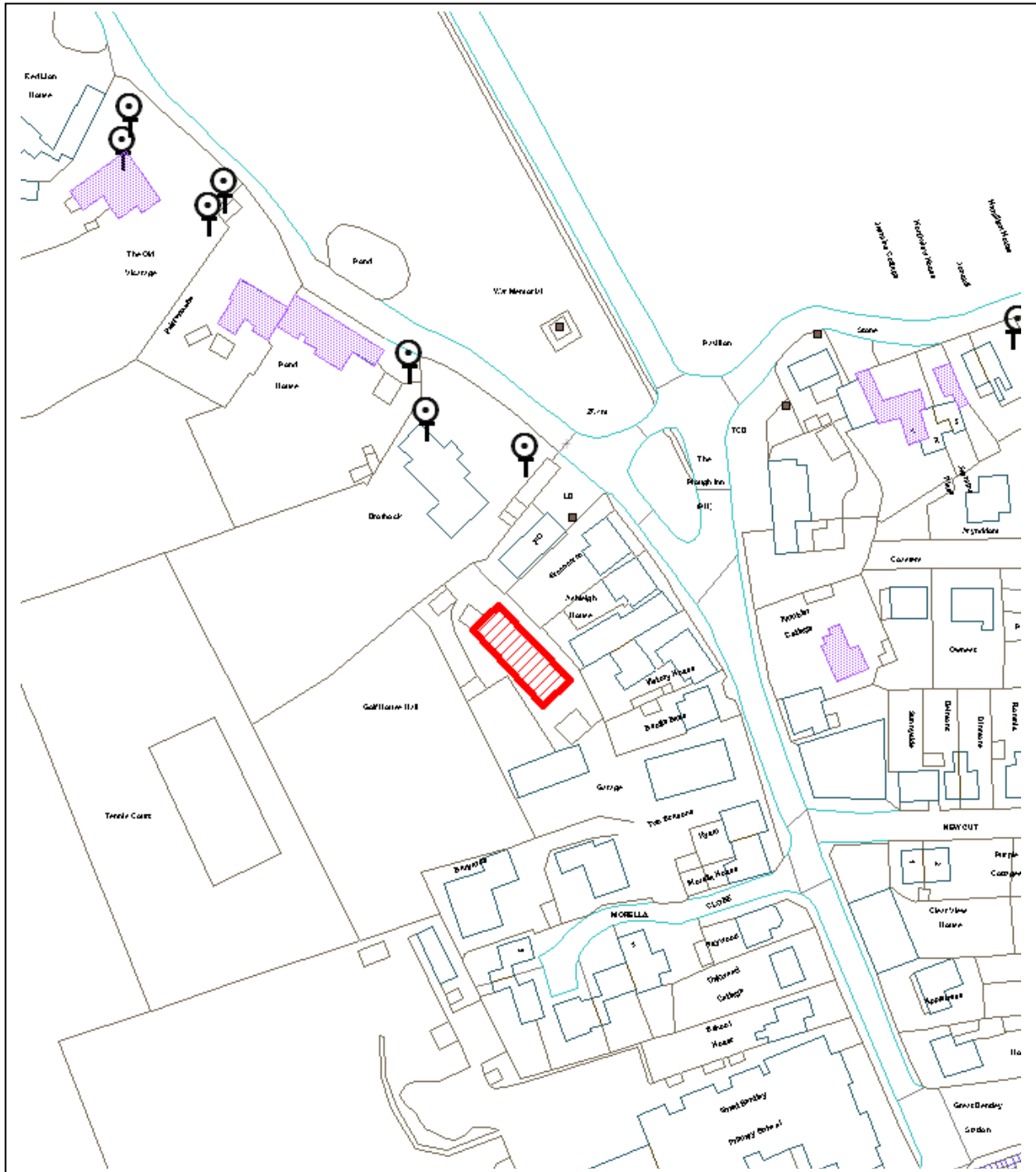


PLANNING COMMITTEE

8 FEBRUARY 2012

REPORT OF THE TEMPORARY HEAD OF PLANNING

A.4 PLANNING APPLICATION - 11/01436/FUL - GOLFE HALL, PLOUGH ROAD, GREAT BENTLEY, COLCHESTER, CO7 8LA



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application:	11/01436/FUL	Town / Parish: Great Bentley Parish Council
Applicant:	Mr K Wisbey	
Address:	Golfe Hall, Plough Road, Great Bentley, CO7 8LA	
Development:	Variation of Condition 01 and Condition 03 of planning permission 00/01102/FUL to alter the opening hours and allow the use of amplified music.	

