

# PLANNING APPLICATION NUMBER: P19/0241

Type of approval sought	Full Planning Permission
Ward	Wollaston and Stourbridge Town
Location:	<b>UNITS 1-3, LINKWOOD INDUSTRIAL ESTATE, BRADLEY ROAD, STOURBRIDGE, DY8 1UN</b>
Proposal	<b>VARIATION OF CONDITION 3 OF PLANNING APPROVAL P18/1398 TO BE REVISED TO 'THE PREMISES SHALL NOT OPEN TO THE PUBLIC BEFORE THE HOURS OF 07:00 NOR AFTER 22:00 MONDAY TO THURSDAYS AND BANK HOLIDAYS, BEFORE 07:00 NOR AFTER 01:00 ON FRIDAYS AND SATURDAYS AND BEFORE 07:00 NOR AFTER 17:00 ON SUNDAYS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

## SITE AND SURROUNDINGS

1. The application site comprises three units within a row of six brick built industrial buildings located within the Linkwood Industrial Estate. Directly to the north of the site is the river Stour, to the east and west is vacant industrial land. Opposite the site is a commercial building known as "Glove House" and there are residential properties to the south-east. The site is used as a gym/fitness centre and has an ancillary function room.
2. The proposal site lies within housing opportunity site S9 (Bradley Road West) of the Stourbridge Area Action Plan. The site is also identified as part of the larger "Former Foster and Rastrick and Tudor Dairies" site within the Dudley 2016/2017 Strategic Housing Land Availability Assessment (SHLAA).

## PROPOSAL

3. The proposal seeks the variation of condition 3 of planning approval P18/1398:  
  
The current working of Condition 3 is:

*“The premises shall not be open to the public before the hours of 07:00 nor after 22:00 Monday to Friday, before 08:00 nor after 17:00 on Saturdays and before 09:00 nor after 17:00 on Sundays and Public Holidays”*

When first submitted the application was for the condition to be amended to:

*“The premises shall not open to the public before the hours of 07:00 nor after 22:00 Monday to Thursdays and Bank Holidays, before 07:00 nor after 01:00 on Fridays and Saturdays and before 07:00 nor after 17:00 on Sundays”.*

On the basis of complaints received and at the request of the Council’s Environmental Safety and Health team the condition has been amended to:

*“The premises shall not open to the public before the hours of 07:00 nor after 22:00 Monday to Friday, before 07:00 nor after 17:00 on Saturdays, before 09:00 nor after 17:00 on Sundays and before the hours of 09:00 nor after 22:00 on Public Holidays. These hours restrictions shall be adhered to with the exception of the extension of the opening hours to the premises not being open to the public before the hours of 07:00 Fridays nor after 01:00 (Saturdays) or before 07:00 (Saturday) nor after 01:00 (Sunday) for a total of twelve times only within a calendar year, and not more than two times in one calendar month.*

*REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).”*

## HISTORY

### 4. Recent relevant history

<b>APPLICATION No.</b>	<b>PROPOSAL</b>	<b>DECISION</b>	<b>DATE</b>
93/51215	Change of use from B2 General Industrial to D2 Gymnasium	Temporary permission	23/09/1993 Expired

		granted	30/09 /1998
P02/0725	Use of premises as a health centre and gymnasium together with ancillary bar/snack bar and installation of external staircase	Temporary permission granted	08/07/2002 Expired 30/06/2007
P07/1237	Renewal of planning permission P02/0725 for use of premises as a health centre and gymnasium with ancillary bar/snack bar	Temporary permission granted	10/08/2007 Expired 15/08/2012
P18/1398	Change of use to Gymnasium (D2) (part retrospective)	Approved	22/11/2018

5. Planning application 93/51215 related to unit 2 only and applications P02/0725 and P07/1237 related to units 1 and 2 only.

