

Planning Sub-Committee Agenda



To: Councillor Michael Neal (Chair)
Councillor Leila Ben-Hassel (Vice-Chair)
Councillors Ian Parker, Sean Fitzsimons, Joseph Lee and Ellily Ponnuthurai

A meeting of the **Planning Sub-Committee** which you are hereby summoned to attend, will be held on **Thursday, 10 November 2022** at the rise of Planning Committee but not earlier than **8.00 pm** in **Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX**

KATHERINE KERSWELL
Chief Executive and Head of Paid Service
London Borough of Croydon
Bernard Weatherill House
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www.croydon.gov.uk/meetings
Wednesday, 2 November 2022

Members of the public are welcome to attend this meeting, or you can view the webcast both live and after the meeting has completed at <http://webcasting.croydon.gov.uk>

If you would like to record the meeting, we ask that you read the guidance on the recording of public meetings [here](#) before attending.

To register a request to speak, please either e-mail Democratic.Services@croydon.gov.uk or phone the number above by 4pm on the Tuesday before the meeting.

The agenda papers for all Council meetings are available on the Council website
www.croydon.gov.uk/meetings

If you require any assistance, please contact Tariq Aniemeka-Bailey 020 8726 6000
x64109 as detailed above

AGENDA – PART A

1. Apologies for absence

To receive any apologies for absence from any members of the Committee

2. Minutes of the previous meeting

To approve the minutes of the meeting held on Thursday 27 January 2022 as an accurate record.

3. Disclosure of Interest

Members and co-opted Members of the Council are reminded that, in accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, they are required to consider in advance of each meeting whether they have a disclosable pecuniary interest (DPI), an other registrable interest (ORI) or a non-registrable interest (NRI) in relation to any matter on the agenda. If advice is needed, Members should contact the Monitoring Officer in good time before the meeting.

If any Member or co-opted Member of the Council identifies a DPI or ORI which they have not already registered on the Council's register of interests or which requires updating, they should complete the disclosure form which can be obtained from Democratic Services at any time, copies of which will be available at the meeting for return to the Monitoring Officer.

Members and co-opted Members are required to disclose any DPIs and ORIs at the meeting.

- Where the matter relates to a DPI they may not participate in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation.
- Where the matter relates to an ORI they may not vote on the matter unless granted a dispensation.
- Where a Member or co-opted Member has an NRI which directly relates to their financial interest or wellbeing, or that of a relative or close associate, they must disclose the interest at the meeting, may not take part in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation. Where a matter affects the NRI of a Member or co-opted Member, section 9 of Appendix B of the Code of Conduct sets out the test which must be applied by the Member to decide whether disclosure is required.

The Chair will invite Members to make their disclosure orally at the commencement of Agenda item 3, to be recorded in the minutes.

4. Urgent Business (if any)

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

5. Planning applications for decision (Pages 5 - 8)

To consider the accompanying reports by the Director of Planning & Strategic Transport:

5.1 22/00495/FUL - Ground Floor Commercial Units, Smitham Yard, Leaden Hill, Coulsdon, CR5 2BQ (Pages 9 - 26)

Change of use from restricted Class B1(a) [now (Class E(g)(i), offices] to unrestricted Class E (commercial, business and service) and Class F.1 (learning and non-residential institutions).

Ward: Coulsdon Town

Recommendation: Grant permission

6. Exclusion of the Press & Public

The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

"That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended."

Planning Sub-Committee

Meeting held on Thursday, 27 January 2022 at 9.49 pm in Council Chamber, Town Hall,
Katharine Street, Croydon CR0 1NX

MINUTES

Present: Councillor Chris Clark (Chair);
Councillor Leila Ben-Hassel (Vice-Chair);
Councillors Jamie Audsley, Scott Roche and Gareth Streeter

PART A

Following advice from Democratic Services and the Director of Planning and Strategic Transport, the Planning Sub Committee resolved to delegate the determination of the applications up for consideration to the Director of Planning and Strategic Transport; as the Sub Committee meeting had passed the 10pm guillotine as set out in Croydon Councils constitution.

A17/22 Minutes of the previous meeting

This item was not considered.

A18/22 Disclosure of Interest

This item was not considered.

A19/22 Urgent Business (if any)

There was none.

A20/22 Planning applications for decision

A21/22 5.1 21/00825/FUL - 5 Pollards Hill South, SW16 4LW

This item was not considered.

A22/22 **5.2 21/01186/FUL - 51 Warren Road, Croydon, CR0 6PF**

This item was not considered.

The meeting ended at 9.57 pm

Signed:

Date:

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PLANNING SUB-COMMITTEE AGENDA

PART 5: Planning Applications for Decision

1 INTRODUCTION

- 1.1 In this part of the agenda are reports on planning applications for determination by the Planning Committee.
- 1.2 Although the reports are set out in a particular order on the agenda, the Chair may reorder the agenda on the night. Therefore, if you wish to be present for a particular application, you need to be at the meeting from the beginning.
- 1.3 Any item that is on the agenda because it has been referred by a Ward Member, GLA Member, MP or Resident Association and none of the person(s)/organisation(s) or their representative(s) have registered their attendance at the Town Hall in accordance with the Council's Constitution (paragraph 3.8 of Part 4K – Planning and Planning Sub-Committee Procedure Rules) the item will be reverted to the Director of Planning to deal with under delegated powers and not be considered by the committee.
- 1.4 The following information and advice applies to all reports in this part of the agenda.

