policies	See Report
7.	Report:  Site and Location	  This application relates to Units 5 and 6 located within Ennerdale Mill, sited within the south of Egremont. The site is located within the south of the Industrial Estate and is accessed by the existing access road. The site was previously occupied by Reay’s Coaches who refurbished the site, including the yard area, new palisade fencing and drainage. Two residential properties are located to the west of the site, which utilise the same access road.	

### **Relevant Planning History**

4/94/0514/ - Office/mess/wc extension; repair & replacement of 1.8, high fence – Approved.

4/10/2436/0F1 – Change of use from engineering workshop with office accommodation to a coach depot including office accommodation – Approved.

4/19/2391/0F1 – Increase height of roof of existing garage and workshop (retrospective) – Approved.

4/20/2387/0F1 – Change of use from bus garage and workshop to gym – Approved.

### **Proposal**

In December 2020, planning permission (ref: 4/20/2387/0F1) was granted by Members of the Planning Panel to change the use of the site from a bus garage and workshop to a gym.

This current application seeks to vary the following condition attached to planning approval ref: 4/20/2387/0F1:

5. Except for in emergencies the roller shutter doors must remain closed at all times.

#### **Reason**

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality.

The application originally sought to also vary condition 6 of the previous approval at the site to allow exercise to take place outside the building, however following extensive discussions this has now been removed from the application.

### **Consultation Responses**

#### **Egremont Town Council**

*23<sup>rd</sup> September 2022*

Councillors have no objections to this application in principle as they do not want to discourage any business from operating however Councillors felt they needed to air their concerns about the possible noise disturbance it may cause to nearby residents.

Councillors are aware of several complaints over the previous 12 months about the loudness of the music and by allowing the lifting/removal of the above conditions, it will only make this matter worse, so Councillors agree to the above as long as Copeland Borough Council monitors the noise levels on a regular basis & take action with any noise complaints immediately. Perhaps a clause can be added that if there are any noise complaints, which are proved to be true, the granting of the removal/variance of these conditions could be retracted.



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Councillors also want Copeland Borough Council to ensure that nearby residents are informed of this application and given the chance to comment.

*24<sup>th</sup> March 2023*

Councillors have no objections to the doors being open as long as there is no music being played, inside and out.

*5<sup>th</sup> September 2024*

No comments.

### Cumberland Council – Highway Authority & Lead Local Flood Authority

*27<sup>th</sup> September 2022*

Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and I can confirm that we have no objection to the proposed change/removal of condition 5 and 6 as it is considered that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.

*23<sup>rd</sup> February 2023*

Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and I can confirm that we have no objection to the proposed change/removal of condition 5 and 6 as it is considered that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.

### Cumberland Council – Flood and Coastal Defence Engineer

*13<sup>th</sup> September 2022*

No comments.

*21<sup>st</sup> February 2023*

No comments.

### Environment Agency

*7<sup>th</sup> September 2022*

The Environment Agency does not wish to comment regarding this proposal.

### Cumberland Council – Environmental Health

*4<sup>th</sup> October 2022*

In order to safeguard the amenities of nearby residential occupiers Environmental Health response is objection.

Environmental Health have received 58 noise complaints for Urban Fitness Gym since April

2021. Also there is insufficient information in the application to answer the following questions

- The application states “If condition 5 is to be varied, it would be acceptable to the owner if this was in accordance with daytime working hours”

The gym operating times are Mon – Fri 05:30 – 21:00 and Sat/Sun 08:00 – 20:00.