## PUBLIC CONSULTATION

6. Four letters were sent to adjacent and nearby commercial premises and a Site Notice was put up. Eight letters of objection have been received which make the following comments:

### Principle/Amenity Issues

- It is a residential area undergoing regeneration with the medical centre and housing. To allow this would be a backward step and encourages criminal damage from drunken behaviour;
- The gym is a great community asset but the nightclub is less so;
- The gym should be run as a gym only, the function room brings disruption to a residential area;
- In the summer months the gym opens its doors and windows and music from the classes can be heard in rooms at the rear of nearby houses;

- Question whether the building has sound proofing or insulation and is not therefore suitable for the functions. It has not been modernised for its new purpose;
- The frontage of the building is has an unsealed timber frame with single glazed units which does not protect residents from noise pollution;
- Strong floodlights already shine to the rear of my house. Increased hours will increase the length of time that these are on;
- The only exit from the venue is through an otherwise quiet housing estate which is often swamped by up to 150 people coming out after 2am

#### Existing Anti-social Behaviour

- Loud music, noise, shouting and screaming and disturbance in the street late into the evening;
- The sleep of adults, children and animals are disturbed;
- Broken glass in road and bottles thrown into gardens;
- Urinating in public;
- Violent altercations;
- Damage to residents vehicles and parking;
- Litter;
- Congested road making it difficult for residents to park;
- Hand powered roller shutter doors create unacceptable levels of noise when opened and closed;
- Issues in the past have not been listened to or dealt with

#### Early morning start

- 7am start on Sundays would be negative for residents;

- Noise disturbance from traffic early in the morning and from the gym use

## OTHER CONSULTATION

7. Head of Planning and Development (Highway Engineer): No objections. The change of hours from 9am to 7am should not create any issues on the surrounding public highway network. The later opening on Friday and Saturday nights through to 01:00am the following morning again will not create congestion issues on Bradley Road however, general vehicle idling and movements create some disturbance to residents that will need to be considered separately by environmental officers.
8. Head of Environmental Health and Trading Standards:

**Initial comments:** It is noted that this application relates to the variation of hours of opening of the premises related to its use as a gymnasium. I raised no objection to the granting of retrospective planning permission for a gymnasium under planning approval P18/1398, without recommending restrictions on hours of opening, and there has been no material change in circumstances since granting of that approval that would justify objection to the current application. There have been sporadic complaints over the last few years from residents about disturbance from loud music but these complaints have been resolved by taking practical measures such as ensuring that doors to the building facing residential properties have been kept closed, and ensuring that use of the first floor lounge as a function room is controlled to keep music at a level that does not adversely affect residents in the area. There is therefore no objection to the application.

**Further comments:** It may be that the lack of complaint underestimates the impact of activities at the gym in the neighbourhood, and it is noted that the objections include concern over disturbance from the use of the premises for functions rather than use as a gym. There is insufficient evidence available to warrant a recommendation of refusal but it may be appropriate to impose additional control over the use of the premises for functions including a temporary permission, the

restriction of the number of functions per year and the requirement to fully close windows facing the residential area during the use of the premises in the extended hours.

## RELEVANT PLANNING POLICY

### 9. National Planning Guidance (2018)

The revised National Planning Policy Framework (2018) sets out the Government's planning policies for England and how these should be applied. Applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Its overarching principle is that plans and decisions should apply a presumption in favour of sustainable development.

### 10. Black Country Core Strategy (2011)

Policy HOU1 Delivering Sustainable Housing Growth

Policy EMP2 Actual and Potential Strategic High Quality Employment Areas

Policy EMP3 Local Quality Employment Areas

Policy EMP4 Maintaining a Supply of Readily Available Employment Land

Policy CEN7 Controlling Out-of-Centre Development

Policy TRAN2 Managing Transport Impacts of New Development

Regeneration Corridor 11b Brierley Hill to Stourbridge

### 11. Dudley Borough Development Strategy (2017)

Policy S2 Planning for a Healthy Borough

Policy S19 Dudley Borough's Green Network

Policy S27 River Stour and its Tributaries

Policy L1 Housing Development, Extensions and alterations to existing Dwellings

Policy L8 Protecting the Viability and Integrity of Industrial Business Uses

## Policy D5 Noise Pollution

12. Stourbridge Area Action Plan (2013)  
Bradley Road West Development Opportunity Site (S9)
13. Supplementary Planning Documents/Guidance  
Parking Standards SPD

## ASSESSMENT

### Key issues

- Background
- Variation of condition 3

### Background

14. Planning approval granted on 11<sup>th</sup> November 2018 (P18/1398) gave permission for the change of use of the three units (1-3) to a gymnasium (D2) with no elevation changes. Ancillary uses included a coffee lounge, beauty room crèche and a bar. Temporary approvals for a gymnasium had previously been granted on units 1 and 2. The application gave full permission for the change of use and also included the adjacent unit 3.
15. In granting approval, consideration was given to the amenity of local residents. Whilst the Head of Environmental Health and Trading Standards raised no concerns regarding the change of use, it was considered reasonable that the hours of opening were restricted. Hence the requirement for condition 2 of planning approval P18/1398.
16. In considering the application for the change of use (P18/1398) the Head of Planning and Development (Highway Engineer) noted that units 1 and 2 had operated as a fitness centre for a number of years with no highway complaints received therefore

the expansion of the use into unit 3 was not envisaged to create any significant highway safety issues.