2 MATERIAL PLANNING CONSIDERATIONS

- 2.1 The Committee is required to consider planning applications against the development plan and other material planning considerations.
- 2.2 The development plan is:
 - the London Plan (consolidated with Alterations since 2011)
 - the Croydon Local Plan (February 2018)
 - the South London Waste Plan (March 2012)
- 2.3 Decisions must be taken 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. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken. Whilst third party representations are regarded as material planning considerations (assuming that they raise town planning matters) the primary consideration, irrespective of the number of third party representations received, remains the extent to which planning proposals comply with the Development Plan.
- 2.4 Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.

- 2.5 Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 2.6 Under Section 197 of the Town and Country Planning Act 1990, in considering whether to grant planning permission for any development, the local planning authority must ensure, whenever it is appropriate, that adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.
- 2.7 In accordance with Article 31 of the Development Management Procedure Order 2010, Members are invited to agree the recommendations set out in the reports, which have been made on the basis of the analysis of the scheme set out in each report. This analysis has been undertaken on the balance of the policies and any other material considerations set out in the individual reports.
- 2.8 Members are reminded that other areas of legislation covers many aspects of the development process and therefore do not need to be considered as part of determining a planning application. The most common examples are:
- **Building Regulations** deal with structural integrity of buildings, the physical performance of buildings in terms of their consumption of energy, means of escape in case of fire, access to buildings by the Fire Brigade to fight fires etc.
 - Works within the highway are controlled by **Highways Legislation**.
 - **Environmental Health** covers a range of issues including public nuisance, food safety, licensing, pollution control etc.
 - Works on or close to the boundary are covered by the **Party Wall Act**.
 - **Covenants and private rights** over land are enforced separately from planning and should not be taken into account.

3 **ROLE OF THE COMMITTEE MEMBERS**

- 3.1 The role of Members of the Planning Committee is to make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons. In doing so Members should have familiarised themselves with Part 5D of the Council's Constitution 'The Planning Code of Good Practice'. Members should also seek to attend relevant training and briefing sessions organised from time to time for Members.
- 3.2 Members are to exercise their responsibilities with regard to the interests of the London Borough of Croydon as a whole rather than with regard to their particular Ward's interest and issues.

4. **THE ROLE OF THE CHAIR**

- 4.1 The Chair of the Planning Committee is responsible for the good and orderly running of Planning Committee meetings. The Chair aims to ensure, with the assistance of officers where necessary, that the meeting is run in accordance with the provisions set out in the Council's Constitution and particularly Part 4K of the Constitution 'Planning and Planning Sub-Committee Procedure Rules'. The Chair's most visible responsibility is to ensure that the business of the meeting is conducted effectively and efficiently.
- 4.2 The Chair has discretion in the interests of natural justice to vary the public speaking rules where there is good reason to do so and such reasons will be minuted.

- 4.3 The Chair is also charged with ensuring that the general rules of debate are adhered to (e.g. Members should not speak over each other) and that the debate remains centred on relevant planning considerations.
- 4.4 Notwithstanding the fact that the Chair of the Committee has the above responsibilities, it should be noted that the Chair is a full member of the Committee who is able to take part in debates and vote on items in the same way as any other Member of the Committee. This includes the ability to propose or second motions. It also means that the Chair is entitled to express their views in relation to the applications before the Committee in the same way that other Members of the Committee are so entitled and subject to the same rules set out in the Council's constitution and particularly Planning Code of Good Practice.

5. PROVISION OF INFRASTRUCTURE

- 5.1 In accordance with Policy 8.3 of the London Plan (2011) the Mayor of London has introduced a London wide Community Infrastructure Levy (CIL) to fund Crossrail. Similarly, Croydon CIL is now payable. These would be paid on the commencement of the development. Croydon CIL provides an income stream to the Council to fund the provision of the following types of infrastructure:
- i. Education facilities
 - ii. Health care facilities
 - iii. Projects listed in the Connected Croydon Delivery Programme
 - iv. Public open space
 - v. Public sports and leisure
 - vi. Community facilities
- 5.2 Other forms of necessary infrastructure (as defined in the CIL Regulations) and any mitigation of the development that is necessary will be secured through A S106 agreement. Where these are necessary, it will be explained and specified in the agenda reports.

6. FURTHER INFORMATION

- 6.1 Members are informed that any relevant material received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in an Addendum Update Report.

7. PUBLIC SPEAKING

- 7.1 The Council's constitution allows for public speaking on these items in accordance with the rules set out in the constitution and the Chair's discretion.

