

## **Development Control Committee**

### **5 April 2023**

#### **Planning Application DC/22/1378/FUL – All Saints Hotel, The Street, Fornham St Genevieve**

<b>Date registered:</b>	5 August 2022	<b>Expiry date:</b>	2 October 2022 EoT 07 April 2023
<b>Case officer:</b>	Tamara Benford-Brown	<b>Recommendation:</b>	Approve application
<b>Parish:</b>	Fornham St. Martin cum St. Genevieve	<b>Ward:</b>	The Fornhams and Great Barton
<b>Proposal:</b>	Planning application - outdoor gymnasium including open sided exercise shelter, moveable exercise equipment and equipment storage container		
<b>Site:</b>	All Saints Hotel, The Street, Fornham St Genevieve		
<b>Applicant:</b>	Mr David Harris		

**Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

**Recommendation:**

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

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## **Background:**

**This application is before Development Control Committee following a referral from Delegation Panel on 7 March 2023.**

**The Parish Council have raised objections to the proposal which is contrary to the officer's recommendation for APPROVAL.**

**A site visit is due to take place on Monday 3 April 2023.**

## **Proposal:**

1. The application seeks planning permission for an already constructed and operating (retrospective) outdoor gym alongside associated equipment and storage container. The gym is located within the grounds of All Saints Hotel and is used by The Health Club who are based at the hotel. The outdoor gym is used by both members of The Health Club and hotel guests with regular exercise classes scheduled at the site.
2. At the time of the application, there are two additional planning applications pending decision within All Saints Hotel (DC/22/1887/FUL & DC/23/0051/FUL), one for a new access and another for the installation of two tennis courts.

## **Site details:**

3. All Saints Hotel is located along The Street in Fornham St Genevieve and outside of any settlement boundary. Therefore, the site is located within designated countryside for planning policy purposes. Across the site there are two Tree Preservation Orders; John's Hill Plantation and Fornham Park under the references 030(1960) and 003(1974) with both constituting woodlands made up of mixed species. There is a Public Right of Way track which runs north-west to south-east of the site through the golf course associated with the hotel.
4. The outdoor gym itself is located towards the south-east of the hotel complex. Due to the changes in ground levels, the gym is located on a slight hill within John's Hill Plantation, which leads from the car park towards the main entrance via a concrete access track. The gym is surrounded by trees with the golf course towards the south. Adjacent to the hotel complex to the east, there is a residential housing estate which can be accessed via the B1106. Park Avenue, St Andrews Drive and Birkdale Court are residential cul-de-sacs within the estate with dwellings backing onto the All Saints Hotel complex. The closest residential dwellings to the outdoor gym sit approx. 50m from the site.

## **Planning History**

5. Most recent applications:

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Received date</b>	<b>Decision date</b>
DC/16/0808/FUL	Planning Application - Equipment and maintenance store	Application Granted	19 April 2016	16 June 2016

DC/16/1338/FUL	Planning Application - Construction of (i) two storey front extension in association with spa (ii) 1no. first floor front extensions in association with spa (iii) 1no. first floor extension in association with hotel lobby and (iv) single storey golf club building	Application Granted	23 June 2016	18 October 2016
DC/17/1351/FUL	Planning Application - Creation of access off Mildenhall Road into All Saints Golf and Country Club	Application Granted	29 June 2017	26 January 2018
DC/18/1372/FUL	Planning Application - New bedroom wing to existing hotel to create 42 no. additional rooms	Application Granted	16 July 2018	4 July 2019
DC/19/0533/FUL	Planning Application - (i) New vehicle access (ii) modifications to pedestrian access, landscaping and relocated parking following closure of existing access	Application Granted	26 March 2019	24 September 2019
DC/19/1700/FUL	Planning Application - (i) Change of use of part of golf course for the siting of 35no. caravan holiday homes (ii) new access from A1101 (iii) construction of access roads, parking spaces and associated infrastructure (as amended by email on 14.01.2019 to omit 2 caravans)	Application Refused	20 August 2019	7 February 2020
DCON(A)/19/0533	Application to Discharge Condition 6 (construction management strategy) of DC/19/0533/FUL	Application Granted	9 October 2019	27 November 2019
DC/19/2144/FUL	Planning Application - Single storey reception hall extension to front of hotel	Application Granted	23 October 2019	9 December 2019
DC/19/2201/FUL	Planning Application - single storey rear extension	Application Granted	6 November 2019	18 December 2019
DC/20/0682/FUL	Planning Application - (i) Change of use of part of golf course for the siting of 35no. caravan holiday homes (ii) new access from A1101 (iii) construction of access roads, parking spaces and associated infrastructure	Application Refused	23 April 2020	21 July 2020

	(previous application DC/19/1700/FUL)			
DCON(A)/17/1351	Application to discharge Condition 8 (Surface Water) of DC/17/1351/FUL	Application Granted	4 August 2020	24 September 2020
DC/20/1912/FUL	Planning application - Change of use of part of golf course for the siting of to 22 caravan lodge holiday homes with construction of new access, road, parking spaces and associated infrastructure	Application Withdrawn	3 November 2020	19 January 2021
DC/20/1919/FUL	Planning application - First floor extension with external terrace and hipped roof	Application Granted	6 November 2020	11 January 2021
DC/21/0128/FUL	Planning application - a. two storey extension above existing three storey bedroom wing b. five storey extension, creating a total of nine residential dwellings	Application Refused	22 January 2021	3 June 2021
DC/21/0445/FUL	Planning Application - two tennis courts, one pickleball court and golf driving range with fencing	Application Granted	2 March 2021	15 November 2021
DC/21/1142/FUL	Planning application - a. change of use of part of golf course for the siting of 15 caravan lodge holiday homes b. associated infrastructure (as amended)	Application Refused	24 May 2021	4 February 2022
DC/21/1426/FUL	Planning application - a. reconfiguration of second floor roof to existing bedroom wing b. four storey linked extension creating 37 bedrooms and three residential dwellings on the second floor.	Application Refused	8 July 2021	12 October 2022
DC/21/1582/FUL	Planning application - single storey extension to eastern elevation of existing facility to create a members lounge	Application Granted	30 July 2021	16 November 2021
DC/22/0483/FUL	Planning application - a. reconfiguration of second floor roof to existing bedroom wing b. four storey linked extension creating 46 bedrooms	Application Granted	18 March 2022	17 June 2022