### Variation of Condition 3

17. The application is for the variation of condition 3 which restricts the hours of operation of the premises. The current hours restriction is:

- 07:00 to 22:00 Monday to Friday,
- 08:00 to 17:00 on Saturdays
- 09:00 to 17:00 on Sundays and Public Holidays

The new hours of operation requested are:

- 07:00 to 22:00 Monday to Thursdays and Public Holidays
- 07:00 to 01:00 on Fridays and Saturdays
- 07:00 to 17:00 on Sundays

18. The opening hours of the premises would remain the same on Mondays to Thursdays, whilst Fridays, Saturdays and Bank Holidays would increase. The application applies to open at 07:00 every morning for gym use however, following discussions, the applicant has agreed to retain the existing opening hours for the gym to 09:00 on Sundays and Public Holidays. This would go some way to overcome the concerns raised from neighbours regarding early morning starts.

19. It has become apparent that the reason for the requested later opening hours on Fridays and Saturdays is to allow for the occasional evening function to take place at the premises. It is understood, that the lounge and part of the gym of unit 2 are used for functions generally comprising children's parties during the day and also, several times of the year, it stays open late in the evening for private parties.

20. Given the level of objections received, the Head of Environmental Health and Trading Standards has considered the matter further and has speculated that it may be that the lack of complaints received underestimates the impact of activities at the gym in the neighbourhood. It is noted that the objections include concerns over disturbance from the use of the premises for functions rather than use as a gym. He concludes however that there is insufficient evidence available to warrant a recommendation of refusal but considers that it may be appropriate to impose additional control over the use of the premises for functions including the restriction of the number of functions per year and the requirement to fully close windows facing the residential area during the use of the premises during the extended hours.
21. Having spoken to the applicant he is willing to accept a condition to restrict the late night opening to twelve only within a twelve month period and that on every other Friday and Saturday within the twelve month period the existing opening hours (Friday to 22:00 and Saturday to 15:00) would apply. On this basis, it is considered that the application can be supported as it is not considered unreasonable for the premises to open for a function on average once a month. To further protect residential amenity, a further condition could ensure that all windows facing the residential area would remain shut during these twelve functions during the extended opening hours. It is also expected that such functions would be controlled under the statutory Licensing regime administered by the Council.