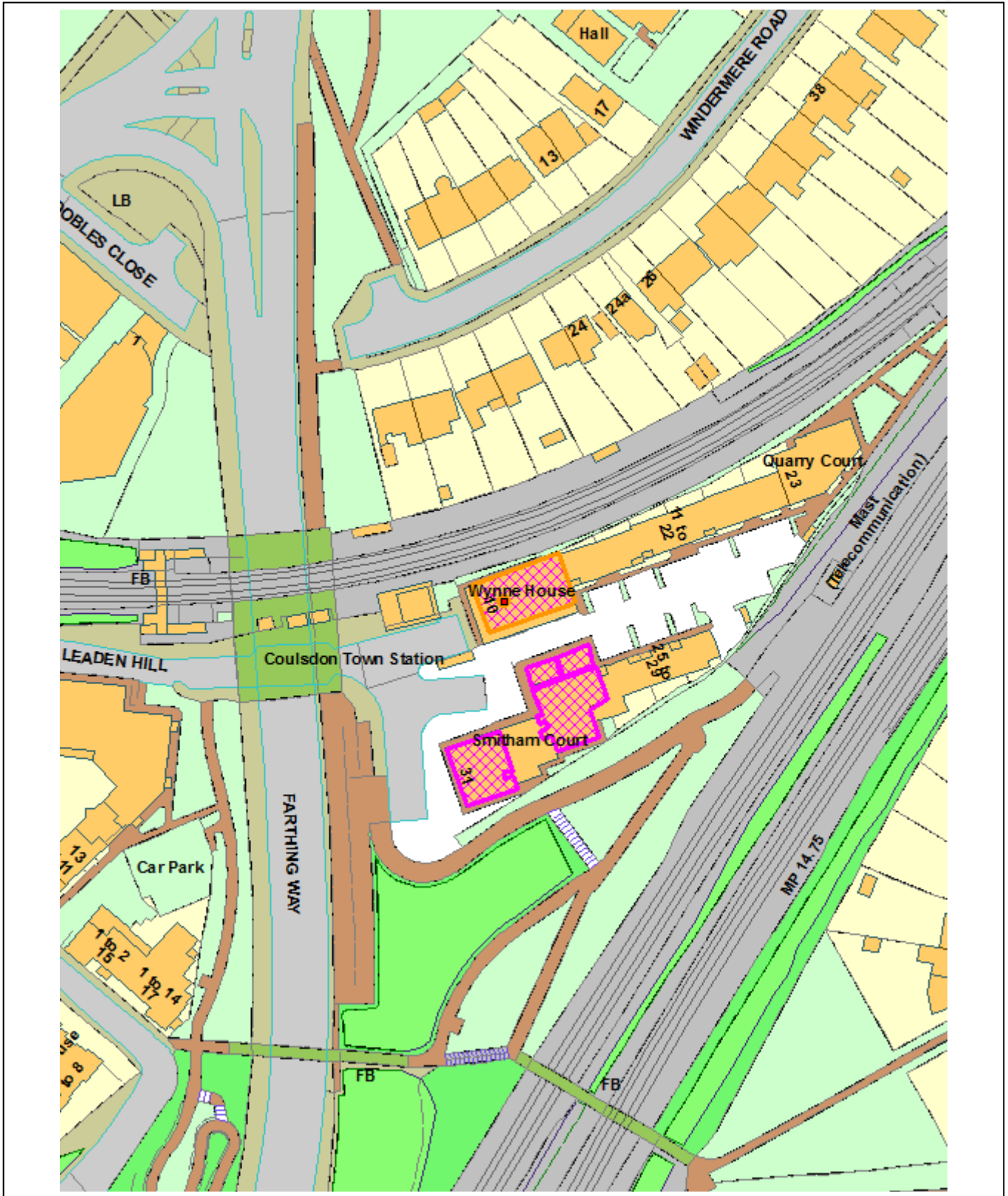
8. BACKGROUND DOCUMENTS

- 8.1 The background papers used in the drafting of the reports in part 6 are generally the planning application file containing the application documents and correspondence associated with the application. Contact Mr P Mills (020 8760 5419) for further information. The submitted planning application documents (but not representations and consultation responses) can be viewed online from the Public Access Planning Register on the Council website at <http://publicaccess.croydon.gov.uk/online-applications>. Click on the link or copy it into an internet browser and go to the page, then enter the planning application number in the search box to access the application.

9. RECOMMENDATION

- 9.1 The Committee to take any decisions recommended in the attached reports.

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1.0 APPLICATION DETAILS

Ref: 22/00495/FUL
Location: Ground Floor Commercial Units, Smitham Yard, Leaden Hill, Coulsdon, CR5 2BQ.
Ward: Coulsdon Town
Description: Change of use from restricted Class B1(a) [now (Class E(g)(i), offices] to unrestricted Class E (commercial, business and service) and Class F.1 (learning and non-residential institutions).
Drawing Nos: Block Plan 6885-CU-02; Site location Plan 6885-CU-01 Existing Plan 6885-CU-03; Proposed Plan 6885-CU-04;
Agent: Katy Mourant, Pegasus Group
Applicant: David Litchfield and Kate Mcgahan
Case Officer: Russell Smith and Sam Dixon

1.1 This application is being reported to Planning Committee in accordance with the following committee consideration criteria:

- Objections above the threshold in the Committee Consideration Criteria

2.0 RECOMMENDATION

- 2.1 That the Planning Committee resolve to GRANT planning permission.
- 2.2 That the Director of Planning and Sustainable Regeneration has delegated authority to negotiate the legal agreement indicated above.
- 2.3 That the Director of Planning and Sustainable Regeneration has delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

CONDITIONS

Standard Conditions

1. Commencement time limit of 3 years
2. Development to be carried out in accordance with the approved drawings and reports

