

Submission Version Havant Local Plan

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Cllr Ms L Turner, 15 Nicholas Court

No comment

Councillor M Wilson - Hayling West Ward

No comment

Councillor R Raines - Hayling East

No comment

Economic Development

No comment received

Environmental Health Manager, Community Group

I refer to the above application under the Town & Country Planning Acts passed to this Service for comment.

I have read the enclosed documentation provided by the applicant and comment as follows:

The Noise Management Plan (NMP) now provided by the applicant appears to address the concerns initially raised related to potential noise impact on nearby residential receptors. I can advise that with a condition related to the above Noise management plan remaining a live document and being adhered to going forward, I would have no further objection to the proposed usage.

I would therefore ask that a condition similar to that below related to the NMP, be added to any positive decision notice, should this application be approved.

Condition 1 – Noise control:

The noise management plan submitted by the applicant to the Local Planning authority, which specifies the provisions made to ensure the control of noise emanating from the residential garage converted to a gym for commercial purposes, shall remain a live document and the measures to control noise advised of there-in, must be adhered to. This document shall be reviewed periodically or as required, to address any issues arising, or which may arise from changes to the operation or usage of the facility.

Reason: To protect the occupants of nearby residential properties from noise emanating from, or linked to, this facility.

Hampshire Highways

Thank you for consulting the Highway Authority on the above retrospective application. The personal gym results in a low level of traffic movements between Monday - Friday and requires customers to park near to the property. The parking survey provided shows parking availability over the course of the day which is considered suitable for accommodating the low level parking requirement.

The Highway Authority therefore raises no objection to the proposed development.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 11

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 12

Comment	Officer Comment
Comments in support - 9 Comments in objection - 2	
Objections: The garage has been used for the business purpose of a personal training gym with clients arriving on a daily basis, from as early as 7am, for the past 2 years. During this time there was disruption from both cars arriving and from the loud greetings from the owner. The arrival noise of every client who arrives also make the owners dog bark. There is also a considerable noise issue whereby loud music and especially the base sound can be heard by neighbouring properties as the windows and door are wide open during sessions.	 The concerns received have been noted . Please see 'Planning Considerations' section below. Conditions would be applied in order to control hours of use and impact of music/ noise disturbance. Whilst the parking issue comment has been received, there was no evidence received that showed parking to be an issue in the close. The Highways Authority have not objected to the proposal. Please see conditions . The 12 month temporary permission would mean the use is reviewed in 12 months time. If issues were ongoing within this time frame then Environmental Health should be contacted .

Some gym sessions take place outside in the garden resulting in loudly shouted directions and 'grunts' from those exercising being heard by residents in other properties in the close. In addition, parking is also an issue with cars often double parked in a small cul-de- sac, making turning for residents difficult. This gym business has already had considerable impact on neighbouring properties, with no consideration being taken as to how a business property does not fit well in a residential area. Many residents are retired and the disturbance on a daily basis is quite considerable. Surely garages in a residential area should be for household use only and not commercial purposes. If this application is granted I feel it would set a precedent for any other business to operate as such in a residential area.	Whilst the parking issue comment has been received, there was no evidence received that showed parking to be an issue in the close. The Highways Authority have not objected to the proposal. The concerns received have been noted . Please see 'Planning Considerations' section below. Conditions would be applied in order to control hours of use and impact of music/ noise disturbance. There is no 'in principle' policy objection to businesses from home; in practice each application has to be assessed on its own merits in light of the nature of the use and the context of the site.
The property in question is located at the end of a Cul-de-sac in a quiet residential area with a large proportion of the residents retired. The house deeds for the area states : "Not to use the property hereby transferred or any part thereof for any purpose other than as a private residence and not to use any garage not erected or hereafter within the maximum period to be erected for any purpose other than as a garage for use in connection with the enjoyment as private residence of the property hereby transferred" During 2020 the garage was used as a personal training/gym studio. During this time I experienced significant noise coming from the said establishment.	Any covenants on the property are not a material planning consideration. The potential noise issue has been noted. Conditions have been applied which are designed to reduce noise pollution from the site.