What does the applicant mean by daytime working hours? Details need to be specified

- No details have been provided of mitigating measures from structure borne noise transfer as a result of equipment being used coinciding with activities inside the Gym
- What number of roller doors will be open?
- Will the doors be closed when outside classes are taking place? This could be a mitigating measure to reduce/eliminate noise disturbance from noise emanating from inside to outside if the doors were to be open
- Provide details of mitigating measures to reduce/eliminate noise disturbance for example use of a silent disco style sound system inside when the doors are open, relocation of shutter doors to the rear of the Gym building, erecting of sound barriers, improved sound insulation of the building, no music when roller doors are open

No variation to remove condition 5 until the following measures are in place and agreed

1. Detailed answers have been provided to all the above questions
2. A detailed noise management plan is provided from the applicant
3. The Local Authority will organise the undertaking of an acoustic assessment to establish the underlying background noise levels during the gym’s operating hours and establish to what extent, if any, the activities at the gym affect the amenities of the residents at the nearest noise-sensitive properties. The assessment will be undertaken by a suitably qualified acoustic consultant / engineer and will consider available guidance in its methodology. The assessment will also look at whether noise mitigation measures may be required and make suitable recommendations to incorporate

Removal of Condition 6 – No exercise by users of the gym shall take place outside of the building on any of the land edged in red...

In order to safeguard the amenities of nearby residential occupiers Environmental Health response is objection

- The application states that “no music would be used for outside training.” Clarification is required – will the music from indoors will be used as part of the PT session outside of the building?
- Provide details of the specified hours, type, nature of classes, size of classes, equipment to be used as part of the outside classes



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- The application states that “the area to be used for this would be to the north area of the building on the site.” Provide specific location details, size of area to be used
- How will increased vehicular movement, displacement of vehicles and potential disturbance be managed and what will be the mitigating measures put in place?
- Provide details of the outside lighting to be used as part of outside classes and mitigating measures to be put in place to ensure no light nuisance occurs for local residents

No variation to remove condition 6 until the following measures are in place and agreed

1. Detailed answers have been provided to all the above questions
2. A detailed noise management plan is provided from the applicant
3. The Local Authority will organise the undertaking of an acoustic assessment to establish the underlying background noise levels during the gym’s operating hours and establish to what extent, if any, the activities at the gym affect the amenities of the residents at the nearest noise-sensitive properties. The assessment will be undertaken by a suitably qualified acoustic consultant / engineer and will consider available guidance in its methodology. The assessment will also look at whether noise mitigation measures may be required and make suitable recommendations to incorporate

The application states –

“The applicant has confirmed that environmental health officers have visited the site a number of times and when the doors have been open but have not determined that any action is needed by the gym operation in terms of noise”

To date a total of 58 noise complaints have been received relating to a mixture of noise, playing of music, doors open, operating beyond hours. Requests have been made to the gym to reduce the volume of music and letters have been sent to gym owners informing them about complaints having been received.

*24<sup>th</sup> November 2023*

Thank you for sending through the additional information in relation to the above application. The onsite meeting with the applicant was useful and we were able to discuss the initial response sent by Environmental Health.

Environmental Health continue to receive noise complaints and the gym have not demonstrated they can operate without causing a noise nuisance. To date Environmental Health have received a total of 72 noise complaints.

The Environmental Health response is objection, however if the variation is granted the following must be included as conditions:-

For Condition 5 “Except for emergencies the roller shutter doors must remain closed at all

times”

1. Setting specific days and times for the opening of both shutter doors in agreement with the local planning authority. Specific details have not been provided in the application or by the additional information provided by the applicant.
2. One outside class at any one time
3. Mitigating measures already located inside the gym must remain in place, maintained in good operating condition for example thick rubber flooring
4. During an outside class taking place, both shutter doors will be closed or if one or both remain open there will be no music playing inside or outside the gym

For Condition 6 “No exercise by users of the gym shall take place outside the building on any of the land edged in red”

5. During outside classes taking place there will be no music outside
6. Setting specific days, times and duration for the outside classes to take place in agreement with the local planning authority. Specific details have not been provided in the application or by the additional information provided by the applicant
7. Maximum of 6 people participating in the outside class
8. Equipment to be used outside as part of the outside class/strong men training will be limited and not cause a noise disturbance to local residents in the nearby vicinity
9. No noise nuisance resulting from the instructor taking/supervising the outside class to any nearby residents
10. Agree the location of the 3 car parking spaces to be used for the outside class with the local planning authority and confirm on a site diagram plan.
11. Lighting on or outside the premises under the control of the premises shall not cause a nuisance to any nearby residents

It is my understanding the applicants have agreed, following the initial response from Environmental Health, to provide a noise management plan and agree for an acoustic assessment to be undertaken. The acoustic assessment may provide additional mitigating measures to prevent noise nuisance.