Pre-occupation / compliance conditions

3. Restrictions on uses (Class E(c)-(g) and F1)
4. Details of Fire Safety Strategy to be submitted
5. Operating hours (7am to 10pm weekdays, 8am to 8pm weekends and bank holidays) unless otherwise approved in writing
6. Details of Sound Insulation and Vibration mitigation to be submitted
7. Details of External Noise Emissions to be submitted

8. Visitor Parking Management Plan
9. Cycle Parking
10. Shop front design and signage strategy
11. Fire Strategy
12. Any other planning condition(s) considered necessary by the Director of Planning and Sustainable Regeneration

INFORMATIVES

1. Compliance with Building/Fire Regulations
2. Construction Logistics Informative
3. Any other informative(s) considered necessary by the Director of Planning and Sustainable Regeneration

3.0 PROPOSAL AND LOCATION DETAILS

Proposal

3.1 Planning permission (15/05723/P) was granted in 2016 for a mixed use development comprising residential and office units, at 5-7 Leaden Hill And Leaden Hill Industrial Estate, 9 Leaden Hill, Coulsdon, CR5 2BQ.

3.2 The permission included commercial units at ground floor level, which were subject to a planning condition restricting their use.

3.3 Condition 26 of the original application (15/05723/P) stated:

The commercial premises shall be used for the purposes within Class B1 (a) of the Town and Country Planning (Use Classes) Order 1987

Reason: To protect the employment generating uses

3.4 The development has been constructed and is now known as Smitham Yard. The ground floor commercial units have been vacant since built.

3.5 The applicant seeks full planning permission for the change of use of the recently constructed Ground Floor Commercial Units at Smitham Yard from restricted Class B1(a) [now (Class E(g)(i), offices] to unrestricted Class E (commercial, business and service) and Class F.1 (learning and non-residential institutions).

Site and Surroundings

3.6 The application site is accessed from Leaden Hill and comprises of the three ground floor units that form part of mixed use (mostly residential) blocks. The site sits adjacent to Coulsdon Town train station and is surrounded by the road (A23) and railway lines.

The openings to the ground floor commercial units are accessed from Leaden Hill and parking provision is available. There are 5 parking spaces associated

with the commercial units. The application site has a PTAL of 3 and is within a short walk of Coulsdon District Centre.

- 3.7 It is noted in the planning statement that the commercial units have been completed as “shell and core,” but never occupied.

Planning History

- 3.8 As detailed below:

- 14/04047/P - Construction of second storey and erection of single storey extension forming new staff and customer services, sales office and staff welfare accommodation for new car panel repair facility at ground floor level. – Granted
- **15/05723/P** - Erection of a mixed use development of between 65 and 75 residential units and 450 and 499m² office use (B1a) – Granted (Outline)
- 16/05951/NMA - Erection of a mixed use development of between 65 and 75 residential units and 450 and 499m² office use (B1a) (amendment to planning permission **15/05723/P**) – Amendment to condition 6 (floor space measurements) Granted
- 16/04419/RSM - Erection of a mixed use development of between 65 and 75 residential units and 450 and 499m² office use (B1a) (approval of reserved matters in respect of outline planning permission **15/05723/P**) – Granted
- 18/00760/FUL - Addition of two storeys to Block A and one storey to Block B of the permitted development (under planning permission **15/05723/P**) to provide 9 additional residential units at 5-7 Leaden Hill and The Leaden Hill Industrial Estate – Granted

4.0 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The principle of the change of use is considered acceptable in terms of land use.
- The proposal will contribute towards the wider area in terms of employment and make the vacant premises useable.
- The design and appearance of the development is not considered to impact the neighbouring amenity and a condition will be secured to control this. The living conditions of adjoining occupiers would be protected from undue harm through restrictive use from E(a) Display or retail sale of goods, other than hot food, E(b) Sale of food and drink for consumption (mostly) on premises, and conditions relating to operating times, sound insulation and noise emission assessment conditions the use.
- The quantity of parking provision and impact upon highway safety and efficiency would be acceptable due to its location and previous approval for commercial use.

5.0 CONSULTATIONS

- 5.1 Discussion with internal colleagues within the Planning and Sustainable Regeneration directorate, including Spatial Planning (Place Making) and Transport Planning, has taken place and is referred to within the report as appropriate.
- 5.2 Network Rail were consulted and raised no objection or conditions.
- 5.3 The Environmental Health Officer noted that strict management of the premise will be required to minimise noise through a noise management plan. Exit doors, windows and walls should provide adequate noise insulation and may need to be upgraded. A cut-out device fitted to emergency exit doors will be required, so that if they are opened, the electrical supply to amplified music is likewise ceased. The use of gym accessories in training facilities generates noise and vibration. Heavy weights used in free training areas are a particular source, producing vibrations that affect other areas of the building. In order to reduce levels of noise and vibration, the applicant should follow the recommendations as submitted in the Acoustic Planning Report by RBA Acoustics Ltd. If amplified music or speech is to be played in the premises then sound insulation should be provided to ensure that no nuisance is caused to neighbouring residents. There should be a condition restricting hours of use to those in similar premises, in order to control noise from activities on the premises and from persons leaving. Conditions have been recommended accordingly.