This particularly bothered me during the summer months when the garage door was open, presumably to allow air flow, or when clients were obviously training in the back garden. In order not to cause ill feeling I often retreated indoors. Although the business owner has obviously addressed noise issues within the Gym there will inevitably be a high level of socialising outside the Gym especially between sessions. This could result in unacceptable and continuous noise . Not just chatting and laughing -meet and greet ,but car noise - engines running , music playing etc. This will without doubt cause annoyance to neighbours. I believe that by granting this business approval an unwelcome and unwanted precedent will be set for what should be a purely residential area.	The 12 month temporary permission would mean the use is reviewed in 12 months time. If issues were ongoing within this time frame then Environmental Health should be contacted . Please see above. There is no 'in principle' policy objection to businesses from home; in practice each application has to be assessed on its own merits in light of the nature of the use and the context of the site.
Support:	
I would support this application. The applicant is very mindful of any potential disruption to neighbours and takes every step to ensure there is no noise nuisance nor any issues with parking. The studio has been arranged to ensure noise cannot be heard from outside. There is parking and a car park nearby to ensure no disruption to residents. I would support the application.	Noted .
I would like to support this application. I have been a client of the applicant for 2 years now and all those previous times that I have been there the applicant was always mindful and respectful of her neighbours as not wanting to cause any noise disturbance, always making sure low levels of volume was maintained at all times. I would sometimes arrive before my sheduled session, while another client was inside, I could not hear any noise outside of the garage.	Noted.

Also the applicant was always mindful of asking us to park appropriately as not to cause any inconvenience to other neighbours.	
As a local small business owner myself, I am all for fully supporting other local island business. The applicant has always been very mindful of her neighbours as it is a cul-de-sac. I have traveled by car and used a parking area nearby so I would not take any spaces up within the cul-de-sac, most of the time I walk to the studio. I have also arrived early before my appointment and I have never heard any noise pollution from the garage, I think this is because of how the garage is positioned and that the applicant is very mindful of not causing any disruption to the neighbours. As i stated above, I fully support this application.	Noted.
I would like to support this application. I have been a client of the applicant for over 2 years. I have only ever witnessed the applicant being respectful of her neighbours - reinforcing the importance to clients to be mindful of neighbours and keep any noise levels to an absolute minimum during a session and that this is respected both entering and exiting the premises. I have not witnessed either the applicant or myself and other clients being anything other than understanding and respectful of neighbours. I have not been asked to undertake a session in the applicant's garden and neither have any sessions been conducted inside with the door open. The applicant has always been very clear on parking, asking clients to be respectful of where they park to ensure that neighbours are not inconvenienced. I have been mindful of neighbourhood parking and to negate any potential issues, have parked away from the applicant's house and walked to my session. I have on occasion arrived a little early for my appointment and was unable to hear any noise from the previous client's appointment from outside the garage.	Noted.

The applicant has always reinforced the importance to clients of being mindful of noise levels with other clients before and after appointments and from my own point of view and what I have evidenced, clients don't wish to spend time by chatting to others either before or after their appointments; clients are either eager to start the appointment for which they have paid for, or get home ASAP afterwards. I haven't witnessed any clients grouping together and I haven't witnessed any clients being disrespectful in any way. I am supporting this application 100% as the applicant gives so much to our community by helping people embrace their fitness, help people understand their health, take ownership of their health and become healthier people - the impact the applicant has directly had on the health of her clients both physically and also and possibly, more importantly (especially with the emotional scars that COVID-19 has left on many of us) our emotional health cannot be underestimated - helping people embrace their physical and emotional health thus helping us become healthier people has undoubtedly brought improvement to the lives of all clients and has to be measured by physical and emotional benefits, healthier people with less reliance on other local NHS provider services - which in a climate of reduced costs and services, helping people become more physically and emotionally healthier and empowering people to take ownership of their own health should be something which should be encouraged

I note that the complainant has based his/her complaints based on what he/she perceives will present problems ... "there will inevitably be a high level of socialising outside the Gym especially between sessions. This could result in unacceptable and continuous noise . Not just chatting and laughing -meet and greet ,but car noise - engines running , music playing etc.

This will without doubt cause annoyance to neighbours." In my experience, I have not witnessed any of this behaviour previously and as such, would not expect to do so in future either.	
I have trained with this lady for the last 2 years and this service has been detrimental to my physical and mental health, I have a very stressful job and have also suffer anxiety both of which have benefited greatly from this brilliant service, it would be a great loss to me and many others especially under the current circumstances when mental health is suffering and exercise is proven to be so beneficial, Mrs hickman is very professional and takes into consideration her neighbours, the service is one and one, noise levels are very low, music is played at a low level and equipment is used properly therefore no noise emitted from equipment, parking is in an empty public parking space therefore is no inconvenience to her neighbours. I cannot stress enough how important this service has been to me and others, I would never have gone to a crowded gym to exercise and this service has provided me with confidence and the ability to exercise in private, the benefits have been immeasurable	Noted.
(Redacted) I have found it extremely difficult to find an environment that I feel comfortable to train in, training with Donna has given me a safe comfortable place where I can feel better mentally and physically, coming to a one to one environment ensures you don't have the usual noise that you would have in a gym as it is completely unnecessary and I always leave with a sense of calm, I would be absolutely lost without my sessions with Donna	Noted.