## CONCLUSION

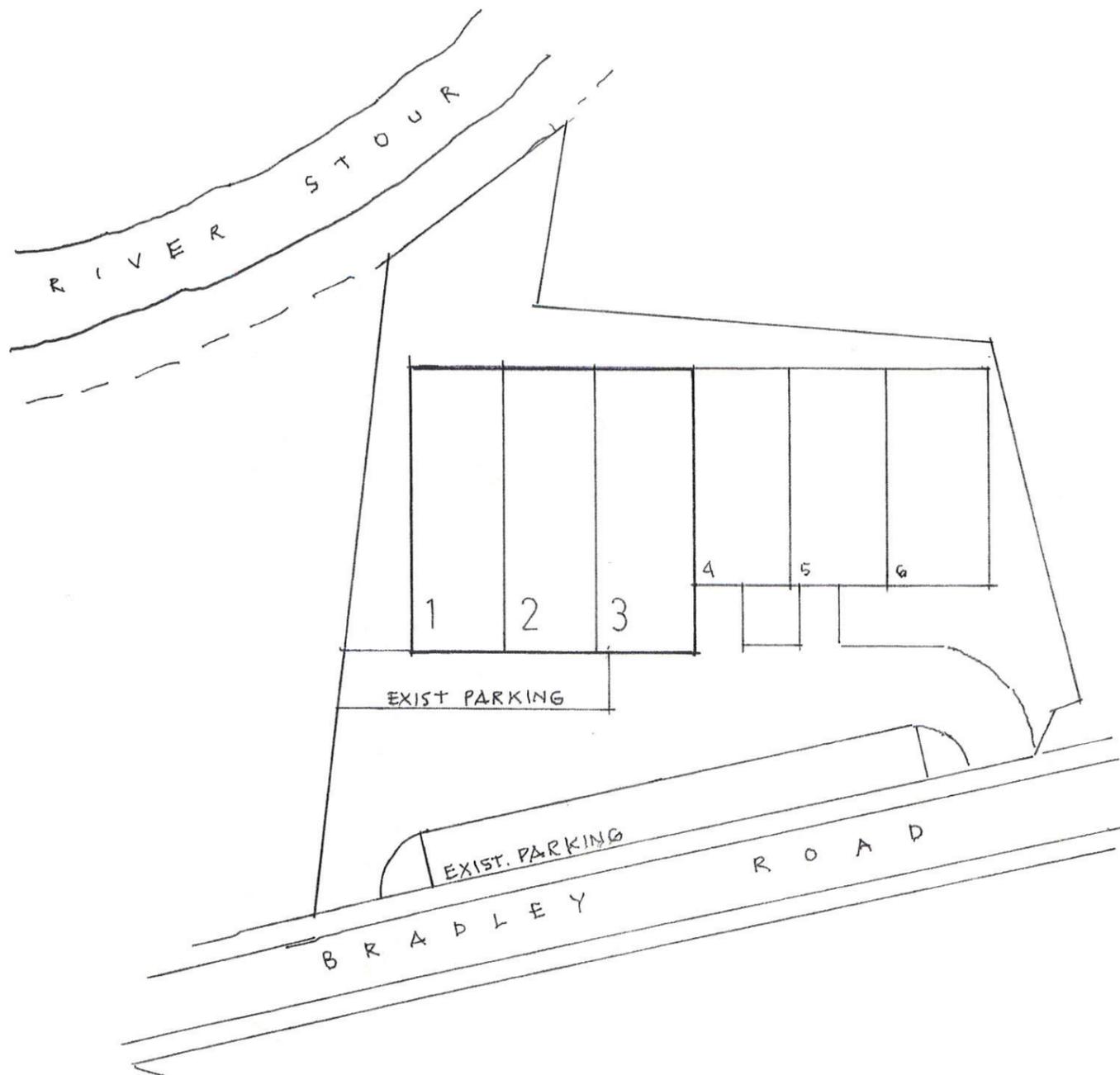
22. The variation of the wording of condition 3 (of planning approval P18/1398) to increase the opening hours of the establishment can be supported, with the amendments to the opening hours and the use of further conditions to overcome concerns regarding residential amenity. On this basis the application would accord with the National Planning Policy Framework, Policies HOU1, EMP2, EMP3, CEN7 and TRAN2 of the Black Country Core Strategy and Policies S2, S19, S27, L1, L8 and D5 of the Dudley Borough Development Strategy and Parking Standards Supplementary Planning Document.