*9<sup>th</sup> June 2023*

Following the completion of the Acoustic Assessment, listed below are the additional conditions proposed by Environmental Health for the above application.

Unfortunately the gym operator did not facilitate an external training session at the site requested for this assessment. In the absence of the assessment alternative approaches are proposed with possible future additional conditions after the monitoring period – see points 9 – 13.



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### Shutter Doors

1. Shutter doors must not be raised more than 2m and only when necessary for cooling purposes
2. Shutter doors to remain closed before 09:00 hours and after 19:00 hours
3. Shutter doors to be closed when outside training session is taking place
4. When shutter doors are open, no music to be played within the gym

### Amplified music

5. An electronic sound level attenuation system otherwise known as an acoustic limiter/compressor shall be fitted before the amplifier in the signal chain with the thresholds of the limiter set on all channels.
6. The sound attenuation device shall be installed within 3 months of the date of this planning decision, and set by a suitably qualified acoustic/sound engineer and with input from Environmental Health from the local planning authority
7. The device shall be secured so that it cannot be overridden or tampered with by persons other than the appointed sound system engineer/acoustic consultant
8. The sound attenuation device shall not be altered without prior agreement with the local planning authority or Environmental Health. The specification levels of the sound level attenuation system shall be submitted to and approved by the local planning authority

### Outside training sessions

9. The use of the external training area is permitted for a period no longer than 3 months from a date to be agreed with the local planning authority, and no less than 30 days in advance. Within this period noise from the use of the external training area shall be witnessed and assessed at the nearest noise sensitive receptors by a suitable qualified acoustician and/or the local planning authority
10. Outdoor training classes to take place between 16:00 – 19:00 on weekdays only (not including bank holidays) and restricted to one class at a time
11. Outdoor training classes – use only of the designated external training area to a maximum of 6 people
12. No loudspeakers, megaphone or whistles are permitted externally at any time
13. No gym equipment permitted externally at any time

### Noise Management Plan

14. A noise management plan (NMP) shall be submitted to and approved by the local planning authority within 3 months of the date of this planning decision. The NMP shall

include as a minimum written details of the following information:

- Organisational responsibility for noise control
- Hours of operation of the gym
- Details of the planning conditions controlling noise
- Details of health and fitness activities that will be undertaken and any activities that will be restricted and/or prohibited
- Details of how the operational noise impact will be managed on a day to day basis
- A plan showing the layout of the health and fitness studio area and proposed activity zones. The plan will include details of the noise insulation and isolation mitigation measures included within each activity zone, corresponding any noise mitigation and reduction measures
- Specification details of all noise insulation and isolation material within each activity area
- Details of in house monitoring including the agreed limiter settings, training plans
- Details of community liaison and complaints logging, investigation and reporting
- Details, methods and procedure for reviews of the NMP
- All gym equipment should be well maintained, and existing impact resistant flooring should be retained, be well maintained, and replaced with comparable products where necessary

Environmental Health continue receive noise complaints.

In order to safeguard the amenities of nearby residential occupiers Environmental Health response is objection.

Should the applicant agree to all the above proposed conditions the Environmental Health response will be reviewed.

*13<sup>th</sup> September 2024*

Environmental Health have considered the information submitted as part of the variation application to remove condition 5 on the current planning approval. In order to protect the surrounding amenity at the nearest noise sensitive noise uses Environmental Health cannot support this application.

Our view takes into account previous noise tests carried out by the independent noise consultant and the report "Planning Noise Assessment: Egremont, Urban Fitness Gym" May 2023. The music noise level measured at the nearest noise sensitive dwelling, measured an



increase background noise level of up to 5dB.