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Highways

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria.

7.3 This proposal comprises an extension to the existing garage building and change of use to create a fitness studio for commercial use. There is no 'in principle' policy objection to businesses from home; in practice each application has to be assessed on its own merits in light of the nature of the use and the context of the site. With regard to the garage extension, as set out in the planning history, its size and position is such that it would normally fall within 'permitted development' tolerances, were it not for the business use to which it is being put.

7.4 This is a retrospective application and therefore in the supporting statement provided there is some detail of previous use of the building for fitness classes with the applicant and one client at a time, previously holding classes from between 6:30am in the morning to 6pm in the evening. The applicant states there could be some flexibility in the working hours to start at 8am rather than 6:30am. The statement also confirms the studio is in regular use, with 6-8 clients a day making use of the facilities Monday - Friday.

(ii) Impact upon the character and appearance of the area

7.5 This proposal comprises an extension to the existing garage building and change of use to create a fitness studio for commercial use. The extension to the garage itself has a flat roof and revised entrance, and could have been constructed under permitted development were it not for the change of use associated with it. The outbuilding itself is not deemed to cause harm to the character and appearance of the surrounding area, and it is noted that the objections to the application have been in respect of the use as opposed to the physical works of extension.

(iii) Impact upon residential amenity

7.6 The studio building is located within close proximity of surrounding residential properties, particularly as the rear gardens are fairly compact in size. No 38 is the neighbouring property to no 36 to the west and is only sited approximately 7 metres away from the studio building. No 34, located to the north east is similarly 7 metres distance away. The distances between the closest properties and the studio are close and therefore noise and disturbance mitigation measures would be necessary. Concerns have been raised in relation to potential noise impact of the studio however the supporting statement has listed mitigation measures including insulation and rubber flooring which have been and are due to be implemented.

A noise management plan has also been provided with this application which states the above as well as measures to reduce noise such as keeping the window and door closed whilst the studio is in use, controlling music volumes and keeping activity inside rather than using the rear garden. Environmental Health have been consulted in regards to this application and are satisfied that the noise management plan addresses the initial noise concerns in relation to impact on nearby residential properties and on the condition that the noise management plan is adhered to as a live document, have no objection to the proposal. This condition could be applied to any permission.

- 7.7 There could be additional conditions imposed in order to keep any disturbance to a minimum. This could limit hours of use to between the hours of Monday – Friday 08:00 hrs- 18.00 hrs. The number of clients could also be controlled to a maximum of 2 at any given time with appointments needing to be logged in order to provide evidence of this - this could be required to be made available for inspection at any time by the Local Planning Authority. In addition a permission could be restricted to the applicant whilst resident at the site address; if the applicant were to move address, the permission for the business use would fall away and the garage would revert to uses ancillary to the enjoyment of the dwellinghouse. The window could also be conditioned to be obscure glazed to reduce overlooking back towards no 38 due to the intensified use of the garage and close proximity to the rear elevation.
- 7.8 A further consideration is that any permission for this application could be temporary in nature, valid for a 12 month period. The reasoning for this would be that the siting of a commercial unit for the purposes of exercise classes has the potential to cause disturbance within a residential area such as this. Whilst Environmental Health has raised no objection on noise and disturbance grounds, if further concerns were to be raised within the 12 month period this would then be reviewed at the stage of renewal of the permission. Whilst it is noted that the use began in March 2019 and the extension was built in November 2020, this 12 months would allow for it to be more fully assessed as, due to the covid pandemic, the studio has not been functioning for a reasonable test period as normally would be the case, following the extension. A 12 month period would allow for this.
- 7.9 Having regard to the Environmental Health consultation response, and the range of conditions which could be imposed on any permission, it is considered that the concerns regarding the use expressed through the objections to the application have the potential to be mitigated to an acceptable level. A limited period permission would allow for the situation to be reviewed. Consequently it is considered that it would not be reasonable to refuse the application as, having regard to Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011, any adverse effects of the business use on residential amenity have the potential to be ameliorated.

(iv) Highways .

- 7.10 The loss of the garage as a parking space alongside the intensified use of the garage as a studio has resulted in a lack of parking space provision on site for both the residential use of the main property and the increased use of the studio for clients . The parking space allocation falls below the requirements specified in the Havant Parking SPD; although the loss of the garage for parking to form ancillary accommodation to the host dwelling would not in itself have required planning permission, and so it is in essence the additional traffic associated with the business use which is of most relevance to this issue.

