

# Planning Committee

Application Address	33 East Avenue, Bournemouth BH3 7BT
Proposal	Use of swimming pool for private swimming lessons including associated facilities (Existing unauthorised use) and also used ancillary to the residential use of the property
Application Number	P-5513-200125
Applicant	Mr and Mrs Sale
Agent	Spruce Town Planning Ltd
Ward and Ward Member(s)	Talbot & Branksome Woods Ward <ul style="list-style-type: none"> <li>• Councillor Philip Broadhead</li> <li>• Councillor Matthew Gillett</li> <li>• Councillor Karen Rampton</li> </ul>
Report Status	Public
Meeting Date	30 <sup>th</sup> June 2025
Summary of Recommendation	<b>Grant in accordance with the details set out below for the reasons as set out in the report</b>
Reason for Referral to Planning Committee	20 representations received in objection during the publicity period
Case Officer	Eden Evans
Is the proposal EIA Development?	No

## Description of Proposal

1. This retrospective application proposes the use of an existing indoor swimming pool for private swimming lessons as well as the existing ancillary use to the residential property. No physical alterations to the building are proposed.

## Description of Site and Surroundings

2. East Avenue is a wide street with a sylvan character in the ward of Talbot & Branksome Woods. It is located close to the western edge of Bournemouth, to the north of Meyrick Park. East Avenue is characterised by large dwellings set on sizeable plots. From the site visit conducted and internet searches, the area is predominantly residential in character, with few examples of commercial operations.

3. No. 33 East Avenue is a corner plot located on the junction of East Avenue and Elgin Road. Immediately to the south of the site is the railway line. The applicant property is a sizeable two storey dwelling with an attached garage to the west and a side extension to the east which houses an indoor swimming pool. The property benefits from a large rear garden and large front driveway. There are two access points to the site, a vehicular access point fronting north onto East Avenue and a separate pedestrian access gate fronting east onto Elgin Road.

### **Relevant Planning History:**

4. Permission was granted in 1988 for an extension with an indoor swimming pool at the property. Following this the planning history mostly relates to tree work.

7-1988-5513-D Alterations & 1/2 storey extension to dwellinghouse. Granted April 1989.

7-2018-5513-I Alterations, single storey extension to dwellinghouse, formation of roof lights and dormer window, alterations to elevations of garage, erection of porch and boundary fencing, piers and gates - Part existing unauthorised works. Granted February 2019.

### **Constraints**

5. With respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area – section 72 - Planning (Listed Buildings and Conservation Areas) Act 1990.
6. Relevant site constraints:
  - Meyrick Park/Talbot Woods Conservation Area – Positive Contributor
  - Area TPOs
  - Parking Zone D
  - Flood zone 1

### **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.

### **Other relevant duties**

8. For the purposes of this application, in accordance with section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area.
9. For the purposes of this report regard has been had to the Human Rights Act 1998, the Human Rights Convention and relevant related issues of proportionality.

## **Consultations**

10. Dorset Wildlife Trust – no response  
Network Rail – no comment  
Environmental Health – condition recommended regarding noise  
Waste & Recycling – no comment  
Heritage – no comment  
Local Highway Authority – objection overcome subject to conditions

## **Representations**

11. Site notices were erected in the vicinity of the site on 24/03/2025 with an expiry date of 14/04/2025. A press advert was also issued. 118 representations have been received, 21 in objection and 97 in support.
12. Of the objections received, 20 were received within the site notice public consultation period and accordingly count towards the scheme of delegation requirements for committee decisions.
13. Issues raised in objection comprise the following:-
  - Out of keeping with a residential area
  - Issues with parking
  - Litter from swimming pool users
  - Adverse impact on highway safety
  - Increase in traffic and air pollution
  - Setting a precedent for future businesses
  - Increased noise
  - No benefit to the community
  - Adverse impact on the Conservation Area
  - Impact on the nature reserve and the environment
14. Issues raised in support comprise the following: -
  - Benefit of the facility as a smaller pool with smaller classes
  - Benefit of the facility for nervous children
  - Benefit of the facility for neurodiverse children and children with SEN
  - Safe and accessible space
  - The school is well run and sends reminders to parents about parking rules and respectful behaviour
  - School being blamed for parking issues that are not related
  - There are no parking restrictions on the street
  - School is a local independent business
  - School is an asset for the community
  - Swimming is an important life skill, particularly in a coastal town

## **Key Issue(s)**

15. The key issue(s) involved with this proposal are:
  - Principle of change of use
  - Impact on character and appearance of the area
  - Impact on neighbouring residential amenity
  - Highways and parking
  - Biodiversity Net Gain

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

### **Policy context**

17. 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.