DC/22/1104/FUL	Planning application - first floor extension to gymnasium	Application Granted	22 June 2022	16 August 2022
NMA(A)/22/0483	Non-material amendment for DC/22/0483/FUL - re-definition of internal floor layouts	Application Granted	16 August 2022	13 September 2022
DC/22/1831/FUL	Planning application - a. reconfiguration of second floor roof to existing bedroom wing b. four storey linked extension creating 43 bedrooms	Application Granted	21 October 2022	26 January 2023
DC/22/1887/FUL	Planning application - create access into All Saints Golf and Country Club	Pending Decision	31 October 2022	
DCON(A)/22/0483	Application to discharge conditions 3. (ecological enhancement); 4 (Great crested newts); 6. (Arb method statement); 7. (Tree protection measures); 8. (Archaeology WSI); 9. (Archaeology post-instigation); 11. (HGV management); 14. (Electric vehicle charging point) of DC/22/0483/FUL	Application Granted	11 November 2022	4 January 2023
DC/22/2018/FUL	Planning application - first floor extension above existing reception to create office space	Application Granted	18 November 2022	23 January 2023
DC/23/0051/FUL	Planning application - construction of two outdoor tennis courts (as amended 03.03.2023)	Pending Decision	11 January 2023	
DC/23/0290/VAR	Planning application - variation of condition 2 (approved plans) of DC/22/0483/FUL to enable use of amended plans to include Infill of lower ground floor level link between new and existing bedroom wings	Pending Consideration	13 March 2023	
DCON(A)/21/1142	Application to discharge conditions 4, 8, 16, 18, 19, 20, 23 and 25 of DC/21/1142/FUL	Pending Consideration	22 February 2023	

## **Consultations:**

6. The following comprises summaries of the consultation responses received for this planning application. Copies of the full comments can be viewed on the online planning application file published on the Council's [website](#).
7. Consultation responses are split into comments on the original submissions from 16.08.2022 and the re-consultation 01.02.2023

### **8. Fornham All Saints Parish Council:**

12.09.2022

"Fornham St Martin cum St Genevieve Parish Council Objects to application DC/22/1378/FUL, with the following comments;

1. Firstly, we would like to raise our concerns over the fact that the application is retrospective and bring attention to the applicants' blatant disregard for Planning Law. The lack of a planning application has meant that all the proper safeguards to protect wildlife, the environment, neighbours and any archaeology have been bypassed. In April 2021, following a site inspection by Planning Enforcement Officer, Andy Smith, it was noted that a request had been made to the owner to submit planning permission, albeit retrospectively, however it has taken another 16 months for this to be submitted.
2. The fact that the structure has already been built within St Johns Plantation, without the appropriate planning permission, within an ancient woodland that is protected by TPO 030(1960) W1 and TPO 003(1974) W1, shows the applicants complete disregard for the natural environment and historical and environmental value of the site. Paragraph 170 of the National Planning Policy Framework states: 'Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan). The application does not mention the loss of trees, it also states that there are no protected or priority species or important habitats on the site, however, it is impossible to know what was destroyed by the removal of the trees and subsequent building works as no ecology assessment was made prior to their destruction and construction of the gym. Concerns regarding the felling of the trees were raised in March 2021 and in April 2021; as the Parish Council we reported this to the local Enforcement Team to investigate and in April 2021 were advised that a site inspection had taken place, by Tree Officer Falcon Saunders, and it was noted that there had been a loss of trees and that land levels had changed which may be detrimental to the remaining trees in the area. It was stated that actions should be carried out to mitigate some of the damage that has already occurred by carrying out remedial works and replacement planting, along with replacement planting at a previous site where tree felling had taken place within the protected woodland (without permission), none of which has been carried out or enforced. Again, this highlights a historical disregard by the applicant for obtaining the correct permissions, adhering to planning/TPO law, adhering to enforcement recommendations and lack of concern for the local environment.
3. It is noted that there is a concrete track a "service track" within the woodland on the maps in the application; which is used by groundskeepers and

presumably used during construction, this track also has no planning permission and again there is evidence of trees being felled for the construction of the track.

4. Over the last two summers neighbours have been subjected to noise disturbance, starting as early as 6:45am most days, this incorporates loud shouting by instructors, music and repetitive noise from the use of a punch bag. Not to mention the noise endured by neighbours from heavy construction machinery during construction to fell trees, along with that was the pollution from bonfires regularly lit near neighbouring properties to dispose of the trees once felled. Residents have been historically complaining to the applicant and the gym staff regarding the noise, with no resolution to the issue being reached, and in fact with little effort from the applicant to resolve the issues being demonstrated. The noise of the instructors 'shouting encouragement' and counting 5,4,3,2,1 can be heard clearly by neighbours and as far away as Lark Valley Drive end of Birkdale Court, some 300 metres away. The Parish Council have also raised the issue of noise disturbance to the applicant, again with no demonstration of any action to remediate the situation. Again, had planning permission been applied for before construction, the issue of noise pollution from the gym could have been addressed and conditions set to ensure this did not become a problem for residents. We would strongly recommend that if permission is granted, that conditions of approval be set to ensure the following; NO loud music, NO loudspeakers only headphones to be used, with opening hours 8am-5pm only, with NO Sundays or Bank Holidays.
5. Nearby neighbours are also being affected by early morning and evening light pollution, due to the lights used at the gym. Residents close by have reported light shining into their windows.
6. The application states 'No' under "Can the site be seen from a public road, public footpath, bridleway or other public land?" However, the gym structure can clearly be seen from 2 public rights of way paths across the golf course, as well as from a footpath leading from Park Avenue to St Andrews Drive.
7. The Parish Council would reiterate, that with the application being flawed with inaccurate information, the fact that it is retrospective and with the felling of TPO protected trees, along with the constant and distressing noise disturbance caused to residents, that we strongly object to the application and would strongly recommend refusal and immediate removal of the structure, along with enforcement to ensure the remedial works and replacement tree works be carried out forthwith"

22.02.2023

"Fornham St Martin cum St Genevieve Parish Council Objects to application DC/22/1378/FUL, with the following comments;

1. We reiterate our previous objections submitted in September 2022 over the fact that the application is retrospective and highlight yet again the applicants' blatant disregard for Planning Law. The lack of a planning application has meant that all the proper safeguards to protect wildlife, the environment, neighbours and any archaeology have been bypassed. In April 2021, following a site inspection by Planning Enforcement Officer, Andy Smith, it was noted that a request had been made to the owner to submit planning permission, albeit retrospectively, this took another 16 months for this to be submitted. We are

aware that due to Covid restrictions at the time, Central Government allowed outside recreation and therefore relaxed some planning restrictions, but we would be interested to be provided with information on where it said you can tarmac an area of Protected woodland and fell ancient trees and build shelters in order to provide a recreation/exercise area. There are numerous areas around the site that could have been used, well away from homes.