6.0 LOCAL REPRESENTATION

- 6.1 The application was publicised by letters to neighbouring properties and site notices were displayed. The number of representations received in response to consultations are as follows.
- 6.2 No of individual responses: 18; Objecting: 14; Supporting: 1; Neutral: 3
- 6.3 The following material considerations were raised in representations, and are addressed in substance in the Material Planning Considerations section of this report.
- Noise
 - Over development
 - Not in keeping
 - Residential amenity
 - Risk of flooding
 - Parking
 - Fire risk
 - Crime
- 6.4 A comment was made with regard to the impact on property prices, this is not a material planning consideration and is therefore not addressed in this report.

6.5 A comment was made with regard to drainage infrastructure, this is not a material planning consideration to the determination of this planning application due to its nature and scale (with no external alterations), and is therefore not addressed in this report.

7.0 RELEVANT PLANNING POLICIES AND GUIDANCE

7.1 In determining any planning application, the Council is required to have regard to the provisions of its Development Plan so far as is material to the application and to any other material considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The Council's adopted Development Plan consists of the London Plan (2021), the Croydon Local Plan (2018) and the South London Waste Plan (2012).

7.2 Government Guidance is contained in the National Planning Policy Framework (NPPF) (2021). The NPPF sets out a presumption in favour of sustainable development, requiring that development which accords with an up-to-date local plan should be approved without delay.

7.3 The main planning Policies relevant in the assessment of this application are:

London Plan (2021):

- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 Inclusive design
- D12 Fire Safety
- S11 Improving air quality
- S12 Minimising greenhouse gas emissions
- S13 Energy infrastructure
- S112 Flood risk management
- S113 Sustainable drainage
- T4 Assessing and mitigating transport impacts
- T5 cycling
- T6 car parking
- T7 Deliveries, servicing and construction

Croydon Local Plan (2018):

- SP3 Employment
- DM9 Expansion of industrial and warehousing premises in Strategic, Separated and Integrated Industrial Locations
- SP4 Urban Design and Local Character
- DM10 Design and character
- DM13 Refuse and recycling
- SP6 Environment and Climate Change
- DM23 Development and construction
- DM25 Sustainable drainage systems and reducing floor risk
- SP8 Transport and communications
- DM29 Promoting sustainable travel and reducing congestion

- DM30 Car and cycle parking in new development

Supplementary Planning Documents/Guidance

- Section 106 Planning Obligations in Croydon and their relationship to the Community Infrastructure Levy (2019)
- Accessible London: Achieving an Inclusive Environment SPG (Mayor of London, 2014)
- Character and Context SPG (Mayor of London, 2014)
- Sustainable Design and Construction SPG (Mayor of London, 2014)

8.0 MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues relevant in the assessment of this application are as follows:

- Land Use
- Design and impact on the character of the area
- Impact on neighbouring residential amenity
- Access, parking and highways impacts
- Flood Risk
- Other matters

Land Use

Background

- 8.2 The site is not designated on the Local Plan Policies map for a particular use. It falls outside Coulsdon District centre, which lies on the opposite side of the A23 Farthing Way. It was historically used for a mix of sui generis and light industrial (Car garage/mechanics) uses and a gym (410sqm of floorspace). In 2016 planning consent was granted for redevelopment, which has now been completed.
- 8.3 The planning consent for the existing buildings on the site (15/05723/P) was considered by the Planning committee on 19th May 2016, following a pre-application committee presentation on 10th September 2015. Permission was granted for 450-499sqm of B1 floorspace, and the subsequent reserved matters (details) application approved 476sqm.
- 8.4 At the pre-application presentation, the committee raised concerns about the loss of industrial warehousing use, and about the loss of a community use (the gym).
- 8.5 In order to ensure that the employment benefits of the scheme were secured, a planning condition was imposed to restricted the use of the ground floor commercial units to class B1a (Office other than use within A2) under the old class use.
- 8.6 Amendments to the use classes have since come into effect. Office use now falls within a new Class E (Commercial, business and service) which includes other

uses. For units which existed before 1st September 2020, this results in the flexibility to changes uses without express planning permission. A building or other land within the former Use Class B1a is to be treated, on or after 1st September 2020, as if it is being used for a purpose specified within Class E in Schedule 2 to that Order.

- 8.7 However, the existing commercial units at the application site have not yet been brought into use, and have never been used as offices. Planning officers have reviewed the lawful use and proposed change of use, with the Council's planning lawyer, and are of the view that the planning condition relating to the existing buildings restricts their use notwithstanding the changes to the Use Classes Order. As the ground floor units never became occupied the proposal does not benefit from the change to the use class order, that is, it cannot transfer by default to Class E. Planning permission is therefore required to use the commercial units for a different use within Use Class E.