Local documents:

Core Strategy

CS16: Parking standards

CS18: Encouraging walking and cycling

CS38: Minimising pollution

CS39: Designated heritage assets

CS41: Quality design

District Wide Local Plan

4.4 Development in Conservation Areas

4.9 Parking Guidelines in Conservation Areas

5.2 Small businesses to respect neighbouring residential amenity

5.10 Homeworking

Supplementary Planning Documents:

BCP Parking Standards (2024)

Meyrick Park/Talbot Woods Conservation Area Appraisal (2009)

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."

### **Planning Assessment**

Principle of change of use

18. Policy 5.2 states that '*The Local Planning Authority will grant planning permission for the development and expansion of small business premises throughout the plan area where there will be no detriment to the amenity of the area or neighbouring occupiers and where there is no conflict with other policies within the Local Plan*'
19. Policy 5.10 states that '*Planning permission will be granted for business uses from residential properties provided the use does not generate levels of visitors, traffic, noise or fumes that will have an adverse effect on the occupiers of adjacent and nearby residential properties.*'

- 20.. It is noted that many representations received raise an in-principle objection to a commercial premises in a residential area. However, Local Plan policy does not hold that the location is unacceptable in principle by virtue of its residential setting. The application site is located within the plan area of Bournemouth, and in accordance with Policy 5.2 and 5.10, is not sited in an unacceptable area in principle.
21. In accordance with the above policies, the acceptability of the change of use depends on whether the proposal is harmful in relation to other issues including the amenity of the area and neighbouring residents. These impacts and other relevant impacts will be discussed throughout this report.

#### Impact on character and appearance of the area

22. Policy CS41 requires that development respects site and setting. The proposal does not involve physical changes to the built form.
23. The scale of the proposal and resultant change of use is small and whilst an increase in comings and goings may have some small impact on the character of the area, the quantum associated with the development is not considered sufficient to amount to material harm to the character and appearance of the area.
24. Policies CS39 and 4.4 aim to prevent harmful development in Conservation Areas. It is noted that No.33 East Avenue is identified as a positive contributor to the Meyrick Park/Talbot Woods Conservation Area. Similarly, with the small-scale nature of the proposed commercial use, the quantum of comings and goings associated is not considered to be materially harmful to the character of the Conservation Area or impact on the positive contribution made by the dwelling. Accordingly, the proposal is not considered to be contrary to the aims of Policies CS39 or 4.4.
25. Overall, the proposed change of use is not considered to be materially harmful to the character and appearance of the area or the designated heritage asset and is accordingly considered compliant with the aims of Policies CS39, CS41 and 4.4 in this regard.

#### Impact on neighbouring residential amenity

26. Policies 5.2, 5.10 and CS41 require that development respects neighbouring residential amenity. Policy CS38 requires that development minimises potential noise and other pollution. A number of representations received in objection raised the issue of noise and disturbance. It is noted that issues of parking and traffic have also been raised in relation to neighbour impacts however this will be discussed in the following section.
27. It is considered that there will be a degree of noise generated by users arriving and leaving the premises. A condition is recommended to limit the class sizes held by the swimming pool to 6 learners in attendance. At these numbers, noise from comings and goings is not considered to be unduly harmful during the day when background noise is higher. It is however considered that there may be the potential for harmful impacts at night. Similarly, background noise levels are likely to be lower at the weekend. It is therefore considered necessary to apply a planning condition to restrict the hours of operation. A condition is also recommended to restrict the permitted use to the specific use applied for. Subject to these conditions it is not considered that noise levels generated by users arriving and leaving the premises would be materially harmful to neighbouring residential amenity.
28. Furthermore, Environmental Health detailed that, during the course of the application timeline, a noise complaint has been received in relation to the operation of the swimming pool. The EHO commented that it is unlikely noise from children swimming would amount to a statutory nuisance, however it could potentially detriment amenity as a new noise source that has been introduced to the area from a commercial activity. Therefore, to minimise noise breakout, the Environmental Health Officer suggests a condition is imposed to ensure the windows/external doors are kept closed when the pool is being used for commercial activities. This condition has been added.
29. It is also noted by the case officer that a site visit was conducted whilst a swimming lesson was taking place. At this time, there was no audible noise from the swimming pool building once outside.

30. Overall, subject to the conditions detailed above, it is considered that the proposal would have an acceptable impact on neighbouring residential amenity, complaint with Policies 5.2, 5.10, CS38 and CS41 in this regard.