2. The fact that the structure has already been built within St Johns Plantation, without the appropriate planning permission, within an ancient woodland that is protected by TPO 030(1960) W1 and TPO 003(1974) W1, shows the applicants complete disregard for the natural environment and historical and environmental value of the site. The application does not mention the loss of trees, it also states that there are no protected or priority species or important habitats on the site, however, it is impossible to know what was destroyed by the removal of the trees and subsequent building works as no ecology assessment was made prior to their destruction and construction of the gym. Concerns regarding the felling of the trees were raised in March 2021 and in April 2021 the Parish Council reported this to the local Enforcement Team to investigate and in April 2021 were advised that a site inspection had taken place, by Tree Officer Falcon Saunders, and it was noted that there had been a loss of trees and that land levels had changed which may be detrimental to the remaining trees in the area and may cause flooding. It was stated that actions should be carried out to mitigate some of the damage that has already occurred; by carrying out remedial works and replacement planting, along with replacement planting at a previous site where tree felling had taken place within the protected woodland (without permission), none of which has been carried out or enforced. The applicant states in his amendments that the tarmac is porous, but this would still not be adequate to deal with flooding and surface water issues, associated with being located on a flood plain and the detrimental affect of the removal of trees. We would stress that these replanting schemes need to be enforced and set as conditions of either refusal or approval of this application going forward and that management of the trees following planting also needs to be enforced.
3. It is noted that there is a concrete track a "service track" within the woodland on the maps in the application; which is used by groundskeepers and presumably used during construction, this track also has no planning permission and again there is evidence of trees being felled for the construction of the track.
4. The Parish Council would also comment that submitting amendments to the application when it is a retrospective application, (the building is already in place and should be determined on its current state), with the addition of a storage area/container to the application is again showing disregard for the planning process, again this was added at a later date without planning permission being sought.
5. Over the last two summers neighbours have been subjected to significant daily noise disturbance, starting as early as 6:45am most days, this incorporates loud shouting by instructors, music and repetitive noise from the use of a punch bag. Not to mention the noise endured by neighbours from heavy construction machinery during construction to fell trees, along with that was the pollution from bonfires regularly lit near neighbouring properties to dispose of the trees once felled. Residents have been historically complaining to the applicant and the gym staff regarding the noise; the noise of the instructors 'shouting



encouragement' and counting 5,4,3,2,1 can be heard clearly by neighbours and as far away as Lark Valley Drive end of Birkdale Court, some 300 metres away. The Parish Council have also raised the issue of noise disturbance to the applicant, again with no demonstration of any action to remediate the situation. Again, had planning permission been applied for before construction, the issue of noise pollution from the gym could have been addressed and conditions set to ensure this did not become a problem for residents. The proposed acoustic fencing, which is a new amendment to the application, would have a detrimental impact on the visual amenity to neighbours and also have a detrimental affect on the view and character from the public footpaths, from which the dwelling and site are visible. We would strongly recommend that if permission is granted, that conditions of approval be set to ensure the following; NO loud music, NO loudspeakers only headphones to be used, with opening hours 8am-5pm only, with NO Sundays or Bank Holidays.

6. Nearby neighbours are also being affected by early morning and evening light pollution, due to the flood lights used at the gym. Residents close by have reported light shining into their windows at unsuitable times.
7. The application states 'No' under "Can the site be seen from a public road, public footpath, bridleway or other public land?" However, the gym structure can clearly be seen from 2 public rights of way paths across the golf course, as well as from a footpath leading from Park Avenue to St Andrews Drive.
8. Also, although there are a number of supportive letters in favour of the gym, it should be noted that the majority of them are from people living far away from the area and their support must not be given precedence over local residents.
9. The Parish Council would reiterate, that with the application being flawed with inaccurate information, the fact that it is retrospective and with the felling of TPO protected trees, along with the constant and distressing noise disturbance and light pollution affecting residents, that we strongly object to the application and would strongly recommend refusal and immediate removal of the structure, along with enforcement to ensure the remedial works and replacement tree works be carried out forthwith."

#### **9. Ward Councillors:**

**Councillor Sara Broughton** – No comments received for both consultations

**Councillor Beccy Hopfensperger** – No comments received during the first round of consultations. Email received (below) 13.02.2023

"Could you please take this e-mail as confirmation that I would like to call in DC/22/1378/FUL – due to concerns raised over affected amenities of nearby residents with regards to noise, concerns over the applications removal of trees and the affected level change of the ground giving flooding concerns, application being adjacent to an adjacent ancient woodland."

#### **10. Private Sector Housing and Environmental Health:**

##### **Comments received 26.09.2022**

11. "I have considered the above application and on behalf of the Private Sector Housing and Environmental Health (PSH & EH) Team can confirm I would

recommend this application be REFUSED for the reasons below. In reviewing this application, I have had specific regard to the Design & Access Statement for the Health Hub Outdoor Gymnasium at All Saints Hotel & Golf Club, Fornham St Genevieve and the Sound Acoustics Ltd letter dated 16th June 2022 addressed to Mr S Turner, The Health Hub, All Saints Hotel, Fornham St Genevieve, together with drawings for the Location and Block Plans and the Proposed Layout and the public / Parish Council comments.

12. I have noted the comments submitted are a mixed of in support and objecting; for the avoidance of doubt I wish to confirm my opinion on the application has not been influenced by these but they are informative to my consideration of this application, which I have also noted is retrospective.
13. In summary I am concerned the development will have a detrimental impact on the living amenity of residential occupiers in the vicinity of the development.
14. I have noted the contents of the Sound Acoustics Ltd letter dated 16th June 2022, which in essence concludes the development is indicated to have a low impact based on a noise assessment result of LAeq,T 45 dB from the outdoor gym as compared with an external noise in amenity spaces level of LAeq,T 50 dB as per BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'.
15. However, as noted by the author of this letter, "this does not apply specifically to outdoor gym noise and is normally used for assessing general ambient / traffic noise sources for new residential developments".
16. To quote directly from Section 1, 'Scope' of BS 8233, "This British Standard provides guidance for the control of noise in and around buildings. It is applicable to the design of new buildings, or refurbished buildings undergoing a change of use, but does not provide guidance on assessing the effects of changes in the external noise levels to occupants of an existing building" - I would humbly submit the last sentence is particularly pertinent.
17. Furthermore, Section 0, 'Introduction' of BS 8233 states, "it is necessary to remember that people vary widely in their sensitivity to noise, and the levels suggested might need to be adjusted to suit local circumstances. Moreover, noise levels refer only to the physical characteristics of sound and cannot differentiate between pleasant and unpleasant sounds" - this is important because most people would generally find the noises associated with an outdoor gym more intrusive than the noise that BS 8233 is intended to cover i.e. slow / steady sources of noise such as traffic noise.
18. This sentiment is also reinforced in the Foreword to BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound', which states, "Response to sound can be subjective and is affected by many factors, both acoustic and non-acoustic. The significance of its impact, for example, can depend on such factors as the margin by which a sound exceeds the background sound level, its absolute level, time of day and change in the acoustic environment, as well as local attitudes to the source of the sound and the character of the neighbourhood. This edition of the standard recognizes the importance of the context in which a sound occurs".