Employment, Education and Community Uses

- 8.8 The proposal seeks to change the use of the commercial units so they can be used for Class E and F1 (a) (For the purpose of education) uses.
- 8.9 The site was allocated for mixed use development within saved Unitary Development Plan policy H3 (now superseded), and Policy SP3.2 of the 2013 Local Plan sought to protect the use of the site for industrial employment uses. As the site was allocated for a mix of uses including residential, and the proposed development included 450-499 sqm of B1(a) (office) floorspace (a net increase of 40-49 sqm of employment-generating floorspace), it was considered that exceptional circumstances had been demonstrated. It was estimated that there were 9 jobs on the site which could be replaced by 41 full time equivalent jobs within the new commercial floorspace. Therefore, the balance of the proposed mixed use residential and office (employment generating) floorspace was acceptable.
- 8.10 The provision of locations for offices (Class B1a) were considered appropriate to sustain a diverse economy. Policy EM1, supported the use of B1(a) offices in town centre locations. It was noted (15/05723/P) that the site was within the eastern side of a designated proposal site-H83 as designated by the UDP. The proposal site is allocated for the provision of a mixed use development which includes a significant residential element. The report also detailed the following:

The site is currently used for a mix of sui generis and B type (Car garage/mechanics) uses alongside a gymnasium club (use D1). The site is still in use and can still provide a viable employment use. The site is, therefore, designated as a scattered employment site by SP3.2 of the Croydon Local Plan: Strategic Policies (CLP1). This states that the Council adopts a '4-Tier' approach to the retention and redevelopment of land and premises relating to industrial/employment activity.

- 8.11 The site was protected by Policies SP3.2 and EM5. As it had employment generating uses.

8.12 The assessment of planning permission concluded that:

Due to the presence of the UDP allocation on the majority of the site, marketing is not required. In addition to this, the proposal is seeking 450 to 499 sq. m of B1 type uses (an employment generating use under policy). The existing employment floorspace is 410m². Therefore there would be no net loss of employment generating floorspace. The applicant has stated that there is estimated 9 jobs currently on site and the proposed floorspace could potentially deliver in excess of 41 full time equivalent jobs. Other factors include low intensity of use of the existing premises, poor quality of existing warehouses and provision of housing.

Due to the current uses this site is a Tier 4 site which means residential development would not be considered unless it has been demonstrated there has been no demand for the existing or permitted uses. However, there are exceptional material circumstances demonstrated in this case and therefore a mixed-use scheme is acceptable.

8.13 While the Development Plan has been updated since the previous decision, the four-tier approach to land and premises in industrial locations has generally remained the same. The site is still considered to form part of a Scattered Employment Site, where Table 5.1, highlights the approach for these locations as strong protection for industrial and warehousing activities, with allowance for community uses to locate in the (Higher PTAL) more accessible locations. Permitted uses are detailed as:

- Class B1 (excluding B1a office), B2 and B8 uses.
- Employment generating sui-generis uses. *To be acceptable in these locations, employment generating sui-generis uses must provide employment which is comparable in terms of activities and job numbers to industrial/ warehousing uses.*
- Class D1 (Education and Community Facilities) in industrial locations in PTALs 3 or above.

8.14 With regard to other uses Table 5.1 explains that:

- Planning permission for limited residential development will be granted if it can be demonstrated that:
 - there is no demand for the existing premises or for a scheme comprised solely of the permitted uses; and
 - residential use does not harm the wider location's business function
 - Opportunities for employment and skills training will be considered via Section 106 where possible.

The site still benefits from the ability to use the ground floor units as B1(a), under the previous approval.

As discussed the condition of the previous approval restricts the use of the site to B1(a) Offices. However, it has been demonstrated within the application through the marketing material submitted that there has been no interest for the units as office use. This highlights that there was no interest in occupying the units for office use despite marketing from January 2020. Enquiries received have been detailed as the following uses: Gym, Estate Agents, Supermarket, Café/Restaurant and Tuition Centre. Marketing boards were erected and details displayed on property portals. Marketing details were provided with the application.

8.15 The applicant's fallback position is that they could use the units for an office use, which would not result in industrial or warehousing employment. Some weight should be given to this fallback position, although it should be limited because of the marketing evidence, demonstrating that the site is not attractive to office users and the applicant's assertion that office use is no longer viable.

8.16 Therefore the use of the site as a B1(a) as an office other than a use within class A2 (financial and professional services) which translates to a Class E(g)(i) Offices use, to carry out any operational or administrative functions, is considered acceptable in this instance.

8.17 Table 5.1 also indicates that Class D1 (Education and Community Facilities) in industrial locations in PTALs 3 or above, is a permitted use. Class D was revoked from 1 September 2020. D1 was split out and replaced by the new Classes E(e-f) and F1. The former Class D1 Non-residential institutions covered the following uses:

Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non-residential education and training centres

8.18 The proposal is seeking use as a Class F1 (learning and non-residential institutions), which falls into the new class uses of D1 and discussed above. Therefore the principle of the use as Class F1 is considered acceptable.

8.19 In terms of the Other Uses as detailed in Table 5.1 of the Council's Development Plan, opportunities for employment and skills training are acceptable on this site and the principle of use within Class E (Commercial, Business and Service) is generally considered to accord with this, subject to other material considerations that are discussed later.