## RECOMMENDATION

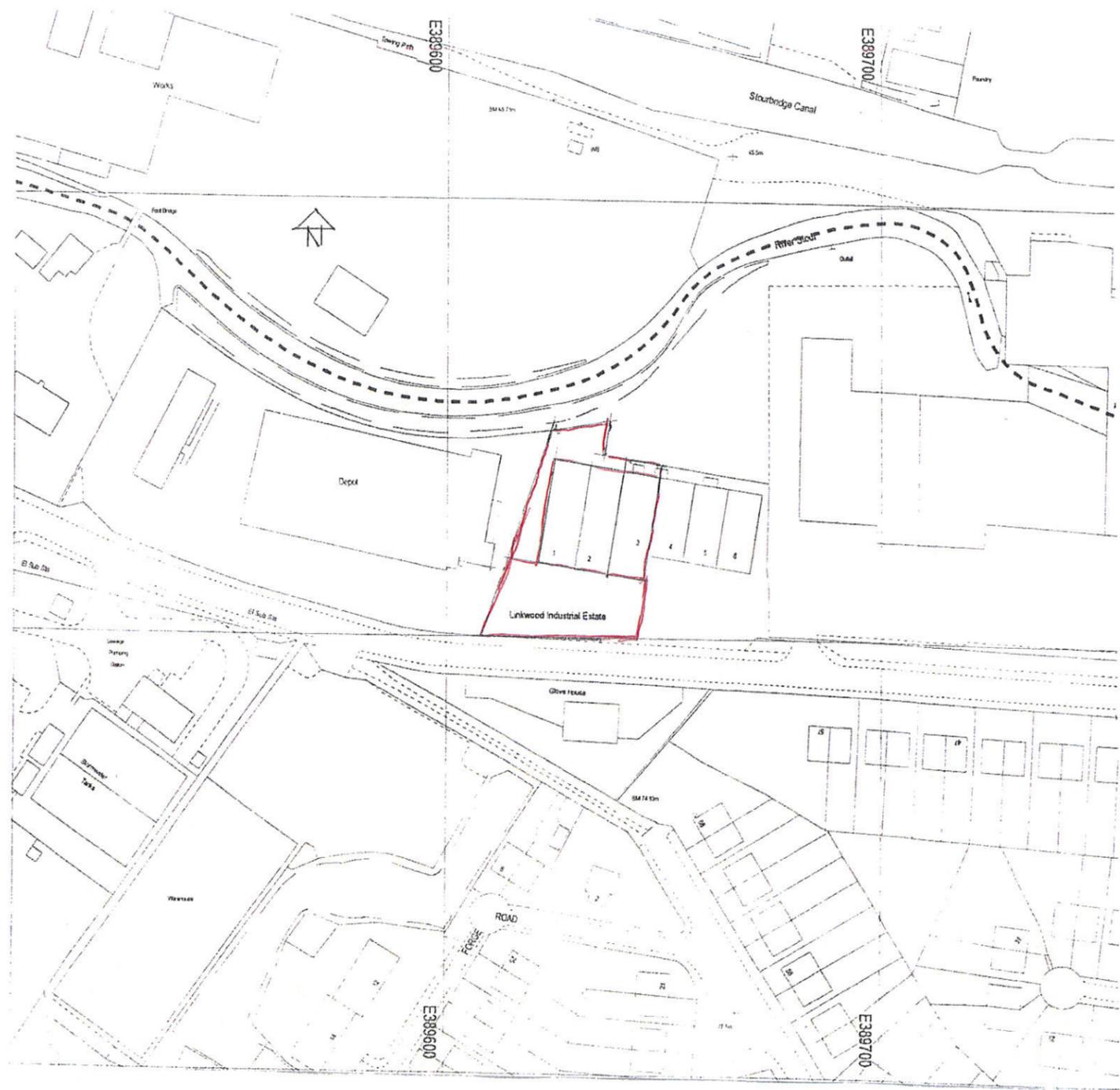
23. It is recommended that condition 3 be amended:

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location/site plan and floorplan/elevation plan both received on 6th March 2019  
REASON: For the avoidance of doubt and in the interests of proper planning.
3. The premises shall not open to the public before the hours of 07:00 nor after 22:00 Monday to Friday, before 07:00 nor after 17:00 on Saturdays, before 09:00 nor after 17:00 on Sundays and before the hours of 09:00 nor after 22:00 on Public Holidays. These hours restrictions shall be adhered to with the exception of the extension of the opening hours to the premises not being open to the public before the hours of 07:00 Fridays nor after 01:00 (Saturdays) or before 07:00 (Saturday) nor after 01:00 (Sunday) for a total of twelve times only within a calendar year, and not more than two times in one calendar month.  
REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).
4. All windows on the front elevation of the units shall remain closed before the hours of 07:00 and after 22:00 Monday to Friday, before 07:00 nor after 17:00 on Saturdays, before 09:00 nor after 17:00 on Sundays and before the hours of 09:00 nor after 22:00 on Public Holidays.  
REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).