19. I would submit that Sound Acoustics have outlined the 'acoustic' response to sound in their letter but less-so the 'non-acoustic' response of the nearby residents.
20. That said, they have acknowledged that there is some uncertainty of the criterion that the outdoor gym can be judged against, and consequently have provided 3 "future operational scenarios and the likely outcomes, the most appropriate of which can be adopted as necessary".
21. Scenario 1, 'Do Nothing' acknowledges that sound levels, "will be heard during lulls in ambient noise and during periods of quiet indoor noise level and therefore complaints will probably continue for the early sessions at least".
22. Scenarios 2 and 3 therefore suggest potential mitigation measures i.e. - Scenario 2, "Silent Disco" for early session on weekdays and weekends and Scenario 3, Extend fence to appropriate height and distance.
23. Scenario 2 appears to still allow for some level of potential disturbance i.e. "Normal sessions for the rest of the day should be acceptable considering higher ambient levels and more acceptable hours" (the "should be acceptable" may or may not be true), Scenario 3 appears to suggest any problems will be mitigated ("All sessions should have little impact and are much less likely to be heard above ambient noise").
24. My concern is that the application location is likely to be a relatively quiet location, this is in-part evidence by the Sound Acoustics letter, which states, "the typical observed sound pressure level (fluctuating level as opposed to average or maximum) was 45 dB" – according to the letter (with emphasis added by me), "The music and instructor's voice could be heard although this was not considered to be excessive. The maximum level was not possible to ascertain due to the rooks. The above level is considered to be largely noise from the outdoor gym although ambient noise may have had some influence" – I would submit that it's unfortunate an ambient background sound level was measured by the author on their arrival to the location at 06:30 hours before the gym class started at 06:45 hours, because it is evident from the above that the gym class was contributing to this figure (it is therefore potentially artificially high and certainly introduces a degree of uncertainty).
25. In any event, the author states, "The noise level from the outdoor gym session appears to be no more than LAeq,T 45 dB at the nearest house on Park Avenue", but there isn't any information as to how much above the ambient background sound level this is – this can be an important indicator when making an assessment of the impacts of a specific sound source.
26. BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound', provides the following:
  - i. Typically, the greater this difference, the greater the magnitude of the impact.
  - ii. A difference of around +10 dB or more is likely to be an indication of a significant adverse impact, depending on the context.

- iii. A difference of around +5 dB is likely to be an indication of an adverse impact, depending on the context.
- iv. The lower the rating level is relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact. Where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context.

27. I want to stress that a formal BS 4142 assessment would not have been appropriate for this scenario i.e. an assessment of the impacts from the outdoor gym, because BS 4142 is not intended to be applied to the rating and assessment of sound from (amongst other things) recreational activities, music and other entertainment, people or public address systems for speech, which are likely to be the main sources of noise from an outdoor gym. However, I introduce this as what in my opinion may have been an informative comparator i.e. understanding the difference in the levels of the existing ambient background noise and noise from the gym activities.
28. That said, I also want to reiterate earlier point that, as per BS 8233, noise levels refer only to the physical characteristics of sound and cannot differentiate between pleasant and unpleasant sounds, and as per BS 4142, response to sound can be subjective and is affected by many factors, both acoustic and non-acoustic.
29. It is really for these reasons that I don't feel I can support this application and therefore recommend that it be refused because I am concerned the development will have a detrimental impact on the living amenity of residential occupiers in the vicinity of the development.
30. However, in the event the Local Planning Authority (LPA) are minded to approve this application I would as a minimum recommend conditions are attached to any permission granted along the lines of the scenarios provided by Sound Acoustics to mitigate the likelihood of the development having an adverse impact i.e. in accordance with Scenario 2, "Silent Disco" for early sessions on weekdays and weekends and Scenario 3, extending the existing acoustic barrier fence to an appropriate height and length in order to deflect sound and reduce impacts on adjacent properties.
31. Alternatively, instead of (or as well as) Scenario 2 it is my opinion that any early morning (before 08:00 hours) gym session should be prohibited altogether – I say this because as noted by Sound Acoustics (with emphasis added by me), "Scenario 3 is likely to give the best outcome although Scenario 2 would work provided the members find the headphones comfortable and easy to work with"). Prohibiting the early morning gym classes shouldn't be too much of an issue for the applicant because according to their Design & Access Statement, "The operating hours of the outdoor gym are restricted to 8am-7pm with a 6.45am morning class operating Mon/Wed/Fri in summer" – if the LPA are minded to restrict the hours of use of the outdoor gym I would also recommend a restriction to 18:00 hours only in the evening.
32. In any event, the applicant has also stated in their Design & Access Statement that the outdoor gym facility was borne out of the restrictions during the COVID-19 pandemic, which clearly don't apply anymore. Whilst I

would acknowledge this has probably become an asset of the overall Hotel & Golf Club facilities (as evidenced by the public comments submitted in support of this application), I'm not necessarily convinced this amounts to an adequate justification for making the facility permanent when there is a risk to the living amenity of those living nearby.

33. Finally, in addition to the above suggested conditions I would specifically recommend the following also be attached to any permission that may be granted:

1. A post-completion noise assessment shall be carried out and submitted to and approved in writing by the Local Planning Authority to confirm the extension of the existing acoustic fence has reduced sound levels at the façade(s) of the closest and / or most affected noise sensitive receptor(s) by at least 5 dB and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to first use of the development and thereafter be permanently retained.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies.

2. Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'. Lighting should be minimised, and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.

Reason: To prevent light pollution and protect the amenities of occupiers of properties in the locality, in accordance with policy DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies"

34. Following the comments submitted by Private Sector Housing and Environmental Health, a site visit was undertaken on 27.10.2022 during an exercise class. Following the visit, amended comments were received and confirmed during the re-consultation (see below).

### **Further comments received 20.02.2022**

35. "Further to the comments I submitted in respect of the above application on 26 September 2022 I have since visited the All Saints Hotel and met with Stuart from the Health Hub at the Hotel and Andrew, the Planning Agent. The visit was timed such that I could observe for myself a gym class in progress at the outdoor gym and assess the noise therefrom for myself.

36. In short, I am now satisfied that the outdoor gym is UNLIKELY to have an adverse impact on the living amenity of residential occupiers in the vicinity of the development, subject to some mitigation measures to ensure this.

In my previous comments dated 26 September 2022 I stated:

37. *"In the event the Local Planning Authority (LPA) are minded to approve this application I would as a minimum recommend conditions are attached to any permission granted along the lines of the scenarios provided by Sound Acoustics to mitigate the likelihood of the development having an adverse impact i.e. in accordance with Scenario 2, "Silent Disco" for early sessions on weekdays and weekends and Scenario 3, extending the existing acoustic barrier fence to an appropriate height and length in order to deflect sound and reduce impacts on adjacent properties".*

On this point, the acoustic consultant for the applicant in his response to my comments has stated:

38. *"I recommend that you do the fence works in Scenario 3. A validation exercise is sensible as suggested by Dom. A silent disco system for early sessions could be an additional measure if the neighbours are not satisfied by the fence (this would need to have reasonable grounds otherwise you might as well just do that and not the fence). There is clearly a route forward that allows you to operate and provide safeguards for the neighbours".*

39. Having visited and observed / subjectively assessed a class in progress for myself I am inclined to agree that extending the existing acoustic fence to an appropriate height and length is the most appropriate way forward i.e. the "silent disco" system isn't necessarily required. Ultimately, this would be demonstrated by the validation exercise I recommended by way of Condition 1 in my original comments:

1. A post-completion noise assessment shall be carried out and submitted to and approved in writing by the Local Planning Authority to confirm the extension of the existing acoustic fence has reduced sound levels at the façade(s) of the closest and / or most affected noise sensitive receptor(s) by at least 5 dB and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to first use of the development and thereafter be permanently retained.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

I note the acoustic consultant has agreed this validation exercise would be sensible.

40. Whilst not expressly intended at the time of recommending the above condition, arguably the condition as worded could still provide for the "silent disco" scenario, by virtue of the wording "and additional steps to mitigate noise shall be taken, as necessary". However, ultimately, I am prepared to leave these "additional steps" unspecified because there may well be alternatives that are equally effective – and, of course, no additional steps will be required if the extension of the acoustic fence is sufficient in order to deflect sound and reduce impacts on the adjacent properties.