8.20 London Plan Policy E1, supports office space in a mixed use development context in high PTAL areas. London Plan Policy E2, highlights the need to protect B Use Class space, Development proposals where there is a shortage of lower-cost space workspace of particular types, uses or sizes should:

demonstrate that there is no reasonable prospect of the site being used for business purposes

- 8.21 Policy E8 of the London Plan, supports employment opportunities for a diverse range of sectors. To enable this it states that higher and further education providers and their development across all parts of London should be promoted. Their integration into regeneration and development opportunities to support social mobility and the growth of emerging sectors should be encouraged. Additionally, Policy SP5 of the Local Plan has a presumption in favour of new development provided that community facilities such as education provision can improve education and skills training in Croydon and encouraging life-long learning; and Promote the growth and expansion of further and higher education to improve skills and enterprise in local economy. Local Plan Policy DM19, supports applications for community uses which comply with the criteria of D1 class uses in industrial locations as set out in Table 5.1, which has been detailed as achieving above.
- 8.22 The principle of the use of the building for office, community and education uses which fall within Class E, while broad, and Class F1(a) is generally considered to be acceptable on this site given the assessment above.

Other Town Centre Uses (Class E)

- 8.23 In addition to office uses, Class E permits a range of other uses which are appropriate to Town Centres, including the uses which previously fell within Use Classes A1-A3 (including shops, professional services, restaurants and cafes). Local Plan Policy DM8 sets out an approach to locating town centre uses outside district centre boundaries, to ensure that the vitality and viability of the borough's town centres is maintained and increased. The supporting text explains that in line with the 'Town Centres First' principle, commercial activity should be directed to town centres to take advantage of their better transport functions and so as not to undermine the established centres. It is therefore important to ensure that the proposed uses do not harm the function of Coulsdon district centre as a retail centre.
- 8.24 As explained above, the proposed gym and education uses are acceptable outside the district centre. However, table 5.11 of the Local Plan explains that A1-A3 uses are only acceptable in edge-of-centre locations where a sequential test has been carried out to demonstrate that they could not be accommodated within the town centre. This has not been done, and therefore permitting these uses would be contrary to the local plan and the applicant has not demonstrated that an unrestricted Class E use would maintain the vitality and viability of the town centre.
- 8.25 The following elements of Class E are not considered acceptable:
- E(a) Display or retail sale of goods, other than hot food.
 - E(b) Sale of food and drink for consumption (mostly) on premises.
- 8.26 The existing units in their vacant state do not benefit local residents, businesses or visitors, and therefore there are benefits to bringing them into use for an acceptable use. In order to facilitate the use of the units, whilst avoiding inappropriate uses (in the absence of evidence to support them), a planning

condition is proposed to restrict the units to commercial and education uses, and not permit use as shops, professional services, restaurants and cafes. The applicant has explained that they have had interest from a Gym and an education provider to accommodate the units, and therefore the recommended condition will maintain the vitality and viability of the town centre whilst also facilitating the use of the vacant uses for appropriate and commercially viable uses.

Design and impact on the character of the area

- 8.27 Chapter 12 of NPPF (2021) and Policy D4 of the London Plan (2021) places great importance on good design. Paragraph 130 of the NPPF requires development proposals to be visually attractive and sympathetic to local character and history, including the surrounding built environment.
- 8.28 Local Plan Policy DM10 requires development proposals to be of a high quality, and which respects and enhances Croydon's varied local character and contributes positively to the public realm and townscape.
- 8.29 There are no external alterations to the proposed building. While the proposal will bring a new use to the ground floor units, any future alterations following this permission could be secured through a new planning application. As the proposed uses may result in a greater requirement for signage and shopfront-style openings, a condition is recommended to secure details to ensure a coherent and well-considered appearance. As such, the proposal complies with Policy DM10 of the Croydon Local Plan (2018).

Impacts on neighbouring residential amenity

- 8.30 Policy DM10.6 of the Local Plan states that the Council will ensure proposals protect the amenity of occupiers of adjoining buildings, while Policy DM23 notes that the Council will promote high standards of development, including mitigation means of future development from air, noise, dust or vibration pollution.
- 8.31 London Plan (2021) Policy D13, regarding the Agent of Change principle is also relevant, which places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. Furthermore, Policy D13 details that development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them.
- 8.32 As the Agent of Change principle works both ways, this means that if a new noise-generating use is proposed close to existing noise-sensitive uses, such as residential development or businesses, the onus is on the new use to ensure its building or activity is designed to protect existing users or residents from noise impacts.
- 8.33 The approved use of the site is for B1(a). It is considered that the proposed use's impact on residents and businesses can be controlled by conditions. The following elements of Class E are not considered acceptable:

- E(a) Display or retail sale of goods, other than hot food.
- E(b) Sale of food and drink for consumption (mostly) on premises.

8.34 Based on the principle of development assessment the following uses with Class E are considered can be controlled by condition to mitigate the impact on neighbouring amenity:

- E(c) Provision of:
 - E(c)(i) Financial services,
 - E(c)(ii) Professional services (other than health or medical services), or
 - E(c)(iii) Other appropriate services in a commercial, business or service locality.
- E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink.)
- E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- E(f) Creche, day nursery or day centre (not including a residential use)
- E(g) Uses which can be carried out in a residential area without detriment to its amenity:
 - E(g)(i) Offices to carry out any operational or administrative functions,
 - E(g)(ii) Research and development of products or processes
 - E(g)(iii) Industrial processes

8.35 Of the uses considered acceptable, the proposed use as a gym class E(d) has the potential to create the most impact on neighbouring amenity. A Noise Impact Assessment, by RBA Acoustics, dated 20 December 2021, has been provided with the application which concludes that noise and vibration levels in the nearest affected receptors can be compliant providing the suitable mitigation methods highlighted in report. It is recommended that additional baseline acoustic testing is undertaken prior to any detailed acoustic design works for the fit-out of the these units. Additionally, incoming tenants can be contractually obliged to meet the proposed acoustic criteria through the lease agreement.

