



Planning Committee

Application Address	25 River Way, Christchurch, BH23 2QQ
Proposal	Retrospective planning application for a change in use from a C3 residential garage to a mixed-use space. The proposed use includes a pole/aerial fitness exercise studio, as well as personal use by the applicants for activities ancillary to the residential use.
Application Number	8/25/0017/COU
Applicant	Samilou Pole & Aerial Fitness Studio
Agent	Mr Matt Stevens
Ward and Ward Member(s)	Commons, Councillor Margaret Phipps and Councillor Vanessa Ricketts
Report Status	Public
Meeting Date	5 June 2025
Summary of Recommendation	Grant in accordance with the details set out below for the reasons as set out in the report
Reason for Referral to Planning Committee	Called in by Councillor Phipps: Contrary to Christchurch Core Strategy HE2 and H12 disturbance to amenity of neighbouring properties. Also contrary to KS12 inadequate parking for the proposal leading to on road/blocking driveway parking. Detrimental and ongoing nuisance to neighbours spoiling enjoyment of their properties. Proposed hours are 8am to 9pm. Also 7 day per week operation. All excessive. Proposal unsuitable for residential area
Case Officer	Peter Walters
Is the proposal EIA Development?	No

Description of Proposal

1. The description of development is for “Retrospective planning application for a change in use from a C3 residential garage to a mixed-use space. The proposed use includes a pole/aerial fitness exercise studio, as well as personal use by the applicants for activities ancillary to the residential use.”
2. Planning permission was granted for an enlarged replacement residential garage in May 2021 (8/20/0742/HOU). The application included condition 4 which states:

“The building hereby permitted shall be solely for purposes incidental to the enjoyment of the existing dwelling to which it is shown to be related by the terms of the application and the deposited plans, and for no other purpose whatsoever.

Reason: To safeguard residents, amenities and character of the area and in order that the Council may be satisfied as to the nature of the scheme.”

3. The applicant advises that the use of the garage has been partially used for running a pole dancing fitness business and partially for the personal use of their family. The application is seeking permission to regularise the activity that is occurring at the site. No physical alterations to the building are proposed.

Description of Site and Surroundings

4. The area is residential in nature, with no commercial premises in the area (officers note the reference to a playgroup opposite the site, however, an interrogation of the Companies House website indicates that this business has been dissolved and no longer operates). The building the subject of this application is situated in the north eastern part of the site. To the north, west and east are residential properties, to the south west is River Way. The front of 25 River Way has been hard surfaced, providing parking and amenity space. The building is not separated from the rest of the house by any boundaries and therefore functions as part of the same planning unit.

Relevant Planning History:

5. 8/20/0742/HOU – Construction of enlarged replacement garage – granted 20th May 2021. The permission included condition 4 which restricted the garage to use for purposes incidental to the enjoyment of the existing dwelling and for no other purpose whatsoever.

8/24/0365/CONDR - Removal of condition 4 of application no: 8/20/0742/HOU -for construction of enlarged replacement garage.

Condition 4 states garage to be used incidental to the residential use, the owner's also use the space to provide pole fitness classes/demonstrations and it is also used as a flexible fitness, dance, relaxation and home schooling area – withdrawn on 27th November 2024. The application was withdrawn as the application to vary a householder planning permission was not the correct application type for a proposed change of use.

Constraints

6. The site is situated within Flood Risk Zone 2

Public Sector Equalities Duty

7. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Consultations

Highways: comments received 11th February 2025

No objections raised subject to a condition requiring compliance with the proposed site plan ASP.24.035.P002. The applicant has made allowances for the additional vehicles on site which is welcomed. There is capacity on the road should additional car parking be required. The applicant has advised cycles can be stored to the rear of the dwelling for security reasons which is welcomed.

Environmental Health: comments received 17th February 2025

"I understand that there was a previous application in 2024 to remove condition 4 of 8/20/0742/HOU that was withdrawn. We were consulted on this application and recommended a condition in respect of noise.