41. I would like to take this opportunity to thank Kieron, the acoustic consultant for providing his response to my original comments, which were appreciated and were indeed helpful in clarifying some misunderstanding on my behalf and put things right that were not originally clear to me.

For the avoidance of doubt, I would still recommend my original Condition 2:

2. Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'. Lighting should be minimised, and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.

Reason: To prevent light pollution and protect the amenities of occupiers of properties in the locality, in accordance with policy DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies

42. I don't expect this to be in any way contentious because I don't believe there is any intention to 'floodlight' the outdoor gym, but I would still recommend it as a reasonable safeguard to prevent light pollution and protect the amenities of occupiers of properties in the locality as per the stated Reason for this Condition.

I also stated in my original comments:

43. *"Prohibiting the early morning gyn classes shouldn't be too much of an issue for the applicant because according to their Design & Access Statement, 'The operating hours of the outdoor gym are restricted to 8am-7pm with a 6.45am morning class operating Mon/Wed/Fri in summer' – if the LPA are minded to restrict the hours of use of the outdoor gym I would also recommend a restriction to 18:00 hours only in the evening".*

44. Having seen / heard a class in progress for myself, discussed this with the applicant and better understood the original noise impact assessment and therefore 'agreed' extending the acoustic fence is likely to provide a sufficient safeguard against excessive noise, I am now satisfied an early morning (6.45am) class doesn't need to be prohibited; the LPA may, though, at their discretion want to consider whether restricting these to 3 times a week is appropriate. However, if the acoustic fence / any other mitigation measures work, arguably this shouldn't be necessary.

45. Likewise, having discussed times with the applicant specifically, I am satisfied that my previous recommendation for a restriction to use the outdoor gym up to 18:00 hours only in the evening can be relaxed to 19:00 hours (which is the time referenced by the applicant in their Design & Access Statement) – this will allow an 'after work' class to start at 5.45pm, last for 45 minutes until 6.30pm, and allow a further 30 minutes to pack away up to 7pm.

46. In summary, I wish to remove my previous objection to this application and confirm I now have NO OBJECTIONS subject to the two conditions originally recommended and reiterated above, together with one general informative as follows:

47. The Applicant is advised that irrespective of this Decision the Environmental Health Team retain their powers under the Environmental Protection Act

1990 to investigate and take enforcement action where required in respect of any statutory nuisance as provided for by the Act (see <https://www.legislation.gov.uk/ukpga/1990/43/section/79> and <https://www.legislation.gov.uk/ukpga/1990/43/section/80> ).

#### **48.Place Services (Arboricultural Consultants):**

26.09.2022

"Comments

49.A retrospective application has been submitted for the construction of an outdoor gym. No tree survey has been provided as well as no Arboricultural Impact Assessment, Arboricultural Method Statement or Tree Protection Plan in support of the application. Therefore, the risks to the trees on-site due to the scheme cannot be suitably assessed. Without any of these documents being included the application should it have been submitted prior to the works being carried out, it would have been objected to based on the likely tree constraints present within the site.

50.The site is in a heavily vegetated area with some semi-mature and mature specimens. It is clear from a desktop investigation that there have been trees removed to facilitate the construction of the gym and it is likely that the removals would not have been approved without suitable justification being submitted to the Local Planning Authority. Because these trees have already been removed, we cannot determine what quality these trees were and whether they would have constituted a constraint on the development. What is clear is that several trees have been removed, given that a large woodchip pile is evident in photographs provided by the Case Officer.

51.In addition, there are arboricultural impacts to the retained trees on the site. Photographs provided have shown the presence of impermeable surfacing within the Root Protection Areas of trees that have been retained in the north-east and west of the site. The installation of this surfacing will have a negative impact on these trees as water is not able to percolate into the soil therefore restricting the trees capability to complete its physiological processes. It is clear that this is detrimental to the health of the retained trees, given the poor condition of trees within the photographs. Had this application been submitted in advance of the works, it would not have been approved without the use of permeable surfacing, which would limit the impact of the changes to the ground conditions.

52.As previously stated, an application such as this would not have been approved given the lack of information provided on the arboricultural constraints on the site, and given its location within a woodland belt, would likely have been considered unsuitable even if this information had been provided. However, on the basis that the harm has already occurred to the trees, and to those felled is obviously irreversible, support is given, subject to the following retrospective conditions.

Decision: Object

Where permission is granted subject to conditions, the following should apply in relation to trees



## Protection of trees (non-dischargeable)

1. As part of this retrospective application, the trees located (All Saints Hotel, The Street, Fornham St Genevieve, Suffolk, IP28 6JQ) shall not be lopped or felled without the written consent of the local planning authority.

Reason: In order to maintain the existing vegetation at the site, which makes an important contribution to the character of the area.

2. As part of this retrospective application, any trees within or near to the site shall be protected in accordance with the requirements of BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction'. The protection measures shall be implemented prior to any below ground works and shall be retained for the entire period of the duration of any work at the site, in connection with the development hereby permitted.

Reason: To ensure that the trees and hedges on site are adequately protected, to safeguard the character and visual amenity of the area, in accordance with policies DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies. This condition requires matters to be agreed prior to commencement of development to ensure that existing trees are adequately protected prior to any ground disturbance.

### 53. Information required prior to determination:

3. As part of this retrospective application, details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;
- location, type and materials to be used for hard landscaping including specifications, where applicable for: a) permeable paving b) underground modular systems c) use within tree Root Protection Areas (RPAs);
- a schedule detailing sizes and numbers/densities of all proposed trees/plants;
- specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
- types and dimensions of all boundary treatments There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Unless required by a separate landscape management condition, all soft landscaping shall have a written five year maintenance programme following planting. Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be

replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies

54.Informative: The following British Standards should be referred to:

- i. BS: 3882:2015 Specification for topsoil
- ii. BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- iii. BS: 3998:2010 Tree work – Recommendations
- iv. BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- v. BS: 4043:1989 Recommendations for Transplanting root-balled trees
- vi. BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations
- vii. BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- viii. BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations
- ix. BS: 8601:2013 Specification for subsoil and requirements for use 2 Landscape"

55.Following the comments, additional requested information was received, and the Arboricultural Consultant undertook a site visit on 23.12.2022. Follow up comments from the visit were received via email, details below:

Further comments received 13.01.2023

"Just to keep you updated about this application I visited just before xmas break on the 23rd December 2022.

56.During my visit, I found that the container was level with the ground adjacent to the Lime tree (T001) and advised the client to raise the container onto sleepers to prevent compaction of the ground adjacent to the tree, which without action would've restricted water and gas exchange to the tree and if unresolved caused a deterioration in tree health. Following the site visit, this was addressed and the client had raised the container by the next day and provided photo evidence that I can provide if required.

57.The new surfacing in the area appears to be impermeable, however this could only be confirmed by a video showing the water percolating into the soil. There is no further information available to confirm the surface is impermeable or any specification of how it was installed and to what depth below ground level. Due to this there is the potential for trees T001 and T002 to be adversely impacted in the future through the installation and it was advised that if the trees were to decline, then the surfacing would be removed and the ground adjacent to the tree retained as soil.