- 7.11 To the north of the site is access to the rear garden and garage via Stead Close, which forms a cul-de-sac at the rear of no 36. This is where the applicant parks their vehicle and where there is a turning area with access to rear garages and on street parking availability as there are no double or single yellow lines on the road. A parking survey has been provided which spans one week in March and this does not appear to show intense use of Stead Close by vehicles parking. In addition, on a site visit by the case officer, parking did not appear to be an issue. The Highways Authority has also been consulted in relation to this proposal and has upheld no objection to the proposal on the basis that the studio would generate low level traffic throughout the day which could be accommodated within close proximity to the site.
- 7.12 Whilst the lack of parking is noted, in this case the traffic generated by the studio is judged to be readily accommodated in the nearby street parking and is not deemed to cause such an issue to justify a refusal on these grounds.
- 7.13 As with the residential amenity issue, however, a grant of temporary permission would enable the situation to be reviewed as and when the permission comes up for renewal.

8 Conclusion

- 8.1 The proposed development is considered appropriate to the character and appearance of the area, and the concerns raised regarding the business use are considered capable of being addressed through planning conditions. It is therefore considered that a temporary permission for use of the garage building as a fitness studio would be acceptable subject to the submitted amendments and the conditions proposed.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT TEMPORARY PERMISSION** for application APP/21/00362 subject to the following conditions:

- 1 This permission for use of the extended garage as a personal training gym/studio shall be for a limited period expiring 12 months from the date of this permission, on or before which date the use of the extended garage as a personal training gym/studio shall be discontinued permanently and its use shall revert to purposes ancillary to the enjoyment of the dwellinghouse (36 Osprey Drive) only, unless the prior written consent of the Local Planning Authority has been obtained in writing for a further period.

Reason: To enable the Local Planning Authority to review the amenity and highways impacts of the use within the residential area and having due regard to policies CS16, DM10, DM13 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Car Parking Survey uploaded on the 21.04.2021
Section Plan uploaded on the 21.04.2021
Location Plan uploaded on the 29.04.2021

Proposed layout (retrospective) uploaded on the 29.04.2021
Proposed elevations (retrospective) uploaded on the 29.04.2021
Noise Management Plan uploaded on the 20.04.2021
Supporting Statement uploaded on the 20.04.2021

Reason: To ensure provision of a satisfactory development.

- 3 This permission for use of the extended garage as a personal training gym/studio shall enure for the benefit of Mrs D Hickman only whilst resident at 36 Osprey Drive and shall not enure for the benefit of the land, and the use hereby permitted shall be discontinued on the date when Mrs D Hickman ceases to reside at 36 Osprey Close.

Reason: To ensure that the business operates as set out in the application in the interests of the residential amenities of adjacent properties and in association with the occupation of 36 Osprey Close, having due regard to Policies CS16, DM10, DM13 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 The use of the extended garage authorised by this permission shall comprise use as a personal training gym/studio only, as set out in the supporting statement submitted with this application. No other uses within the same Use Class shall take place on the site.

Reason: Having regard to the particular circumstances of the case where the location is residential in character and has the potential to result in neighbour amenity and traffic issues, and having due regard to Policies CS16, DM10, DM13 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The personal training gym/studio hereby permitted shall only be open for trade or business on the following days and hours:
Monday – Friday: 0800 hrs - 1800 hrs

Reason: To protect the amenities of nearby residential properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 The noise management plan submitted by the applicant to the Local Planning Authority, which specifies the provisions made to ensure the control of noise emanating from the residential garage converted to a gym for commercial purposes, shall remain a live document and the measures to control noise advised of therein shall be adhered to at all times. This document shall be reviewed periodically or as required, to address any issues arising, or which may arise from changes to the operation or usage of the facility.

Reason: To protect the occupants of nearby residential properties from noise emanating from, or linked to, this facility and having due regard to Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, within 3 months of the date of this decision the rear window on the garage elevation facing south shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) and shall be retained as such thereafter.

Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 8 Each personal training gym/studio session hereby approved shall be carried out in strict accordance with the following arrangements:
- (i) There shall be a maximum of 2 clients at any given time;
 - (ii) There shall be a maximum of one member of staff - Mrs D Hickman; and
 - (iii) A detailed register of appointments shall be kept and made available for inspection by the Local Planning Authority upon request.

Reason: To ensure that the level of business use is compatible with the residential area and neighbouring amenities having due regard to Policies CS16, DM10, DM13 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 9 Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015 (as amended) no externally vented air conditioning, extracts or noise generating equipment shall be installed at the premises unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.