1. Executive Summary

- 1.1 This application is brought before Members at the request of Councillor McWilliams.
- 1.2 The application is not concerned with the use itself, as the application is only for the variation of conditions.
- 1.3 The application seeks earlier opening hours, but compensates by closing earlier on weekday evenings, Saturday afternoons and public holidays plus being closed all day Sundays meaning the overall impact on residential amenities is reduced.
- 1.4 The application also seeks the use of a central hi-fi system for the duration of the opening hours. Public Experience (Environmental Health) has no objections to the variation from the permitted 'basic tape recorder' provided it is only operated with doors and windows closed to protect the residential amenity of neighbouring properties.
- 1.5 Both the opening hours and noise can be controlled by condition. Therefore, in the absence of any material adverse impact resulting from the development, the proposals accord with the provisions and policies of the development plan and the application is acceptable.

Recommendation: Approve

Conditions:

- **Opening hours.**
- **Doors and windows to be closed during opening hours.**

Reason for Approval:

In approving this application, the local planning authority has taken account of all planning considerations material to its determination, particularly the impact on residential amenities and highway safety and the representations made. In the absence of any material adverse impact resulting from the development the proposals accord with the provisions and policies of the development plan.

2. Planning Policy

Local Plan Policy

Tendring District Local Plan 2007

QL11 Environmental Impacts and Compatibility of Uses

EN17 Conservation Areas

TR1A Development Affecting Highways

Core Strategy and Development Policies Proposed Submission Draft

DP1 Design of New Development

3. **Relevant Planning History**

99/00824/FUL	Change of use of redundant workshop to children's gymnastic club	Temporary Permission	30.07.1999
00/01102/FUL	Change of use of redundant workshop to children's gymnastic club - Renewal of planning permission 99/00824/FUL	Approved	17.08.2000

4. **Consultations**

Great Bentley Parish Council Object for the following reasons;

- The extension of hours will significantly impact on the enjoyment of the neighbouring houses.
- The increase in traffic.
- Location of this gym is not suitable given the number of vehicles it attracts to what is the most heavily congested area of the village.
- Amplified music continuously late at night and early in the morning will impact on the neighbouring properties.

The Highway Authority No objections.

Environmental Health No objections subject to the following;

- The gym, and the use of amplified music, is only operated with doors and windows closed to protect the residential amenity of neighbouring properties.
- Appropriate ventilation may be considered via air conditioning to which consideration should be given regarding the appropriate siting of any external a/c units.

5. **Representations**

5.1 14 letters of representation received, 8 of objection and 6 of support (2 identical).

5.2 Objections can be summarised and addressed as follows;

- Inappropriate place for a gym.

As this is an application for the variation of conditions the issue of principle is not a material consideration.

- Parking has become increasingly difficult and hazardous.
- Parking at the gym cannot be used as shared access in constant use by the Post Office.
- Original permission was for drop off point only.
- Visibility obstructed by parked cars when crossing the road.
- Extension of hours could worsen the existing congestion problems in this central location.

Highway safety and parking has been addressed in the main report below.

- Amplified music for long periods is a nuisance to the residents – early morning till evening.
- 7am is unreasonably early as the access is directly beside our bedroom and living rooms.
- Change in hours would be detrimental to the security of our home.
- Too close to properties causing overlooking.

Residential amenity has been addressed in the main report below.

5.3 Letters of support can be summarised as follows;

- A gym in the village is an asset – allows more local residents to benefit from healthy lifestyle.
- Parking in the village often proved challenging before the gym opened.
- It must be allowed to cater for people in employment as well as those using it during the day.
- Creates employment.
- Encourages positive behaviour.
- Virtually invisible from the road.
- Noise problems from the music can be resolved by conditions of any permission granted.
- Gym is used most in early evenings when school and shop traffic is reduced.
- The gym and staff are a credit to Great Bentley.
- The benefits far outweigh the objections.

6. Assessment

6.1 The main planning considerations are:

- Planning History;
- Condition 1 – Opening Hours; and,
- Condition 3 – Amplified Music.

Planning History

6.2 Planning permission was granted for a change of use to a Children's Gymnastics Club under planning reference number 99/00824/FUL for a temporary period expiring 28th July 2000. The reason for the temporary condition was unclear stating 'the proposed development is not considered appropriate to warrant the grant of a permanent permission' but does not explain why. Officer notes on the file state 'little direct impact upon adjacent properties. Limited use. Suggest temp consent to assess'. During the consultation period of the application Environmental Health requested that 'music be kept to a minimum' and the Highway Authority advised that 'space should be provided within the site to accommodate parking of all vehicles regularly visiting the site'. Three conditions were imposed restricting opening hours, details of use and the music played in accordance with details in the

supporting letter dated 3rd June 1999 accompanying the application. Unclear reasons for all three conditions were given simply 'in the interests of local amenity'.