58.I requested for the Arboricultural consultant from Hayden's to amend their report to reflect these points with an indication of when the trees will be inspected, as well as providing information on the new species to be planted in the proposed new planting area with a suitable sizes and aftercare measures in accordance with BS8545:2014 'trees from nursery to the landscape'. If you require anything further from me please get in touch".

59.As mentioned, it was noted that the on-site storage container needed to be elevated off ground and evidence of this was received on 21.12.2022. In addition, a video was received showing rainwater on the hardstanding and the Arboricultural Consultant provided the below comments.

25.01.2023

"I have watched the below video and can confirm the surfacing is permeable".

**60.Natural England:**

02.10.2022

"Natural England has been sent some evidence which indicates that the woodland at the above-mentioned site could be ancient and if so, should be added to the ancient woodland inventory. Our Ancient Woodland Specialist is currently carrying out investigations and we will notify you of any further findings in due course. In the meantime, we do not recommend any woodland clearance activities at the site of this planning application until this matter has been resolved.

You should make decisions in line with paragraph 180 (c) of the NPPF which states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss. (National Planning Policy Framework - Guidance - GOV.UK ([www.gov.uk](http://www.gov.uk))).

Natural England and the Forestry Commission have published joint Standing Advice on Ancient Woodland, Ancient and Veteran Trees. Developers should use this guidance to decide on development proposals affecting ancient woodland, ancient trees and veteran trees. This is provided in place of an individual response to a planning application in most cases and should be taken into account by LPAs in planning decision making. Natural England will only provide advice where ancient woodland is designated as a SSSI or in exceptional circumstances".

Following receipt of the email and comments by Natural England, the Case Officer followed up via email on the results of the investigation, however no further comments have been received to confirm the results of the Ancient Woodland query. If results are received prior to Development Control Committee these will be confirmed verbally within the presentation.

## **Representations:**

61. Over the course of the consultation and re-consultation, 29 third-party representations have been received in total. 11 in support and 18 objections. The representations can be viewed in full on the online file and the points raised are briefly summarised below.

62. Within the objections, the following concerns were raised:

- Noise disruption
- Covid restrictions are now no longer in place
- Further expansion of the gym if permission granted
- Felling of trees
- Burning on site
- Impact of Lighting

63. Support comments made the following points:

- Promotion of fitness and exercise
- Being outdoors supports mental wellbeing
- Investment to a business located within the countryside

## **Policy:**

64. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.

65. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Vision 2031 have been taken into account in the consideration of this application:

Policy DM1 Presumption in Favour of Sustainable Development

Policy DM2 Creating Places Development Principles and Local Distinctiveness

Policy DM5 Development in the Countryside

Policy DM13 Landscape Features

Policy DM43 Leisure and Cultural Facilities

Policy DM44 Rights of Way

Core Strategy Policy CS3 - Design and Local Distinctiveness

Vision Policy RV1 – Presumption in Favour of Sustainable Development

## **Other planning policy:**

### **66.National Planning Policy Framework (NPPF)**

The NPPF was revised in July 2021 and is a material consideration in decision making from the day of its publication. Paragraph 219 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2021 NPPF that full weight can be attached to them in the decision-making process.

## **Officer comment:**

67.The issues to be considered in the determination of the application are:

- Principle of Development
- History of the Gym and Enforcement Case
- Character and Appearance
- Impacts to Neighbouring Amenity
- Impact to TPO trees & Ancient Woodland Concern
- Impact to Public Right of Way (PROW)
- Planning Balance

## **Principle of Development**

68.In accordance with Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the development plan unless there are material considerations that indicate otherwise. The development plan comprises the policies set out in the Joint Development Management Policies Document (2015), the Core Strategy Development Plan Document (2010) and the Rural Vision (2014). National planning policies set out in the NPPF 2021 are also a key material consideration.

69.Paragraph 11 of the NPPF (2021) (as well as policy DM1 and RV1) states that plans and decisions should apply a presumption in favour of sustainable development. For decision taking, development proposals that accord with an up-to-date development plan should be approved without delay. Conversely therefore, development not in accordance with the development plan should be refused unless material considerations indicate otherwise.

70.Policy DM5 states that the countryside will be protected from unsustainable development and sets out in what circumstances development might be acceptable. As All Saints Hotel is located outside of a settlement boundary, it is therefore considered under this policy. The policy states under criteria d, *"A new or extended building will be permitted, in accordance with other policies within this Plan, where it is for essential small-scale facilities for outdoor sport or recreation or other uses of land which preserve the openness, appearance and character of the countryside, leisure facilities, and new tourism"*.

71. Policy DM13 looks at landscape features and permits development where it will not have an unacceptable adverse impact on the character of the landscape, landscape features, wildlife or amenity value. Individual proposals will be assessed based on their specific landscape and visual impact.

72. In addition, policy DM43 supports the provision of leisure and cultural facilities. The policy also states:

*"Planning applications for new leisure or cultural facilities or improvements and extensions to existing facilities, will be permitted provided that:*

- a) the proposals are connected to and associated with existing facilities or located at a site that relates well to (where achievable within or on the edge of) a defined settlement and can be made readily accessible to adequate public transport, cycling and walking links for the benefit of non-car users;*
- b) there would be no unacceptable impacts on the character, appearance or amenities of the area and the design is of a standard acceptable to the local planning authority;*
- c) vehicle access and on-site vehicle parking would be provided to an appropriate standard".*

73. In the case of this application, the outdoor gym at All Saints Hotel provides an extension of the Health Club which provides facilities for outdoor fitness and leisure facilities. The outdoor gym is connected to facilities within the main hotel through The Health Club, which provides a good existing access and transport links. The gym itself is located within an area of trees and woodland which is predominantly screened from public vantage points and following the submission of a planning application, amendments have been sought to reduce impacts on the character, appearance, and amenity of the area – this is discussed in more detail below. The principle of development is therefore considered acceptable and further impacts are assessed and considered below.

### **History of the Gym and Enforcement Case**

74. The outdoor gym was developed during the national lockdown as a result of the COVID-19 pandemic. At the time, the Government allowed outdoor group activities such as exercise and workout classes in line with restrictions. Government guidance given at the time to Local Planning Authorities was to work with businesses during this response and operation throughout the lockdown and to take a tolerant approach towards planning enforcement.

75. As the site is located within an area of protected trees, it was brought to the Council's attention that tree removal had been undertaken in order to facilitate development. Officers within the enforcement team observed that ground levels had changed (due to soil movement) however there was no evidence available to prove that an offence of tree removal had been committed. A planning application was requested in order to regularise the development and ensure a replanting scheme was provided to mitigate for the changes to the woodland area and trees protected under the TPO. Impact on protected trees is assessed in more detail below.

76. Information in this report relating to enforcement activity is provided for background information only. Whilst the application is retrospective, the planning authority must assess the application on its merits taking into account national and local planning policy and any other material considerations in the usual way.

