



Appeal Decision

Site visit made on 5 May 2025

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

Appeal Ref: APP/D1780/W/25/3359347

338 Hill Lane, Southampton SO15 7PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Stuart Ainsley against the decision of Southampton City Council.
- The application Ref is 24/00745/FUL.
- The development proposed was described as: "Application for change of use of the garage from domestic ancillary use to commercial gym, swimming pool and jacuzzi (retrospective)".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development within the banner heading above from the application form, rather than the decision notice. The decision notice description includes "the relaxation of condition 5 of permission 11/01258/FUL¹, which currently restricts the use of the garage to incidental domestic use only, to enable its use as a gym." However, the application subject of this appeal is for full planning permission, rather than a variation to a planning condition. Therefore, notwithstanding the above condition, I have determined the appeal on its own merits based on all submitted evidence before me.
3. Reference to "retrospective" in the application form does not relate to a form of development. However, the application form confirms that the change of use has already commenced. I was able to see the gym, swimming pool and jacuzzi facilities during my site visit. I have determined the appeal on that basis.

Main Issues

4. The main issues are:
 - the effect of the change of use on the living conditions of neighbouring residents, with particular regard to noise and disturbance; and
 - the effect on the residential character of the appeal site and surrounding area.

Reasons

Living conditions

5. The appeal site (No 338) comprises a large, detached two-storey dwelling facing Hill Lane, with an expansive area of public open space on the opposite site of the

¹ Erection of a part two-storey, part single-storey rear extension, new detached garage with accommodation above, loft conversion and new boundary walls.

road. The site is surrounded by detached dwellings to the south and west, and the building immediately north is used as a dental practice. Other commercial premises are located further north along Hill Lane, clustered around a busy double roundabout junction, including a local supermarket, restaurant and pharmacy.

6. No 338 has a wide and deep rear garden, enclosed on all sides by brick walls. A long single storey rear outshot extends across its northern rear boundary, which includes a swimming pool with changing and WC facilities. An outdoor jacuzzi, on a hard surface and beneath a wooden canopy structure open on all sides, is adjacent to the rear outshot, and the western site boundary with the rear gardens of dwellings along the cul-de-sac of Melrose Road. Hard surfacing extends alongside the rear outshot and its glazed sliding doors to the swimming pool.
7. The garage building containing the gym facilities is to the side of the main dwelling of No 338 and adjacent the southern boundary with No 336 Hill Lane. This dwelling is sited on higher ground level and contains a projecting single storey rear extension, and a first floor window slightly inset from the garage rear elevation.
8. Customer access is via a path from a gate between the dwelling and garage of No 338, leading to the rear garage door. There is a small tarmacked area immediately to its rear, and a gravel path runs from this along the southern and western boundaries to the pool and jacuzzi facilities. The garden also contains other smaller wooden outbuildings, but these buildings are not subject of the appeal scheme.
9. Along Hill Lane, I observed two bus stops near to No 338 with timetables displaying routes to the city centre, hospital and university, and 20mph speed limit signs along the road. I saw instances of long queuing vehicles northwards along this route towards the roundabout junctions. I found that road traffic noise was audible at fluctuating levels from within the rear garden of No 338. I did not however find the noise climate rear of the garage building to be dominated by this noise.
10. Whilst my visit was a snapshot in time and outside of a “rush hour” period, ambient noise levels within the garden were low. Even if the Hill Lane speed limit is soon to be increased to 30mph, this would not have a significant impact on the rear garden noise climate, given the setback distance from Hill Lane and the intervening levels of enclosure. I also heard no significant noise from the adjacent dental practice.
11. I observed an extensive array of gym and exercise equipment within the garage building, across both floors. The ground floor layout included dumbbells and other free standing lifting weights, structures facilitating various barbell lift types, seated weight machines and a rowing machine. The first floor contained cycling, rowing and “crosstrainer” machines, and seated weight machines.
12. The submitted evidence suggests that customer use is often intermittent, between the hours of 6am to 8pm Monday to Friday, and 6am to 10am on Saturday and Sunday. Unlike a conventional commercial gym, sessions are provided on a one-to-one or maximum two-to-one basis. The appellant’s statement detailing the grounds of appeal advises that the gym would operate for a maximum of 6 hours each weekday, giving a total of 30 hours per weekday. The appellant’s final comments advise that the gym only operates commercially to a maximum of 20 hours per week Monday to Friday, with anything beyond being personal family training.
13. There is a thick brick wall along the side boundary with No 336 and the garage building of No 338 is also of brick construction. I also noted that both gym levels

had ridged matted flooring. There is however limited further evidence before me to demonstrate how noise and vibration from within or adjacent the garage building can be controlled to an acceptable level.