Paragraph 2.27 of the noise consultant report: With both shutter doors open, music was clearly audible and songs and lyrics identifiable at LT1 and the surrounding area, owing to the reduced building envelope sound insulation of the gym building. The sound levels were judged to be subjectively unacceptable

Paragraph 2.28 of the noise consultant report: The calculated MNL at LT1 was 45dB LAeq,T, which is 5dB higher than the background (LA90) sound level measured between 07:00-08:00hrs

The measured levels were considered unacceptable which had potential of an adverse impact on the existing noise climate. The noise report states further that the music at that time was clearly audible and was subjectively unacceptable.

In addition to this we have concerns as there has been a history of noise complaints associated with the existing development and the fact there is no existing agreed noise limit within the gym to protect surrounding amenity.

To conclude, the planning response from Environmental Health dated 9/6/23 identifying points for consideration regarding mitigation measures for shutter doors and amplified music remain valid:

#### Shutter Doors

1. Shutter doors must not be raised more than 2m and only when necessary for cooling purposes
2. Shutter doors to remain closed before 09:00 hours and after 19:00 hours
3. When shutter doors are open, no music to be played within the gym

Should planning approval be granted when shutter doors are open, no music to be played within the gym – as stated in the Noise consultant report Proposed Use on Page 3 The operator has committed to there being no amplified music when the roller shutters are open.

The applicant has proposed in the attached email with the application, to allow to open the doors to a height of approximately 8-10 feet which is equivalent to 2.4m to 3m.

#### Amplified Music

- 1 An electronic sound level attenuation system otherwise known as an acoustic limiter/compressor shall be fitted before the amplifier in the signal chain with the thresholds of the limiter set on all channels
2. The sound attenuation device shall be installed within 3 months of the date of this planning decision, and set by a suitably qualified sound engineer and with input from Environmental Health from the local planning authority
3. The device shall be secured so that it cannot be overridden or tampered with by persons

other than the appointed sound system engineer/acoustic consultant

4. The sound attenuation device shall not be altered without prior agreement with the local planning authority or Environmental Health. The specification levels of the sound level attenuation system shall be submitted to and approved by the local planning authority.

The above points will safeguard noise disturbance is inaudible beyond the curtilage of the gym by setting agreed levels at source.

Environmental Health acknowledge the measures put forward by the applicant for Noise Reduction in Training Areas and the installation of Tapo Devices under the heading Music Volume Control – all are welcomed as mitigating measures.

We would welcome further discussions with the applicant on a way forward which could also include alternative ventilation systems for the gym.

*30<sup>th</sup> September 2024*

Following the additional information submitted on 17<sup>th</sup> September 2024 Environmental Health accepts the additional proposals from the applicants.

With reference to the following comment from you:

I also note the request for mitigation in terms of amplified music. I would advise that as you have requested no music when the doors are open we cannot include controls of the internal music when doors are closed as this was not part of the original planning permission at this site. As previously stated if there are issues regarding noise from the gym this should be dealt with by Environmental Health as it falls outside the scope of planning

Can you include an informative to the applicant that noise nuisance notifications are not covered the planning process and will be investigated by Environmental Health in their duties under the Environmental Protection Act 1990.

#### Public Representation

This application has been advertised by way of a site notice, and neighbour notification letters issued to six properties.

Five letters of objection have been received to this application raising the following comments:

- This is a brownfield site not a high street.
- Disturbance to residents and animals in the adjoining fields.
- The music from the gym can be heard from the A595 and local footpaths. With the roller shutter doors open it will be even louder.
- Traffic to and from the gym is bad with no consideration for pedestrians.
- The gym is too hot because its not fit for purpose. The building is a purpose built coach depot and was never meant to be gym. The applicants were aware the steel



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building was not suitable prior to purchasing.