#### Impact on highway safety and parking

31. Many of the objections received raised issues relating to parking, traffic and highway safety in relation to comings and goings associated with the commercial use of the swimming pool. Paragraph 116 of the NPPF (2024) states that *'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.'*
32. The Local Highway Authority were consulted and requested further information on the commercial use. Further information was subsequently submitted including a timetable that lists the number of swimmers and number of siblings that attend the lessons, as well as a travel plan.
33. The data shows a cluster between 09:00am and 11am Monday, Wednesday and Friday and a second cluster between 3:15pm and 6.45pm on a Monday, Wednesday and Thursday. On a Saturday lessons run between 08:30am and 11.30am. In total, over a week there are 46 lessons. Currently there is on average 4 children per session (rounded up). The number of children attending per week is 172. It is useful to see the number of siblings that attend lessons and therefore shared trips will occur. Out of the current timetable, 22 participants are siblings. It is considered reasonable to assume that a proportion of future swimmers will also have siblings.
34. The submitted travel plan states that the applicant encourages walking and cycling and 5 children currently walk to the site. It is recommended that the applicant/swim instructors continue to liaise with clients to promote active travel. A condition is recommended by the Local Highway Authority to ensure compliance with this travel plan.
35. The submitted travel plan states that driveway parking is provided for the swimming instructors and that there will be two available spaces on the driveway for clients. An updated site plan has been submitted that shows the available parking spaces. Vehicles are able to enter and exit the site in a forward gear. No objections are raised by the LHA to the site plan. The LHA recommends a condition is included to ensure that the identified parking spaces shall be kept available for swim instructors. Subject to conditions, the Local Highway Authority raise no objection to the proposal, given the on-site parking, encouragement of active travel and parking capacity on Elgin Road.
36. The LHA also note that letters of representation have been reviewed which highlight inconsiderate parking on Elgin Road and have stated that a lot of the issues raised relate to parking enforcement matters.
37. Overall, it is considered that the proposal would not result in an unacceptable impact on highway safety, or severe cumulative impacts on the road network. Accordingly, the proposal would not meet the NPPF (2024) threshold in paragraph 116 for a refusal on highway grounds. Subject to conditions, the impact on highways and parking is considered to be acceptable.

#### Biodiversity net gain exempt

38. Paragraph 40 of the Natural Environment and Rural Communities Act, under the heading of 'duty to conserve biodiversity' states "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity."
39. 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 PP33 – biodiversity and geodiversity, sets out policy requirements for the protection and where possible, a net gain in biodiversity.
40. 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**

41. The proposed development is considered not to have a harmful impact on the residents of neighbouring properties or highway safety, subject to planning conditions. It is considered that there is no harmful impact on character and appearance of the area or designated heritage assets.

## **Recommendation**

**GRANT subject to the following conditions .**

### **1. Decision Notice - GRANT**

The development hereby permitted shall be retained in accordance with the following approved plans:

Location plan; dwg no. PP-13690912v

Location and site plan; dwg no. TQRQM25013144655740

Site layout plan; dwg no. PS 1881 as amended and submitted 30/4/2025

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

### **2. Use for mixed ancillary residential and swimming lessons only**

The area identified in grey on the floor plans, dwg no PS 1881 as amended and submitted 30/4/2025, shall be used for mixed ancillary residential and swimming lessons only and for no other purposes including any other purposes under use F2.

Reason: To enable the Local Planning Authority to maintain proper control of the premises in accordance with Policies CS38 and CS41 Bournemouth Local Plan: Core Strategy (2012.) and 5.2 and 5.10 of the District Wide Local Plan (2002.)

### **3. Hours of Operation**

The development shall only be used for swimming lessons between 9:00am and 7:00pm Monday-Fridays and between 9:00am and 12:00pm on Saturdays and Sundays.

Reason: To preserve the residential amenities of nearby residential properties.

### **4. Windows/external doors to remain closed**

All windows/external doors to the attached swimming pool building are kept closed when the pool is being used for commercial activities.

Reason: To preserve the residential amenities of nearby residential properties.

### **5. Swim instructors parking to be provided**

Swim instructors parking shall be provided as shown on drawing number 'PS 1881 as amended and submitted 30/4/2025' unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure there is sufficient instructors parking on site.

### **6. Maximum of 6 learners per session**

The private pool hereby granted permission shall have a maximum of 6 learners per session.

Reason: In order to control the maximum amount of clients travelling to the site and to preserve the residential amenities of nearby residential properties.

## **7. Compliance with Active Travel Plan submitted**

The submitted Active Travel Plan dated June 2025, that includes promoting clients to use active travel and reducing the number of vehicles that travel to the site, must be implemented in full following the grant of this application and operational thereafter.

Reason: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

## **Informatives**

### **BNG Not Required**

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".

### **Statement Required by the NPPF**

In accordance with paragraph 39 of the revised NPPF the Council, as Local Planning Authority, takes a positive, creative and proactive approach to development proposals focused on solutions. The Council works with applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions. In this instance:

The application was acceptable as submitted and no further assistance was required.

### **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.

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

Case Officer Report Completed

Officer: EDE

Date: 19.06.2025



Agreed by: Katie Herrington

Date:20/06/2025

Comment: