

Response to Application 26/01125/S73 at Units 1 to 6 Glovers Court

The Applicant has been required to submit a planning application to regularise the presently unlawful use of the amalgamated premises (Units 1 to 4) at Glovers Court as a Class E(d) gym. It is questionable whether a Section 73 ('S.73') application is the appropriate mechanism for this regulation given the description of the development from the original 1987 consent specifically relates to six workshop units, whereas the amendment relates to permitting a gym use, not a workshop, and four of the originally approved units have been combined into one which arguably creates a new planning unit.

In this regard, it is also relevant to note that the application has been submitted as, and registered as, Unit 1-4 Glovers Court, Hitchin, with a red line site boundary around these units only. However, as it is a variation to application 87/01900/1, it should refer to Units 1 to 6 Glovers Court, despite the proposed variation not specifically relating to Units 5 or 6. Procedurally, a S.73 permission results in a new planning permission which will supersede the 1987 permission and therefore must relate to the original development as a whole and cannot amend the original red line site area. The covering letter states that approved existing floor plans and site layout plans have been enclosed, but these are not included within the submitted application documents. While the agent may argue that the building already exists and that the S.73 relates only to the amendment of the restrictive use condition, this is not appropriate given the physical alterations that have been made to the units. Updated plans should therefore be provided. The absence of this information further highlights the inappropriateness of a S.73, as presently, if this permission were granted it would be impossible for the development to be in accordance with the originally approved plans.

Nevertheless, the principal reason the current breach is known to the LPA and requires regularisation is due to neighbour complaints about the severe disruption the unauthorised gym's operations have been causing to nearby homes. Therefore, regardless of the mechanism for regularising the current breach, the most critical consideration for officers must be securing adequate amenity for neighbouring occupiers via details and robust conditions which can be readily enforced.

The agent's Planning Statement outlines that in determining an application under S.73, the Council must only consider the condition that is the subject of the application and any consequential amendments arising from it. In this case, as the S.73 application will enable a new use to occupy the existing development, it is relevant to undertake a fresh assessment of all material matters which would arise from this new use as if the application were a full application. In this case, this means noise, parking, impact of employment floorspace and residential amenity.

It is also necessary to assess the application under current planning policy, in so far as it is relevant to the new use. In this respect, Local Plan Policy D3 (Protecting living conditions) requires development proposals to not cause unacceptable harm to living conditions. Under this policy, where the living conditions of existing development (in this case, homes) would be affected by a proposed use, the Council must be satisfied that there are mitigation proposals in place which would address the identified harm. If the Council is not satisfied that mitigation proposals would address the identified harm, the application should be refused.

Since occupying in June 2025, the gym operator has operated in a manner which has not maintained neighbour amenity, with amplified music, shouting and other operational noises readily audible from inside adjacent properties and their gardens. This has been exacerbated by the gym predominantly operating with its doors open, as well as activities taking place in the car park area. Evidence of this, including dates and times, can be provided.

It is also particularly pertinent to note that existing condition 3 on the 1987 permission was specifically imposed to maintain neighbour amenity. To my knowledge, between the construction of Glovers Court in the late 1980s and the occupation of Units 1–4 by Hub Fitness in 2025, there had been no amenity issues, with Units 1–6 successfully operating as business units without complaints from neighbours. Notably, Units 1–4 were occupied under Class E(g)(ii) from January 2011 to January 2023 without any known amenity issues arising.

It is therefore unclear why the proposed wording of the varied condition removes the previous Class E(g) use, when this has historically formed part of the permitted use of the units and has operated without known amenity impacts. If the applicant is seeking to vary the condition from B1/B8 to E(d)/B8, the omission of Class E(g) should be clearly explained and justified. In the absence of such justification, it is difficult to understand why a historically acceptable employment use would be removed while a more amenity-sensitive Class E(d) use is introduced.

Given the site is within a safeguarded employment area, planning permission for other non-employment uses should only be granted as an exception under Policy ETC1. Such an exception should not be made for an unneighbourly use which jeopardises both neighbouring amenity and the proper functioning of the employment area.

Given that employment uses have operated here with no issues, it is all the more evident that the operations of the gym have been inappropriate and brings strongly into question whether the larger, amalgamated unit can or should be supported as a gym use in such close proximity to neighbours. The unit is less than 10 metres from the rear gardens of neighbouring residential properties on Stormont Road and Heathfield Road. Therefore, unless evidence is provided to confirm that noise can be controlled, no amplified music or speech should be

permitted from the premises. The most robust way to assess and secure noise limits would be to require a Noise Impact Assessment to be undertaken via a survey of background noise levels and setting a maximum noise limit for the gym which should not be exceeded. Such an assessment must be undertaken on a day when the gym is not in use to provide an accurate reading. The Assessment is likely to demonstrate that the gym will require mechanical ventilation on the basis that doors cannot be left open without unacceptable noise impact, and the applicant should be required to provide a scheme of internal noise insulation measures to ensure there is no inappropriate noise spill from the building. It should also be noted that any mechanical ventilation should not cause harm to neighbouring properties, and a detailed impact assessment should be required for any proposed offset mitigation measures.

The submission of the Noise and Operations Management Statement is noted and welcomed. However, to date, the occupier has not implemented or complied with many of the mitigation measures outlined in their submission, including since the S.73 application was submitted. Additionally, the Operational and Compliance Log is misleading, as all engagement with the EHO has been reactive to noise complaints rather than preventative from the occupier.

The Management Statement is also not considered to go far enough with its measures. It should be updated to state that all doors at the premises, including the loading doors and newly installed (without planning permission) glazed bi-fold doors, must remain closed at all times. The Applicant would not appear to have any intent to keep doors closed during operations, as otherwise they would not have installed bi-folding doors without the requisite consent. It is also notable that these doors are not shown in any of the images submitted with the application. In addition to updating the Management Statement, noise surveys should be undertaken, and a scheme of noise insulation should be implemented. It is also considered necessary to specifically impose a condition outlining permitted hours of operation for the gym, as the occupier has been operating outside of the hours stated in the submitted Management Statement.

Given how the unit has operated to date, it is all the more critical that the LPA can be certain that such mitigation measures can be robustly secured as part of any decision on this application, in a manner which would enable strong enforcement of such measures. Some suggested conditions are outlined below, but these are subject to further alterations being made to the submitted details prior to any decision being made and the LPA considering whether some of these details, namely a scheme of noise insulation, should be submitted upfront to ensure amenity can be maintained.

Suggested Conditions

1. Proposed revised condition 3:

Units 1–4 of the workshop units hereby permitted shall only be used for purposes included within Class E(g), Class B8 (Storage and Distribution) and Class E(d) (Indoor sport, recreation or fitness) of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order.

Units 5 and 6 of the workshop units hereby permitted shall be used only for purposes included within Class E(g) and Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order.

2. Any Class E(d) occupier within Units 1–4 Glovers Court must at all times operate in full compliance with the approved Noise and Operations Management Statement and shall continue to do so in perpetuity. The approved measures shall not be varied, replaced, or removed without formal planning consent for such changes granted by the Local Planning Authority.
3. Amplified music and amplified voice (to include internal or external amplified) is not permitted on site at any time unless a Noise Impact Assessment has been submitted and approved which demonstrates, via noise surveys, that the same is not audible from the nearest noise receptor (rear gardens of Heathfield Road and Stormont Road).
4. For the avoidance of doubt, Unit 1 to 4 shall only operate between the following days and times:
- 07:00 – 20:00 Monday to Friday
08:00 – 11:00 Saturdays
- And shall not be used at all on Sundays or Bank Holidays.

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