- Noise has been an ongoing issue since the gym opening, the removal of condition 5 would aggravate this issue.
- The statement that the current use is more appropriate in terms of noise and disturbance is misleading. The depot caused no impacts on the residential homes opposite. The site is most appropriate for a coach depot which it was designed for not a gym.
- More traffic has been created by the gym than the coach depot, creating more noise disturbance. The access is not fit for the scale of the business.
- The application states that the bus depot was operating on unrestricted operation hours. This is incorrect. The site operated from 5am – 6pm.
- Statements regarding noise as acceptable are false and disingenuous.
- The applicant states noise is not an issue. This is untrue. The sole issue residents have with the business is noise. Since opening the business ongoing complaints have been made regarding music not gym equipment.
- The sound system used us a professional sound system with the constant bass tones can be heard in homes.
- The applicants have disregarding concerns of residential and have made rooms in home unusable.
- The gym should not have been granted planning permission is close proximity to residential properties.
- Removing condition 6 reinforces that the building is not suitable for a gym and would cause further disturbance through equipment noise outside, shouting from instructors, and noise from indoors.
- The gym is not open normal daytime hours.
- The applicant has already breached the conditions.
- The applicant provides misinformation regarding the design of the premises, proximity to residential properties and use of surrounding sites.
- The site is impacting our daily lives, mental health and overall wellbeing.

Fifty-three letters of support have been received to this application raising the following comments:

- Supportive of the gym and the amendments within the application.
- The ability to open the doors would circulate the air to allow for comfortable training to take place as it can get very hot and uncomfortable.

- Benefits to gym users.
- This facility supports mental and physical health.
- The gyms enclosed car park would be a good space for offer other training to a wider clientele that don't just want to lift weights.
- The site is located at the bottom of an industrial estate so there should be no issues.
- Minimal noise impact on surrounding area. The gym isn't loud.
- Will grow and enhance the local small business.
- There are no outdoor strength training facilities in West Cumbria.

#### Public Reconsultation

Following the receipt of amended/additional information for the application and an amendment to the application description a reconsultation was undertaken for all neighbouring properties and those who previously commented on the application.

Two letters of objection have been received raising the following comments:

- Previous comments still stand.
- Lack of respect for other road users and pedestrians.
- Music is excessively loud.
- An ax unit should be installed so the doors isn't needed to be open for ventilation.
- The proposal will increase noise and disturbance and will aggravate ongoing issues experienced with regard to noise.
- How will it be monitored and managed.
- The gym causes noise and disturbance daily for nearby properties. With over 100 complaints sent to Copeland Council.
- Owners have complete disregard for residents and their concerns. This has forced us to change our day to day lives by keeping doors and windows closed, and avoiding use of gardens.
- The building was designed as a bus depot and was never designed to accommodate a gym, this should have been considered by owners before renting the building. Residents should not have to suffer consequences of their poor planning.
- Doors have previously been opened and disturbance was caused to residents.
- The plan showing the proposed outside exercise area is incorrect. It will be 30m from residential gardens and will cause great disturbance.
- Outside PTs shouting will cause disturbance.
- The gym has already operated outside classes which caused disturbance for



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residents.

- The application uses the word 'likely'. Granting an application on such ambiguity provides the owners with flexibility at the expense of residents.
- Since opening in 2020 the site has been continually breaching their conditions.
- The gym operates 7 days a week meaning residents have no respite.
- Allowing the proposal will have a detrimental impact on an already stressful situation.
- The location of the gym is not suitable and is incompatible with the lives of residents.
- The application will reduce the value of residential properties.

### Public Reconsultation

Following the receipt of amended/additional information for the application and an amendment to the application description a reconsultation was undertaken for all neighbouring properties and those who previously commented on the application.

One letter of objection have been received raising the following comments:

- Primary concern is excessive noise levels which have caused significant disturbance to residents since the gym commenced operation in 2020.
- The applicant states measure have been implements to address noise problems, however noise is still an issue for residents and councillors.
- If doors are allowed to open they will cause more even more noise disturbance for residents.
- The gym owners have been uncompromising when confronted with these issues.
- They knowingly converted a bus depot with poor ventilation to a gym which is ill-suited for this purpose. Residents should not bear the brunt of their poor management decisions.
- The owners should first fit air conditioning and use extractor fans.
- When noise assessments have been carried out at the gym the music has been reduced, however once completed they are raised to disruptive levels. This show the gym is not addressing noise concerns.
- The application also states that music levels cannot be adjusted to reach disruptive levels. The music increases regardless of who is in charge and we can hear the base from our gardens.
- Gym staff have no control over music levels when they are not in the building.
- Residents cannot use their gardens due to vibrations and noise.
- Residents have no respite and it is entirely inappropriate for our peace and well-being.

- We object to the removal of these conditions which were put in place to protect residents which do not go far enough.

### **Planning Policy**

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

### **Development Plan**

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited the local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

### **Copeland Local Plan 2013 – 2028 (Adopted December 2013)**

#### Core Strategy

ST1 – Strategic Development Principles

ST2 – Spatial Development Strategy

ER6 – Location of Employment

ER9 – The Key Service Centres, Local Centres and other small centres

ER11 – Developing Enterprise and Skills

ENV1 – Flood Risk and Risk Management

ENV5 – Protecting and Enhancing the Borough's Landscapes

#### Development Management Policies (DMP)

DM10 – Achieving Quality of Place

DM22 – Accessible Developments

DM24 – Development Proposal and Flood Risk

DM26 – Landscaping

### **Emerging Copeland Local Plan (ELP):**

Cumberland Council are continuing the preparation and progression to adoption of the ELP.



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The Local Plan Examination Hearing Sessions were completed in March 2023.

The appointed Planning Inspector issued their post hearing letter in June 2023, which identified the next steps for the examination.

The appointed Planning Inspector has now considered all representations and the discussions that took place during the Local Plan Examination Hearing Sessions in 2023 and has identified a number of amendments or 'modifications' that are required in order to ensure the ELP is sound i.e. positively prepared, justified, effective and consistent with national planning policy.

A six week public consultation seeking views on the proposed modifications to the ELP commenced on Wednesday 14th February 2024 and closed on the 28th March 2024.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

The Report on the Examination of the ELP was received on the 23<sup>rd</sup> September 2024. Given the advanced stage of preparation and with adoption pending, full weight can be attached to the policies of the ELP.

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

### **Assessment**

Under Section 73 of the Town and Country Planning Act 1990, an application can be made to vary or remove a condition associated with a permission. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission, which remains intact and unamended. The NPPG outlines that to assist with clarity it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

In terms of the conditions attached to the previous decision notice (ref: 4/22/2387/0F1), development has commenced on site therefore, it is not necessary to repeat the condition relating to timescales (condition 1). Conditions 3, 4, and 6 will be repeated to ensure the works are carried out as per the approved details. Condition 2 will be amended to add the approved documents from this current application. Condition 7 will also be amended to ensure that parking area is retained for the lifetime of the development.

This current application seeks to vary condition 5 of the original planning approval (ref:

	<p>4/22/2387/0F1). The application originally sought to also vary condition 6 of the previous approval at the site to allow exercise to take place outside the building, however following extensive discussions with the applicant and concerns raised by statutory consultees this has now been removed from the application.</p> <p>Condition 5 currently requires the roller shutter doors at this site to remain closed at all times other than in emergencies. This application seeks to vary this condition to allow the doors to be open during periods of hot weather to improve ventilation and create a more pleasant training environment.</p> <p>Concerns were originally raised from the Council's Environmental Health Team in relation to the variation of condition 5 to open the shutter doors due to the lack of information provided in terms of noise management. Due to these concerns the Environmental Health Team undertook a Noise Assessment at this site. Following this assessment Environment Health still objected to the application however several mitigation measures were suggested should the application be approved.</p> <p>Based on these concerns, and the recommendations from the Noise Assessment, the applicants submitted a Management Plan for the operation of the roller shutter doors at this site. This Management Plan outlines several mitigation measures for opening the shutter doors including times for opening and closing, music controls, and additional measure installed within the gym to limit noise from the premises.</p> <p>Environmental Health have reviewed this Plan and have confirmed that the mitigation measures are acceptable and therefore offer no objections to the proposal. They have requested an informative on the application to make the applicant aware that any noise nuisance will be investigated by Environmental Health in their duties under the Environmental Protection Act 1990.</p> <p>On this basis, condition 5 will be amended to ensure the development is carried out in accordance with the management plan at all times.</p>
8.	<p><b>Recommendation:</b></p> <p>Approve</p>
9.	<p><b>Conditions:</b></p> <ol style="list-style-type: none"> <li>1. -</li> <li>2. This permission relates to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:- <ul style="list-style-type: none"> <li>- Site and Location Plan Existing, Scale 1:200 &amp; 1:1250, Drawing No 19/0239/01, received by the Local Planning Authority on the 26<sup>th</sup> August 2022.</li> </ul> </li> </ol>



- Block Plan Proposed with Drainage, Scale 1:200, Drawing No 19/0239/02, received by the Local Planning Authority on the 29<sup>th</sup> September 2020.
- Landscaping and Parking, Scale 1:200, Drawing No 20/270/01, received by the Local Planning Authority on the 29<sup>th</sup> September 2020.
- Conceptual Gym Layout for Urban Fitness & Performance, Drawing No 22394-SS21, received by the Local Planning Authority on the 29<sup>th</sup> September 2020.
- Flood Risk Statement, Prepared September 2020, received by the Local Planning Authority on the 29<sup>th</sup> September 2020.
- Planning Statement, Prepared by the SRE Associates on the September 2020, received by the Local Planning Authority on the 29<sup>th</sup> September 2020.
- Letter from Applicant - Management Plan Roller Shutter Doors (Amended), received by the Local Planning Authority on the 17<sup>th</sup> September 2024.

**Reason**

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The development must be carried out in accordance with and implement all of the details and measures set out within the approved document Flood Risk Statement, Prepared September 2020, received by the Local Planning Authority on the 29<sup>th</sup> September 2020.

Once installed these measures shall be retained at all times thereafter.

**Reason**

To secure proper drainage and to manage the risk of flooding and pollution.

4. The use hereby permitted must not be open to the public/customers outside the following times:
  - Monday – Friday: 05:30 - 21:00;
  - Saturday – Sunday, including Bank Holidays: 08:00 - 20:00.

**Reason**

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality.

5. The roller shutter doors at this site must only be opened in accordance with the details and mitigation measures set out in the approved document 'Letter from Applicant - Management Plan Roller Shutter Doors (Amended), received by the Local Planning Authority on the 17<sup>th</sup> September 2024'. The development must be carried out in accordance with the approved document at all times thereafter.

Reason

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality.

6. No exercise by users of the gym shall take place outside of the building on any of the land edged in red on the approved plan 'Site and Location Plan Existing, Scale 1:200, Drawing No 19/0239/01, received by the Local Planning Authority on the 29<sup>th</sup> September 2020', at any time.

Reason

To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality.

7. The existing parking arrangements at the site must be retained for the lifetime of the development in accordance with the approved document Landscaping and Parking, Scale 1:200, Drawing No 20/270/01, received by the Local Planning Authority on the 29<sup>th</sup> September 2020.

Reason

In the interest of highway safety.

**Informatives:**

1. It is advised that the gym signs up to the Environment Agency's Flood Warning Service and has an Evacuation plan in the event of flooding.
2. The applicant should take all relevant precautions to minimise the potential for disturbance to occupiers of neighbouring properties in terms of noise and vibration. The granting of change of use does not indemnify against statutory nuisance action being taken should complaints be received. Noise nuisance notifications are not covered within the planning process and will be investigated by Environmental Health in their duties under the Environmental Protection Act 1990.
3. Public Footpath 414004 follows an alignment to the west of the proposed development and must not be altered or obstructed before or after the development has been completed. If the footpath is to be temporarily obstructed then a formal temporary



## Cumberland Council

closure will be required there is a 12 week lead in time for this process, for further information please contact [Sandra.smith@cumbria.gov.uk](mailto:Sandra.smith@cumbria.gov.uk).

**Statement:**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

**Case Officer:** C. Burns

**Date :** 10.10.2024

**Authorising Officer:** N.J. Hayhurst

**Date :** 11.10.2024

**Dedicated responses to:-**