14. Even with windows and doors closed or only partially open for ventilation, noise and vibration would still emanate from operating weights. Noise and disturbance would also be caused by voices, background music and customer movements to and from the garage building. The impacts of this would be particularly adverse during the early morning periods, when residents of No 336 may be sleeping or otherwise reasonably expect quiet living conditions. Given the proximity of the garage building to the abovementioned rear windows and garden area of No 336, I find that the gym change of use to subject of this appeal causes unacceptable impact on the living conditions of this neighbour in terms of noise and disturbance.
15. The evidence suggests that use of the outdoor jacuzzi and enclosed swimming pool by non-resident gym customers is less frequent. These facilities are further away from No 336 and near to the dental premises on other side. The jacuzzi is however adjacent to the shallower rear garden boundaries of dwellings along the cul-de-sac of Melrose Road. Although the enclosed pool is further away from these boundaries, large glazed doors and windows facilitate access to the pool. This also means that noise inevitably travels from the pool beyond the building. Noise generation from customers using and moving between all facilities is inevitable.
16. I accept that gym equipment such as cycling, running and rowing machines are found in many homes and are not as noisy as other equipment. It is also put to me that noise is more likely to arise from the appellant and his sons using the facility privately. The appellant also alleges that neighbouring complaints were only submitted after an advertising sign was installed to the front wall of No 338.
17. I have no reason to doubt that the overall facilities have been in regular use in recent years by friends and family, and a local rugby club for a period, without complaint and which all create a certain amount of noise. Such noise could nonetheless already significantly impact neighbouring living conditions, even if limited to a lawful incidental use to No 338.
18. The Council's Environmental Health department requested a Noise Impact Assessment and mitigation, designed by a suitably qualified acoustic technician. Whilst the Council may have determined the application in a quicker timeframe than expected, the appellant has still explicitly chosen not to provide the above requested information as part of this appeal. Based on the submitted evidence and following my visit, I am not certain that the imposition of a planning condition requiring the submission of such a professional assessment would avoid unacceptably adverse impacts on neighbouring living conditions.
19. I therefore conclude that even with conditional limitations as a personal planning permission for up to 20 hours per week Monday to Friday, such commercial use of the gym, jacuzzi and swimming pool leads to unacceptable impacts on the living conditions of neighbouring residents in terms of noise and disturbance. In this respect, the change of use conflicts with policies SDP1(i) and SDP16(i) of the City of Southampton Local Plan Review (LPR) (2015). Collectively, these policies require, amongst other things, development to avoid unacceptable impacts on the health and amenity of the city and its citizens, including noise impact.

20. My attention has been drawn to various planning permissions granted across Southampton in recent years. Their full details and policy contexts are not before me. In any event, these permissions relate to dog grooming and beauty salon businesses, which inevitably have different noise and movement characteristics to the current appeal scheme. Their various permitted operating hours also differ from the current use. These examples therefore do not justify allowing this appeal. The presence of the dental practice north of No 338 also does not justify allowing the appeal, even with its longer opening hours, as it also has differing characteristics, and I found no evidence that it harms neighbouring living conditions.

Residential character

21. In advancing its case that harm to the residential character of No 338 and the surrounding area also occurs, the Council cites conflict with Policy SDP7(v) of the LPR. Overall, Policy SDP7 reads to me as a design policy, and it makes no reference to noise or living conditions. Its criterion (v) requires development to integrate into the local community.
22. The change of use subject of this appeal does not include any external alterations. The site is well enclosed from Hill Lane at ground floor level by a solid wooden gate and front boundary wall with hedgerow above. Views of No 338 from other surrounding roads are also restricted by other dwellings and boundary treatments.
23. There is a significant amount of unrestricted parking for a considerable distance along the opposite side of Hill Lane, which I have found to be a well-used city thoroughfare. Customers of No 338's facilities, predominantly visiting one person at a time, are therefore not reliant on parking within the appeal site itself. I also noted that the adjacent dental practice contains a large parking area across its frontage. The customer movements to and from No 338 therefore do not have a discernible impact on the existing character of No 338 and the surrounding area.
24. For the above reasons, I have found no harm to the residential character of the appeal site and surrounding area. There is thus no conflict with Policy SPD7(v) of the LPR.

Planning Balance

25. I have found no conflict with Policy SDP7(v) of the LPR. I have however found that the change of use leads to unacceptable impacts on the living conditions of neighbouring residents in terms of noise and disturbance, in conflict with LPR policies SDP1(i) and SDP16(i). I therefore conclude that the scheme is contrary to the development plan as a whole.
26. The appellant's business provides expert one-to-one training and diet advice for clients of various ages, which no doubt provides physical and mental wellbeing. The business is described as a sanctuary for achieving fitness and well-being goals in an intimate and private setting. This is reflected in a number of supporting representations received from customers, who do not feel comfortable in other larger, busier gyms. Providing people with the tools to be more active, healthier and happier is undoubtedly positive for society as a whole, and may reduce the burden on local services such as the NHS. The above matters weigh in favour of the proposal. I am also mindful that cessation of the use may have a relatively adverse impact on the wellbeing of customers.

27. Planning decisions often involve competing interests that must be weighed in the balance by the decision maker. In the specific circumstances of this appeal, the harm I have identified to the living conditions of surrounding residents outweighs the abovementioned benefits.

Conclusion

28. For the reasons given above, the proposal conflicts with the development plan as a whole and the material considerations before me do not indicate that a decision should be made otherwise than in accordance with the development plan. The appeal is therefore dismissed.

R Cahalane

INSPECTOR