The garage building is approximately 2m from the nearest residential property. It is understood the applicant proposes to use the building for their Pole dancing business, offering regular classes throughout the week and weekend. Considering the proximity and as mentioned when consulted on the previous application, ordinarily we would have concerns with regards to potential noise impacts from the associated use. However, it is apparent this business is already operating, and we have not received any noise complaints to date. Furthermore, it is understood from reading the design and access statement that music will not be played when the building is used for the Pole Dancing classes but may occasionally be played during recreational/family time which seems acceptable, providing it is not played regularly and at a volume that is likely to cause nuisance to the neighbouring residents. We would therefore recommend a condition is attached to any planning permission granted restricting the playing of amplified music when the building is used for business purposes. We would also recommend a condition is attached to any approval to restrict the operational hours of the building for business use to prevent it being used for this purpose for long durations at weekends, during the early mornings, late evening.

Therefore, we would recommend conditions to the following effect are imposed on any planning permission granted;

No amplified or other music shall be played when the premises is used for business purposes.

There shall be no customers on the site between the hours of 21.00 and 09.00hrs from Mondays to Fridays and between 12.00 and 09.00hrs on Saturdays and Sundays."

Representations

8. The application has been called in by Councillor Phipps. She has cited concerns regarding noise, nuisance, disturbance and parking issues for neighbouring residents. She has concerns regarding the proposed opening hours of the business and its 7 day a week nature. In her summary she considers that the proposal is overall unsuitable for a residential area and therefore objects to the proposal.
9. 29 letters of representation have been received. Of these, 21 are in support of the application and 8 are objecting to the application. The following matters have been raised by the proposal:

- Area is residential in nature – proposed business not compatible with a residential area.
- Concerns regarding noise levels generated
- Concerns regarding parking provision – insufficient for the numbers of clients
- Increased traffic from the business
- Retrospective application – should be taken into consideration (**Officer note: this cannot be taken into account as it is not a material planning consideration**)
- Greater impact on the foul drainage system as a result of the proposal
- Use of outdoor gym equipment for bodybuilding sessions (**Officer note: this is outside of the scope of this application**)
- Increased parking on the road will increase the risk to highway safety

Comments in support have raised the following points:

- Classes are calm and relaxed
- Classes are small
- Only a slight increase in cars parked on the road but most cars seem to park on driveway
- No disruption noticed when walking dog
- Windows do not have to be opened as there is an air conditioning unit installed
- No music is played during lessons

Key Issue(s)

10. The key issue(s) involved with this proposal are:

- Whether the use is compatible with other uses in the area
- Whether harm is caused to the amenity of neighbouring residents, by means of noise
- Whether there is any impact upon highway safety from the proposal

11. These issues will be considered along with other matters relevant to this proposal below.

Policy context

12. Local documents:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise.

The development plan in this case comprises the Christchurch and East Dorset Local Plan (2014):

KS1: Presumption in Favour of Sustainable Development
 KS2: Settlement Hierarchy
 KS11: Transport and Development
 KS12: Parking Provision

13. National Planning Policy Framework (“NPPF” / “Framework”)

Including in particular the following:

Section 2 – Achieving Sustainable Development

Paragraph 11 –

“Plans and decisions should apply a presumption in favour of sustainable development.

.....

For decision-taking this means:

(c) approving development proposals that accord with an up-to-date development plan without delay; or

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

Section 6 – Building a strong, competitive economy

Paragraph 85-

“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.”

Section 12 – Achieving well-designed places

Paragraph 135 –

“Planning policies and decisions should ensure that developments:

...

f) create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users...”

Planning Assessment

14. Principle of Development

The site is situated within the settlement boundary of Christchurch. Policy KS2 of the Christchurch and East Dorset Local Plan (2014) provides a settlement hierarchy for development to take place. Within it, Christchurch is placed at the top of the hierarchy for development to take place. The policy states that “The settlements which will provide the major focus for community, cultural, leisure, retail, utility, employment and residential

development. This will include infill development as well as options for some greenfield development.”

15. Taking account of the above, it is considered that the principle of a commercial development in a residential area can be acceptable subject to other material planning considerations that will be considered in greater detail below.