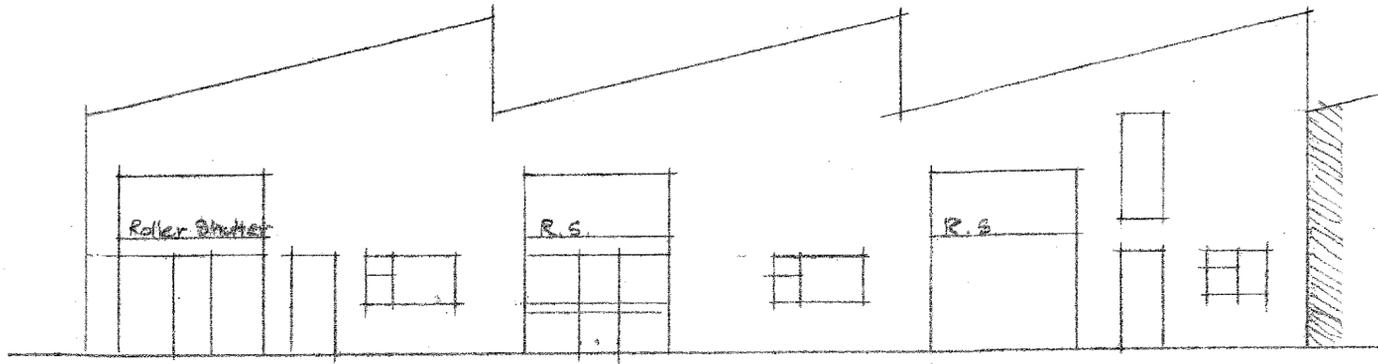


1.500 SITE PLAN

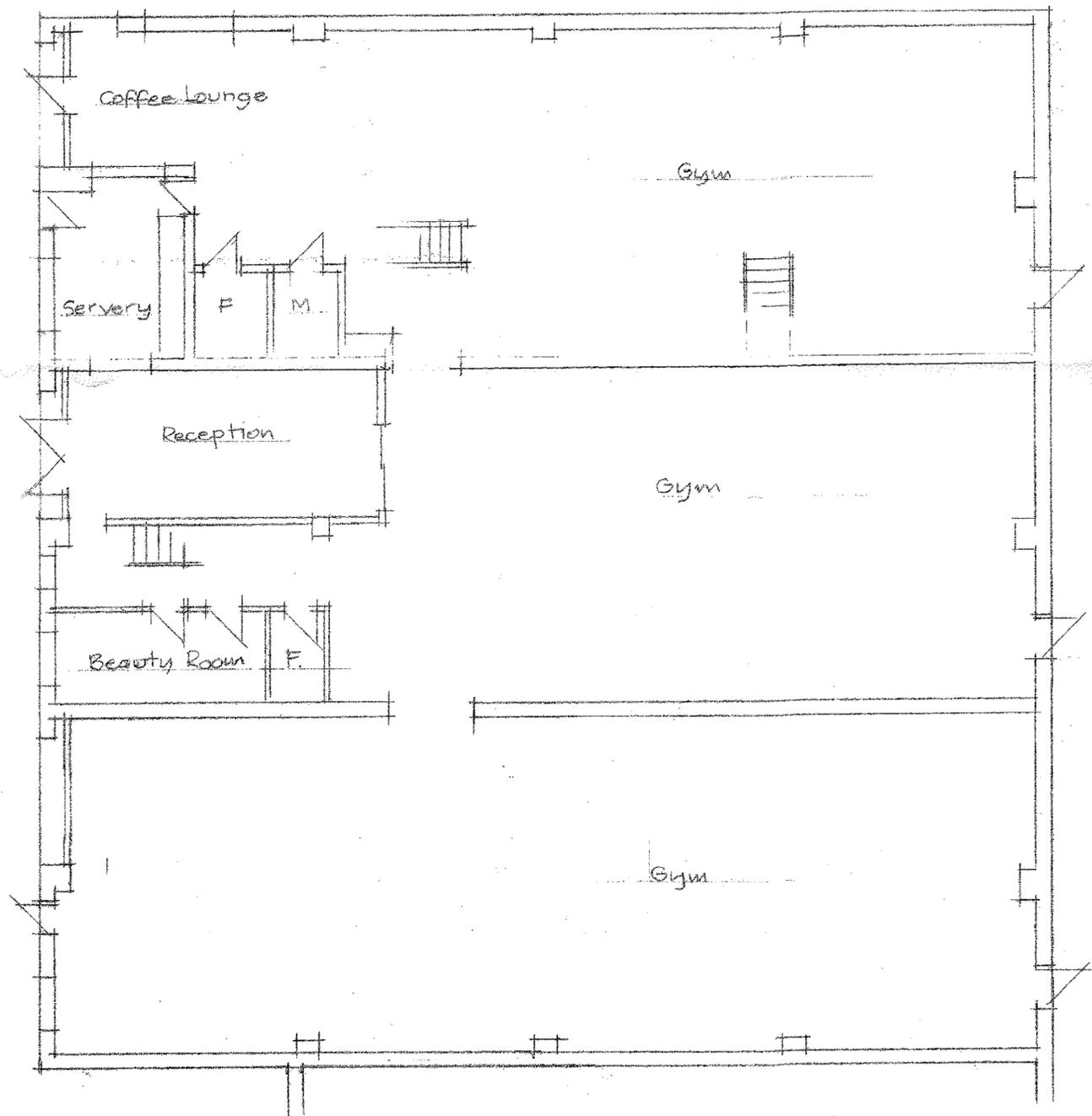


1.1250 LOCATION

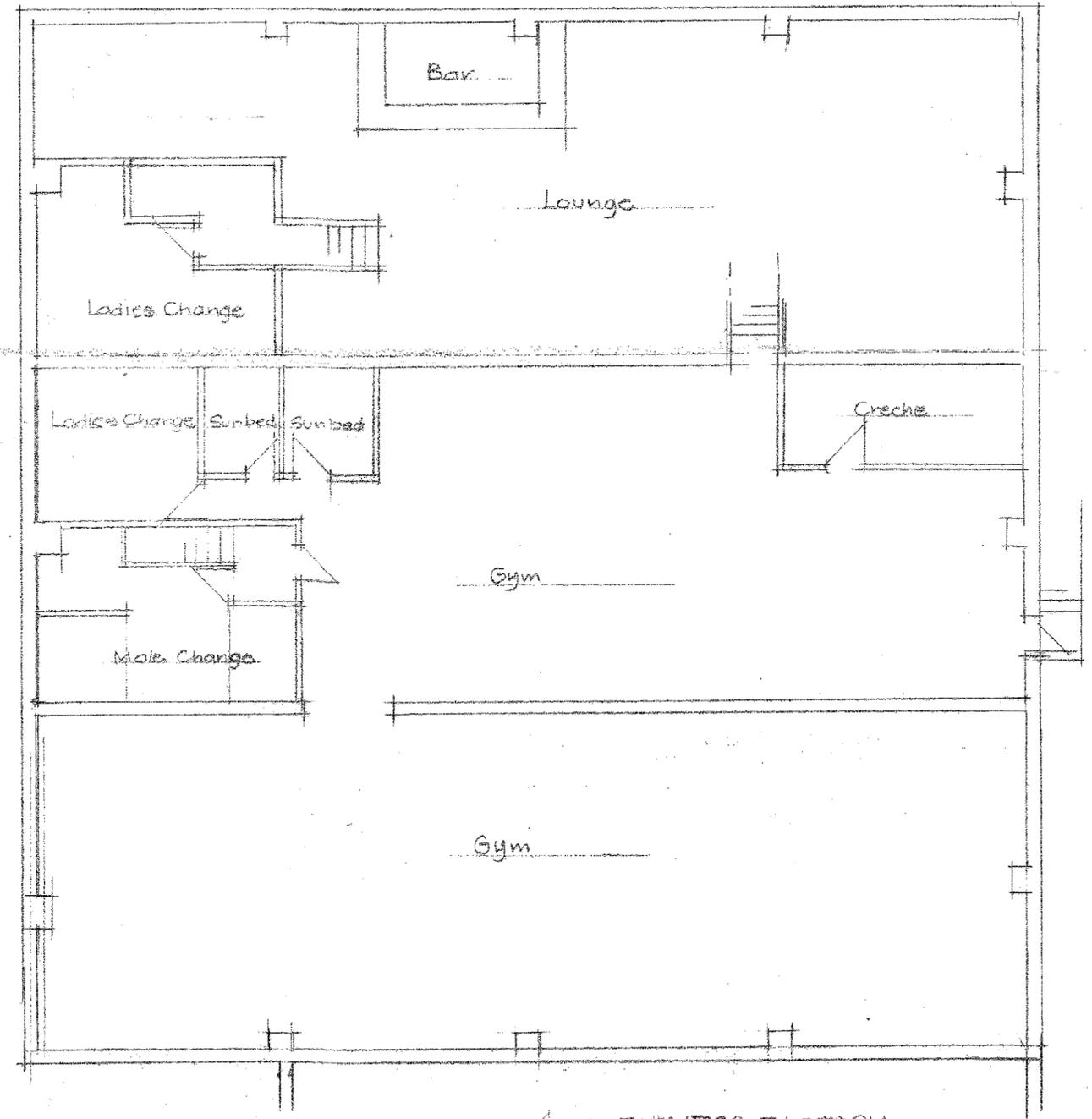
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FRONT ELEVATION



GROUND FLOOR 1:100



FIRST FLOOR

THE FITNESS FACTORY  
 UNITS 1, 2 + 3 LINKWOOD IND. ESTATE  
 BRADLEY ROAD WOLLASTON DY8 1UN