- 6.3 The renewal application was made under planning reference 00/01102/FUL. A letter of support dated 21st June 2000 submitted with the application states that there had been no problems with parking. Environmental Health and the Highway Authority had no objections to the application.
- 6.4 The application was approved on a permanent basis with the same restrictive conditions as the original consent relating to the opening hours, use and the music played. Again the reasons for the conditions was vague.

Condition 2 of this permission relates to the use stating;

'This permission shall only authorise the use of the premises for the purposes described in the letter dated 3 June 1999 submitted in support of the application no. 99/00824/FUL.

Reason: In the interests of local amenity.'

- 6.5 In this instance the Town and Country Planning (Use Classes) Order 1987 categorises both a gymnastics club and gymnasium as a Class D2 use. If a Council intends to remove rights to change within a use class then it needs to explicitly say so in the condition.
- 6.6 The imprecise wording of this condition means the intentions of the condition are unclear. The reason does not suggest that any other use would be unacceptable. It is therefore unclear as to whether the condition is intended to restrict the use to the approved gymnastic club only and for no other purpose. In essence all the condition does is restrict the first use of the club. With no reference to the Use Classes Order and no reference to subsequent uses or that it applies in perpetuity the condition has been met and no longer applies.
- 6.7 The change from a gymnastics club to the current gym use is a permitted change not requiring a planning application as both uses fall within the same Class D2 use. The site enjoys an unrestricted use for any purpose in Class D2 (Assembly and Leisure).

Condition 1 – Opening Hours

- 6.8 The application seeks to vary the opening hours as described in Condition 1 from 9am – 10pm Monday to Friday; 9am – 6pm weekends and public holidays to; 7am – 8.30pm Monday to Friday 7.30am – 2pm Saturdays and public holidays, closed on Sundays.
- 6.9 *Residential Amenities & Highway Safety*
The application site is located centrally within Great Bentley close to the train station, primary school, Tesco Express and the post office which results in high traffic and pedestrian movements in this vicinity. The gym is set well back from the highway accessed via a shared access alongside the post office with residential properties to the north and east. There is one parking space available at the site which is not used as the shared access is in constant use by the post office.
- 6.10 Supporting information with the application describes how the current use opened on 29 May 2010, has one full time member of staff and one part time. The gym now has 100 members with 60% being considered as local, some of whom walk and cycle. The gym is at its busiest in the evening between 5pm and 8pm.
- 6.11 The application site is located in an area generating traffic and pedestrian movements from as early as 6am with a train departing at 5.56am and Tesco Express opening at 6am. The Post Office sorting process starts at 7am involving vans and delivery bicycles loading and

unloading along the side access shared by the gym. Given the current situation and the likely noise and disturbance caused by the existing businesses, the proposed earlier opening hours will not be materially harmful to residential amenities. Furthermore, the earlier opening time provides a valuable facility for those wanting to use the gym before work.

- 6.12 The variation of opening hours is in fact an overall reduction to that currently allowed. By reducing any possible noise and disturbance from the gym at unsociable times in the evenings and all day Sundays it represents an improvement on the current situation.
- 6.13 The gym has a mezzanine floor level but with no high level windows there are no overlooking or loss of privacy issues. A good distance is retained to neighbouring boundaries which are enclosed with close boarded fencing, some with high level planting.
- 6.14 The proposed variation of condition therefore complies with saved Policy QL11 of the adopted Tendring District Local Plan (2007) as it will not have a materially damaging impact on the privacy and other amenities of occupiers of nearby properties.
- 6.15 In this central village location where traffic and parking is already problematic due to the existing businesses, train station and school, it is recognised that additional traffic generated by the gym will cause additional on street parking. However, as the use itself is not under consideration this is not a reason for refusal.
- 6.16 Supporting information shows that on average, 5 members per day use the gym during the additional period of 7am to 9am with 3 travelling by car and 2 on foot. Therefore, the increase in opening hours does not result in a materially harmful increase in traffic movements in terms of highway safety or noise and disturbance to nearby neighbours. By being centrally located the gym is able to promote more sustainable methods of transport allowing local members to walk and cycle in line with the sentiments of saved Policy TR1A of the adopted Tendring District Local Plan (2007) which provides guidance on development affecting highways.
- 6.17 It is noted that Great Bentley Parish Council has recently been granted permission for a car park for 31 spaces on land north of the train station. Once implemented this is likely to result in a reduction of on street parking.
- 6.18 The Highway Authority has no objection to the application.

Condition 3 – Amplified Music

- 6.19 Condition 3 currently restricts amplified music from being played other than from a 'basic tape recorder' at a controlled level.
- 6.20 *Residential Amenities*
The application seeks the use of a central hi-fi system for the duration of the opening hours. Public Experience (Environmental Health) has no objections to the variation from the permitted 'basic tape recorder' provided it is only operated with doors and windows closed to protect the residential amenity of neighbouring properties. This can be controlled by condition and is therefore not a reason for refusal.

Background Papers

None.