Impact on the amenity of neighbouring residents

16. The proposed development will introduce a commercial activity into an area that is currently residential. There do not appear to be any other commercial properties within the immediate vicinity of the site. It is therefore appropriate to consider whether the proposed business would harm the amenity of the neighbouring residents.
17. There are no internal alterations proposed to the building therefore it is not necessary to consider whether the proposed development would have any impact in terms of increased visual intrusion or risk of overlooking.
18. One of the primary concerns raised by members of the public objecting to the proposal relates to the noise impact of the proposal. Many of the comments note that the business generates noise, primarily through music being played while the fitness lessons are taking place. It should be noted that many of the comments in support of the proposal indicate that music is not played during their lessons. On the site visit, officers found no evidence of a large music amplification system, but there was a Bluetooth speaker present. As the proposed use for the building is a mixed use for personal use of the studio as well as the business, it is not possible to determine whether or not the speaker is being used for lessons or whether it is being used for personal use.
19. It is accepted that loud amplified music in the location during lessons would be likely to have a harmful impact on the neighbouring residents. It is noted that the building is approximately 2m from the rear garden of 2 Hurn Way and amplified music would be likely to have a more significant impact on this property in particular. The applicant has confirmed that they do not require music for their lessons.
20. The Council's Environmental Health Officer has therefore recommended that a planning condition is applied preventing amplified or other music being played when the premises is being used for business purposes. Restricting the playing of music at other times would not meet the NPPF tests for planning conditions, namely it would not be reasonable as residents are entitled to play music on their property for their personal enjoyment. Antisocial volumes of music being played for personal enjoyment is dealt with by legislation that sits outside of the Planning System under Environmental Health legislation.
21. Despite this, there will be a degree of noise generated by the use even without the playing of music, particularly as business users arrive and leave the premises. This is not considered to be unduly harmful during the day when background noise is higher but it would be more harmful at night. Similarly, background noise levels are likely to be lower at the weekend. Therefore, it is considered necessary to apply a planning condition to restrict the hours of operation. No customers would therefore be allowed on site between the hours of 21.00 and 09.00 on Monday to Friday and 12.00 and 09.00 on Saturday and Sunday.
22. Taking into account the above proposed planning conditions, officers are satisfied that the impact of the proposal on the amenity of the neighbouring residents can be adequately protected and therefore the proposal complies with Policy HE2 – Design of New Development of the Christchurch and East Dorset Local Plan (2014).

Impact on Highway Safety and Parking Provision

23. The business generates a degree of vehicular movements as a result of customers attending classes. Comments received from current customers indicates that the business attracts people from the local area but also some who have to travel to the site. The applicant has utilised permitted development rights to put a hard surface down in the front garden of the property. This is used for customer parking but also has markings for a mini sports court to be used domestically by the applicant's family outside of business hours.
24. The applicant makes the hard surfacing available for car parking for the customers of the business which reduces the reliance of parking on the street. The parking area provides space for 5 customer vehicles, as well as the vehicles owned by the applicant. In addition, it is noted that the applicant advises that cycles can be stored to the rear of the dwellinghouse for security reasons.
25. The NPPF provides a clear steer in terms of when an application should be refused on highways grounds. Paragraph 116 of the NPPF states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

26. The Local Highway Authority have been consulted on the proposal. They note that the road has capacity for additional parking that might be required should the parking area be fully in use. They also welcome the provision of space to provide cycle parking for customers who choose to use more sustainable modes of transport. The location is considered to be reasonably sustainable, it is noted that on weekdays, there is an infrequent bus service along River Way to the town centre. There are far more frequent buses from the Grove, which is less than a 10minute walk from the site, once again linking to the town centre. It is acknowledged that the public transport provision will not entice all customers to use sustainable modes of transport, however, their presence increases the sustainability of the site.
27. Returning to paragraph 116 of the NPPF, the threshold for refusing an application is that there would be an unacceptable impact on highway safety or where the cumulative residential impacts would be severe. The Council's Local Highways Authority has indicated that neither of these are the case for this proposal. Therefore, in accordance with the guidance set out in the NPPF, the proposal is considered to be acceptable in terms of its impact upon highway safety.