## **Character and Appearance**

77. Policies DM2 and CS3 seek to ensure that proposed development respects the character, scale and design of the existing and the surrounding area. In addition, paragraph 130 of the NPPF requires development to be visually attractive and to be sympathetic to local character.
78. The outdoor gym is located within St Johns Plantation adjacent to the hotel. The site includes an access track leading from the front of the hotel with an area of porous tarmac hardstanding for the gym area. In the south-west corner of the hardstanding, there is an open-sided covered shelter for covered activities which measures approx. 9.0m deep, 6.0m in width, 2.2m to the eaves and 3.8m overall in height. In addition, there is a range of gym equipment scattered within the hardstanding including a metal bar trapeze, weights, rowing machines and other workout equipment. A shipping container is located to the west of the site, outside of the hardstanding area to store the equipment for the site and is accessed by the staff of the hotel.
79. On the eastern boundary of the gym, there is an existing 1.8m acoustic barrier fence. Following comments made by the Private Sector Housing and Environmental Health team, it has been agreed that the acoustic fence is to be raised to a maximum height of 3.0m and will extend from the eastern boundary round to the north of the site. The extension of the fence will include treated softwood fence boards to match the existing with treated timber capping boards and dura posts which are to be hand dug into the ground to avoid damage to tree roots.
80. Policy DM2 states that development should take "mitigation measures into account, not affect adversely important landscape characteristics and prominent topographical features". There has been concern voiced by the Parish Council and neighbour comments that some trees have been removed in order to facilitate development. In light of this, the applicants have agreed to a replanting scheme along the eastern boundary of the gym which is shown within the submitted Arboricultural Impact Assessment and drawing 499 P1 A. The addition of the acoustic fence for the gym and replanting trees in close proximity to the site will help to maintain a woodland feel to the character of the site and again contribute to screen the site from public view and subsequent visual impacts.
81. With the addition of the extended acoustic fence and replanting scheme, officers consider that the gym will not create adverse impacts to the character or appearance of the surrounding or wider area and is therefore compliant with policy.

## Impacts to Neighbouring Amenity

82. Policy DM2 seeks to ensure that new development does not have a detrimental impact on residential amenity, nor the amenities of the wider area. The policy states the amenities of adjacent areas by reason of noise, smell, vibration, overlooking, overshadowing, loss of light or other pollution (including light pollution, or volume or type or vehicular activity generated), must be considered.
83. As the gym is already constructed and in operation, impacts to amenity have arisen during its use. According to the submitted Design and Access Statement, the gyms operating hours are "restricted to 8am-7pm with a 6:45am morning class operating Mon/Wed/Fri in summer". The gym has a maximum of 20 people who can use the gym at any one time with all activities supervised by an instructor from The Health Club. There is a residential housing estate to the east of the site which is accessed via Park Avenue and Lark Valley Drive both from the B1106 road. Due to the existing woodland on site, there are many trees along the eastern boundary of the site which acts as a boundary between the hotel complex and residential estate. The distance between the outdoor gym and the closest residential dwelling is approx. 40m with the gym sitting on a higher ground level than the estate. As noted within the representations, objections to the application include concerns by reason of noise – through instructions being shouted during classes, music playing and light pollution. On the Health Club website, it states that the outdoor gym is predominantly used for workout classes which run at set times through the week (Mon-Sun) from early mornings through to early evening.
84. Private Sector Housing and Environmental Health (PSH & EH) have assessed the application and initially raised concerns that the development could cause adverse impacts. A noise assessment was submitted by the applicants which was undertaken by 'Sound Acoustics Ltd' and provided three scenarios for mitigation of noise. Scenario 1 proposed that no mitigation was implemented, Scenario 2 explored the option and viability of using wireless overhead headphones to create a 'silent disco' environment for class attendees – this would mean that music and instructions could be announced by the instructor at normal speaking levels and then heard through the headphones throughout the class. However, concern was raised by Sound Acoustics Ltd, on this option and whether attendees would be comfortable working out while wearing the overhead headphones – particularly when outdoor temperatures rise. Lastly, Scenario 3 suggested the option of extending the acoustic fence by both length and height in order to screen the height of the instructor and therefore mitigate projected noise when the class is running.
85. A site visit was undertaken by PSH & EH to inspect the site and understand the three options further. Following the visit and discussion between Sound Acoustics Ltd, PSH & EH and the managers of the gym and hotel, it was recommended that scenario 3 would provide the best option to mitigate sound. As per comments submitted by PSH & EH on 20 February 2023, it is "unlikely" that the gym, with the fencing provisions, would cause adverse impacts to amenity. Furthermore, amended plans have been received to illustrate the addition of the acoustic fence (of maximum height 3.0m) and details of installation in relation to the surrounding trees.



86. For the lighting concerns, it has been noted that there is an existing light sited adjacent to the storage container to light the gym area during the winter months. This is the only light present within the gym. As per the comments submitted by PSH & EH, a condition to control lighting has been recommended. Officers have reviewed this condition and would amend the wording of the condition so that no external lighting is installed without written consent by the Local Planning Authority (LPA) in order to control and assess any additional lighting within the site. In addition, a condition to control the operational hours of the gym has also been recommended. This has been applied in line with the submitted design and access statement and the comments made by PSH & EH. The condition recommends that the gym may be used between 8:00am – 19:00pm Monday – Sunday which allows for an after-work evening class to finish at 18:30pm allowing a half hour window for equipment to be packed away. The condition also recommends a schedule with three 6:45am classes permitted on Monday, Wednesday, and Friday during the summer months.
87. During the course of the application, details of the gym have been amended in order to mitigate the impacts to the amenity of adjacent neighbours and the surrounding area. Officers consider that with the distance between the gym and the neighbouring estate to the east of the site (approx. 40m) and with the implementation of the acoustic fence and conditions to control its further use, it is unlikely the gym will cause adverse impacts to the amenity of local residents and is therefore compliant with policy DM2.

### **Impact to TPO Trees & Ancient Woodland Concern**

88. Policy DM13 requires all development proposals to 'demonstrate that their location, scale, design and materials will protect, and where possible enhance the character of the landscape, including the setting of settlements, the significance of gaps between them and the nocturnal character of the landscape'. The policy goes on to state that 'where any harm will not significantly and demonstrably outweigh the benefit of the proposal, development will be permitted subject to other planning considerations. It is essential that commensurate provision must be made for landscape mitigation and compensation measures, so that harm to the locally distinctive character is minimised and there is no net loss of characteristic features'.
89. The site of the gym is located within an area of woodland covered by two tree preservation orders which cover St Johns Plantation and the wider site of All Saints Hotel. Place Services have provided comments on the application and assessed the impact to the surrounding TPO trees. In addition, the application has been assessed against policy DM13 and the importance of preserving trees which help contribute to the wider landscape.
90. Impacts to the trees within the site have been a primary consideration of this application. As the trees within the area are protected by a Tree Preservation Order, any works to or removal of trees would need the consent of the LPA. It is acknowledged that any previous damage, harm to or removal of trees within the site to facilitate the construction of the gym cannot be undone. To prevent any further decline of the surrounding trees, mitigation can be secured and implemented by imposing appropriate conditions.