8.36 As previously discussed the Council's Environmental Health Officer noted that proposal could be achieved through strict management of the premise to minimise noise through a noise management plan. Exit doors, windows and walls should provide adequate noise insulation and may need to be upgraded. A cut-out device fitted to emergency exit doors will be required, so that if they are opened, the electrical supply to amplified music is likewise ceased. The use of gym accessories in training facilities generates noise and vibration. Heavy weights used in free training areas are a particular source, producing vibrations that affect other areas of the building. In order to reduce levels of noise and vibration, the applicant should follow the recommendations as submitted in the Acoustic Planning Report by RBA Acoustics Ltd. If amplified music or speech is to be played in the premises then sound insulation should be provided to ensure that no nuisance is caused to neighbouring residents. A condition restricting hours of use in order to control noise from activities on the premises and from persons leaving.

- 8.37 A Noise Management Plan has not been submitted with the application in order to manage and control noise and operational behaviour. Therefore a condition has been added in order to secure this.
- 8.38 The proposed uses under Class E (restrictive) and F1(a) as detailed above are not considered to impact on the amenity of neighbouring properties to a degree that would warrant refusal based on the information supplied, previously established use, the current mixed use development arrangement and ability to control potential impacts by condition.

Access, Parking and Highway Safety

- 8.39 Policy SP8 of the Local Plan (2018) is in relation to traffic generation, sustainable travelling and parking standards. Local Plan Policy DM30 seeks to ensure that there is an appropriate level of car and cycle parking for developments.
- 8.40 Concerns have been raised in regards to parking, highway safety and traffic generation. As discussed the residential units above has been occupied for some time along with their servicing and delivery traffic generation, including where the servicing/delivery vehicles load and unload. However, the site has permission for the ground floor units to be used as commercial premises. There is an expectation that this area would naturally see an increase in parking and traffic generation upon occupation for the operation of these units which was part of the originally agreed application.
- 8.41 A Transport Statement has been submitted in support of this application, which suggests that the proposed development would not result in any noticeable changes (with regards to vehicle movements) compared to the existing scenario. Additionally, trip generation forecasts indicate that the majority will be linked, diverted or pass-by trips from travellers already using the highway and transport network. There are no proposed changes to the existing car parking arrangements which will be served by 5 allocated spaces.

Cycle parking

- 8.42 Cycle parking would vary depending of the use based on London Plan policy T5. The original planning permission (15/05723/P) detailed four spaces for the B1 (Office) use (for office use the London Plan requires 1 long stay space per 150sqm and 1 visitor space per 500sqm; or 4 spaces in total).
- 8.43 Subsequent application 18/00760/FUL was to enlarge the building and was subject to condition 5, which secured a total of 85 cycle stands in total (81 for the residential use, and 4 for commercial).
- 8.44 The proposed use requires cycle storage, and the amount required by the London Plan varies dependent on the exact use. The proposed education use or gym would require 1 short stay (visitor) spaces per 100sqm (5 in total), plus long stay staff parking (depending on the user). Depending on the exact use, approximately an additional 2-5 visitor spaces are likely to be required. The units are at ground level with the potential for additional cycle storage internally, or

external Sheffield stands within the estate (for visitors) which would be secured by a planning condition.

- 8.45 Due to the nature of the application and broad scope of the use, a pre-occupation condition is recommended to secure appropriate provision dependent on the finalised use.

Waste / Recycling Facilities

- 8.46 Policy DM13 requires the design of refuse and recycling facilities to be treated as an integral element of the overall design. The waste storage and collection has already been approved in the original application. This proposal does not change this arrangement.

Flood Risk

- 8.47 The proposed development would not result in any sensitive uses being introduced into an area of high risk of flooding. The impacts of the development with regard to flood risk were considered as part of the drainage strategy submitted with the original application for the building (15/05723/P) and application 18/00923/DISC to discharge the attached condition 17 (drainage). The proposed development does not raise additional flood risk implications or concerns.

Other Matters

- 8.48 The proposed development would not introduce any additional risk of fire subject to compliance with the building regulations (an informative is recommended).
- 8.49 A condition is recommended to secure a fire strategy to ensure the change of use would comply with London Plan Policy D12 (fire safety).
- 8.50 All material considerations have been considered, including responses to the public consultation. Taking into account the consistency of the scheme with the Development Plan and weighing this against all other material planning considerations, the proposal is considered to be acceptable in planning policy terms.

Conclusion

- 8.51 The proposed change of use is considered acceptable. To protect the amenity of neighbouring properties the agreed permission would be restricted to the following uses:

Class E:

- (c) for the provision of the following kinds of services principally to visiting members of the public: (i) financial services, (ii) professional services (other than health or medical services), or (iii) any other services which it is appropriate to provide in a commercial, business or service locality,

- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) for a crèche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for: (i) an office to carry out any operational or administrative functions, (ii) the research and development of products or processes, or (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit

Class F:

- for the provision of education

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