Impact on the character and appearance of the area

28. The proposal does not include any external physical alterations to the building. In visual terms, the proposal will not have a greater impact on the character and appearance of the area. It is accepted that there is a degree of visual impact from the parking of cars to the front of the building however this would be temporary and only when the business is operating. Therefore the impact is considered to be limited.
29. Although the prevailing character of the area is currently residential, the business will only have customers who have booked into sessions and as a result there would only be movement at the beginning and end of lessons. While this will result in a degree of change to the character of the area, the change is not considered to be unduly harmful to its character.

30. Taking this into account, the proposal is not considered to have an unacceptably harmful impact on the character and appearance of the area and therefore complies with Policy HE2 of the Christchurch and East Dorset Local Plan 2014.

Biodiversity

31. The proposed development will not result in any physical external alterations that will have an impact on biodiversity and is therefore considered to be acceptable in this respect.

Heathlands

32. The proposed development will not result in the increase in residential accommodation and accordingly the Dorset Heathlands SPD indicates that the proposal will not have a harmful impact on the protected heathlands.

Phosphates

33. The proposed development will not result in the increase in residential accommodation and accordingly will not result in an increase of phosphates entering the River Avon SAC. It is therefore acceptable in this respect.

Biodiversity Net Gain

34. The proposal does not involve any physical external changes. The NPPF at chapter 15 'conserving and enhancing the natural environment' sets out government views on minimising the impacts on biodiversity, providing net gains where possible and contributing to halt the overall decline in biodiversity. The Local Plan Policy ME2 – biodiversity and geodiversity, sets out policy requirements for the protection and where possible, a net gain in biodiversity.
35. In addition, a 10% biodiversity net gain (BNG) is required as per the Environment Act 2021 though exemptions apply. This proposal is exempt as it is de minimis.

Conclusion

36. The proposed development is considered not to have a harmful impact on the residents of neighbouring properties, subject to planning conditions. The proposal will not have an unacceptable impact on highway safety and does not harm the character and appearance of the area.

Recommendation

37. ***GRANT permission for the reasons as set out in this report subject to the following conditions:***

Conditions

1. The development hereby permitted shall only be carried out in accordance with the following approved plans:

ASP.24.035.P001 Location and Block Plan

ASP.24.035 P002 Site Plan

ASP.24.035.P003 Existing and Proposed Plans & Elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

2. No part of the development hereby permitted shall be used unless the access, turning and parking areas shown on approved plan ASP.24.035.P002 dated 10th January 2025 have first been fully constructed and laid out in accordance with the specification as set out in that approved plan. Thereafter, these areas shall at all times be retained, kept free from obstruction, be available for use for the purposes specified and maintained in a manner such that the areas remain so available.

Reason: In the interests of highway safety.

3. At no time during the use of the building for business purposes shall amplified or other music be played, nor shall any public address system be used in the premises hereby permitted.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties.

4. There shall be no customers on the site between the hours of 21.00 and 09.00hrs from Mondays to Fridays and between 12.00 and 09.00hrs on Saturdays and Sundays.

Reason: To preserve the residential amenities of nearby residential properties. 1. The development hereby permitted shall only be carried out in accordance with the following approved plans:

ASP.24.035.P001 Location and Block Plan

ASP.24.035 P002 Site Plan

ASP.24.035.P003 Existing and Proposed Plans & Elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

Informatives

Informative:

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless: (a) a Biodiversity Gain Plan has been submitted to the planning authority, and (b) the planning authority has approved the plan. The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Bournemouth, Christchurch and Poole Council. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission does not require the approval of a biodiversity gain plan before development is begun because one of the statutory exemptions or transitional arrangements listed is relevant".

Background Documents:

Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application the subject of this report including all related consultation responses, representations and documents submitted by the applicant in respect of the application.

Notes.

This excludes all documents which are considered to contain exempt information for the purposes of Schedule 12A Local Government Act 1972.

Reference to published works is not included.