91. Following initial comments made by Place Services on 26 September 2022, a site visit was undertaken in December 2022 to view the surrounding trees on the site and further information was requested from the agent. This included a detailed Arboricultural Impact Assessment (AIA) with details of existing vegetation and landscape features, replacement planting schedule and specifications for maintenance of the site. An assessment was conducted by the Arboricultural specialists 'Haydens' and submitted documents to address matters raised were received by the LPA on 23 January 2023.
92. Following the site visit, the on-site container used to store the equipment was elevated onto wooden sleepers in order to reduce pressure on the roots of the adjacent tree (T001).
93. Concerns were raised on the permeability of the new surface installed for the gym which is within the Root Protection Areas (RPAs) of the remaining trees. Within paragraph 4.4.2 of the AIA, it states that no excavation was required to install the tarmac area and that it is permeable. A video was sent to the LPA confirming that the hardstanding installed is permeable and would allow water to percolate into the soil beneath. Place Services confirmed the evidence provided on the video was acceptable via email on 25 January 2023.
94. Within paragraph 4.7.2 of the submitted AIA, it is noted that the retained trees in close proximity to the gym will be inspected and monitored on a yearly basis. This is illustrated by a table within the submitted AIA. The inspection timings originally were due to commence in Summer 2024, however upon the advice of Place Services this has been brought forward to Summer 2023 and has been acknowledged in the assessment.
95. A replanting schedule is detailed within paragraph 4.6.1 (under Landscape Implications) of the AIA. The assessment states that new planting will be instated within the south-east area of the site and is shown within drawing no. 9809-D-AIA. The replacement trees will include a mix of similar trees which can be found throughout the woodland including European Lime, Sycamore, Scots Pine and English Oak. The trees will be planted with a spacing distance of 1.5m-2.0m between new trees so they have suitable space to grow and establish. A condition is recommended to ensure replacement planting is carried out within a suitable timeframe.
96. In relation to the concerns surrounding whether St Johns Plantation and the TPO area is considered an Ancient Woodland, initial comments from Natural England on 2 October 2022 stated that an investigation was being conducted at the site. Following this comment, the Case Officer requested via email the results of the investigation on 5 October 2022, 15 November 2022 and 8 March 2023, however no response was received up to the time of this report being written. An Arboricultural Officer at West Suffolk Council provided comments of his knowledge of the site. It was noted that on the 1800 Ordnance Survey maps, the golf course site and general area around All Saints Hotel is shown as mixed conifer and broadleaf plantation, which in itself, would indicate the woodland is not ancient. The LPA acknowledges that formal confirmation has not been received on the conclusion of whether the woodland is ancient, however special regard has been given to the existing surrounding trees at the site including suitable measures for their protection.

97. Following receipt of a detailed AIA and replanting plan, officers consider that on balance the mitigation measures to protect the health of the existing trees surrounding the gym does not warrant a recommendation for refusal. Replanting of trees within the site and appropriate monitoring compensates for the loss of trees resulting from the installation of the gym as required within policy DM13. Furthermore, officers consider the concerns on tree loss and future vitality have been addressed.

### **Impact to Public Right of Way (PROW)**

98. Policy DM44 aims to protect PROW routes, it states that development which would adversely affect the character of, or result in the loss of existing or proposed rights of way, will not be permitted unless alternative provision or diversions can be arranged which are at least as attractive, safe and convenient for public use.

99. As noted within the site details, there is a PROW track which runs through the golf course and wider complex of All Saints Hotel. This proposal contains development within the north-east of the overall land occupied by the hotel and has no impact on the PROW route. There is an un-made service track which is annotated on the amended layout plan (drawing no. 488 P1 A) enabling access to the golf course to the east of the application site. The PROW track will not be impacted by the proposal and therefore accords with policy DM44.

### **Conclusion**

100. As the application is retrospective, officers have considered the impacts of the existing operational gym. Throughout the application, there has been negotiation with the agent/applicant, resulting in appropriate mitigation measures to address the concerns in relation to both neighbouring amenity and trees within the site.

101. As discussed above, to alleviate amenity concerns (noise and lighting), the existing acoustic fence is to be extended in both height and length to reduce the amount of noise onto the residential estate to the east. This will be supplemented by a post-completion noise assessment which will be submitted to the LPA. In addition, no external lighting will be installed within the site without prior agreement with the LPA.

102. For the concerns surrounding the trees on the site, a scheme of replanting has been submitted with new trees to be planted towards the south-east of the gym. Yearly monitoring, including a written report, will be undertaken for the retained trees adjacent to the site in order to track the trees health and record any improvement or deterioration which may be associated with the gym.

103. In conclusion, the principle and detail of the development, subject to conditions, is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

## Recommendation:

104. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents, unless otherwise stated below:

Reference number	Plan type	Date received
499 P2	Proposed elevations & floor plans	5 August 2022
499 BP2	Proposed block plan	5 August 2022
499 P1	Layout	23 January 2023
499 SL1	Location plan	23 January 2023
499 ABF 1	Accoustic fence	23 January 2023
(-)	Arboricultural impact assessment	23 January 2023
(-)	Appendix	23 January 2023
9809-D-AIA	Landscape plan	22 November2022

Reason: To define the scope and extent of this permission.

2. A post-completion noise assessment shall be carried out and submitted to and approved in writing by the Local Planning Authority to confirm the extension of the existing acoustic fence has reduced sound levels at the façade(s) of the closest and / or most affected noise sensitive receptor(s) by at least 5 dB and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to first use of the development and thereafter be permanently retained.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

3. No external artificial lighting other than that which forms part of the development hereby permitted shall be installed unless submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent light pollution and protect the amenities of occupiers of properties in the locality, in accordance with policy DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

4. Any trees within or near to the site shall be protected in accordance with the requirements of BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction'. The protection measures shall be implemented prior to any below ground works and shall be retained for the entire period of the duration of any work at the site, in connection with the development hereby permitted.

Reason: To ensure that the trees and hedges on site are adequately protected, to safeguard the character and visual amenity of the area, in accordance with policies DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies. This condition requires matters to be agreed prior to commencement of development to ensure that existing trees are adequately protected prior to any ground disturbance.

5. The development shall be carried out strictly in accordance with the submitted Arboricultural Impact Assessment (AIA), including the Appendix Letter, undertaken by 'Haydens - Arboricultural Consultants' received by the LPA on 23 January 2023.

Reason: To ensure that the trees on site are adequately protected, to safeguard the character and appearance of the area, in accordance with policy DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

6. Within 3 months of the granting of permission or the next available planting season (whichever is sooner), the replacement planting shall be implemented in accordance with the submitted Arboricultural Impact Assessment and Appendix letter (undertaken by Haydens – Arboricultural Consultants) received on 23 January 2023 and the Local Planning Authority shall be advised in writing that the replanting has been carried out. If any replacement tree is removed, becomes severely damaged or becomes seriously diseased it shall be replaced with a tree of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To preserve trees and hedges on the site in the interest of visual amenity and character of the area, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

7. The opening hours of the outdoor gym shall be restricted to the following hours:

08:00am - 7:00pm Monday to Sunday, with three 45-minute classes starting at 06:45am permitted on Monday, Wednesday, and Friday in the Summer months (1<sup>st</sup> June – 31<sup>st</sup> August).

Reason: To minimise the impact of the development on the locality in the interests of amenity in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

## **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/22/1378/FUL](#)