

- a) **DOV/22/00935 - Change of use of outbuilding to gym for business use (Use Class E(d)) (retrospective) – 32 Alison Crescent, Whitfield**

Reason for report – Number of contrary views (13)

- b) **Summary of Recommendation**

Planning permission be granted, subject to safeguarding conditions.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010):

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM11 – Location of Development and Managing Travel Demand

DM13 – Parking Provision

National Planning Policy Framework (NPPF) (2021)

Paragraphs 7, 8, 11, 130

National Planning Practice Guidance

National Design Guide (2021)

National Model Design Code (2021)

Kent Design Guide (2005)

SPG4 Kent Vehicle Parking Standards

Draft Dover District Local Plan

The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process (Regulation 19) the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF:

SP6 – Economic Growth

E3 – Businesses Operating from a Residential Property

PM1 – High Quality Design

R2 – Sequential Test and Impact Assessment

T13 – Parking Provision on new Development

HE2 – Conservation Areas

- d) **Relevant Planning History**

N/A

- e) **Consultee and Third-Party Responses**

Environmental Health – *Final Comment 27/09/22*: (In response to an amended Noise Management Plan (NMP) and proposed 7am- 8.30pm operating times) This meets our concerns and operation to the NMP should be conditioned.

Updated Comment 31/08/22: The NMP meets many of our concerns. The only items I would add or change would be that during change-overs music shall be switched off, a section on high temperature weather conditions where they can mention the use of air conditioning (or air temperature control) to allow for door and windows to remain closed during sessions and more information on the control of customers who may cause disturbance on arrival or departure. If they can make these changes, I foresee that the NMP would be accepted by us and could then be conditioned for them to operate to for the life of the development.

In terms of times, while the NMP covers most noise it would reflect a daytime operation (07:00am until 23:00pm). We agree to the 20:00pm termination during the week and a 13:00pm termination on a Saturday. The sticking point is the 06:00am start. Given that this is a residential area there would be an expectation of a certain amount of amenity prior to 07:00am where sleep would be expected. While the NMP adds controls the possibility of disturbance from patrons arriving, transferring to the building, and then using facilities is still there albeit reduced. Even the school to the rear of the site would not be in operation until at least 07:00am for staff. Environmental Protection could not support a 06:00am start on this basis and would object to the application on this point. Further to this, while Environmental Protection will not raise further comment with the application if certain changes are made, we are still concerned that the use has the possibility to cause disturbance if badly managed. The control of Impact noise is certainly a key consideration and if justified complaints are received further controls may be needed to alleviate such issues.

Original Comment 17/08/22: Environmental Protection have been asked to comment on the above application. When first reading the application and the objections, we were certainly concerned and requested a site visit to review the application site. Following that site visit we request the following controls through conditions:

1. Prior to first use, the site operator shall provide to the local planning authority a Noise Management Plan (NMP). The NMP shall be agreed in writing by the local planning authority before the use commences. The NMP, once accepted, shall be operated to by the site for the life of the development. The NMP shall cover all aspects of the use of the site as a commercial operation and provide means to mitigate or remove significant noise, including but not limited to: the use of music, human voice and the use of exercise equipment and specifically impact noise.
2. The site shall only operate as a commercial gym / commercial personal training site between the hours of 07:00am and 19:00pm Monday to Friday and 07:am until 11:00am on Saturday.
3. There shall only be a maximum of two visiting clients at the site in any operational hour.
4. All commercial gym and commercial personal training activities shall be confined to the internal garden building. There shall be no use of the external space by patrons other than for access and egress.
5. During commercial gym and commercial personal training activities all door and windows to the garden room shall remain closed other than for access and egress. For times of the year where high temperatures are expected the operator shall ensure that some form of air-cooling mechanism is present to allow for windows and door to remain closed.

While we have requested 5 conditions it is feasible that the applicant can include conditions 2-5 in the NMP and negate the need for their inclusion. As long as this is enforceable, we are happy with either approach. If our requests above are accepted, we would not object to the application.

Whitfield Parish Council – Whitfield Parish Council object to this change of use due to the lack of additional parking provision for customers of the business and the local problems this may cause. The application states that the current 2 parking spaces will remain at 2 spaces and there is no information about the number of people who may be visiting the business at any one time. For example group or individual classes? How often will client sessions overlap with parking required for those using the facility while others arrive early for the next session?

Alison Crescent is quite narrow and parking is a problem with people frequently parking on the pavement to allow buses to get through but hindering any pushchairs and mobility scooters from using the pavement. The customer parking availability/acceptability for the potential parking problems needs to be addressed before this retrospective permission can be granted.

Public Representations:

13 letters of objection and 4 letters of support have been received in response to the proposal. The material considerations included within the letters of objection have been summarised below. Matters such as impact on an individuals' property value, financial intentions of the applicant etc. are non-material considerations and are not included below.

- The gym has been disruptive to this quiet residential neighbourhood and has resulted in detrimental noise and disturbance impacts.
- There have been instances of groups of people turning up for dance exercises in the garden with music being played resulting in detrimental noise impacts to the surrounding neighbours.
- Equipment results in vibrations which can be felt inside my property.
- Cars associated with the gym are coming and going from 5am to 9pm at night, with associated noise from radios, doors slamming and activity.
- The gym has caused several traffic issues on this narrow and bendy road, which is a main bus route through Whitfield, with a bus stop in close proximity, and on a school route.
- There have been several instances where cars associated with the proposal have partially blocked the road. This has resulted in car and buses having difficulty negotiating the parked cars and occasionally having to mount the footway to get passed the parked cars.
- Users of the gym have parked directly opposite, or partially across driveways resulting in difficulty accessing and egressing resident's driveways.
- The parked cars together with the bends to the road have resulted in the loss of the line of sight of vehicles approaching which is detrimental to highway safety.
- Parked cars associated with the gym are often parked partially on the pavement, meaning persons with pushchairs, wheelchair users etc. have to walk out in the road, which is dangerous.
- The parked cars could prevent emergency services vehicles getting to their destinations.
- If there was a condition that meant patrons of the gym parked their vehicles on their drive and did not block surrounding driveways, I would no longer object to the application.
- This is a residential road not a business estate.

4 letters of support have been received and the material considerations are summarised below.

- Support the application and have no objections to the proposed change of use.
- The proposed gym would be excellent for the local community.

- Good to see a small local business expand and increase facilities for those wanting to improve their health in the area.
- As the next door neighbour of this property, I support the application. The owners are proactive in minimising noise and parking and are conscientious to the neighbours.

f) **1. The Site and the Proposal**

1.1 32 Alison Crescent is a single storey detached bungalow sited on a moderate, linear plot. Alison Crescent is a residential road in the village of Whitfield. To the north of the site is Whitfield Aspen School. The application relates to the existing single storey rear outbuilding located towards the end of the rear garden of the application site. The application seeks retrospective planning permission for the change of use of this rear outbuilding to a gym (Use Class E(d)) for business use. No external alterations are proposed to the outbuilding.

1.2 The location of the site and outbuilding, and the surrounding built environment is detailed in Figure 1 and Figure 2, and the elevations of the outbuilding are included in Figure 3 below:

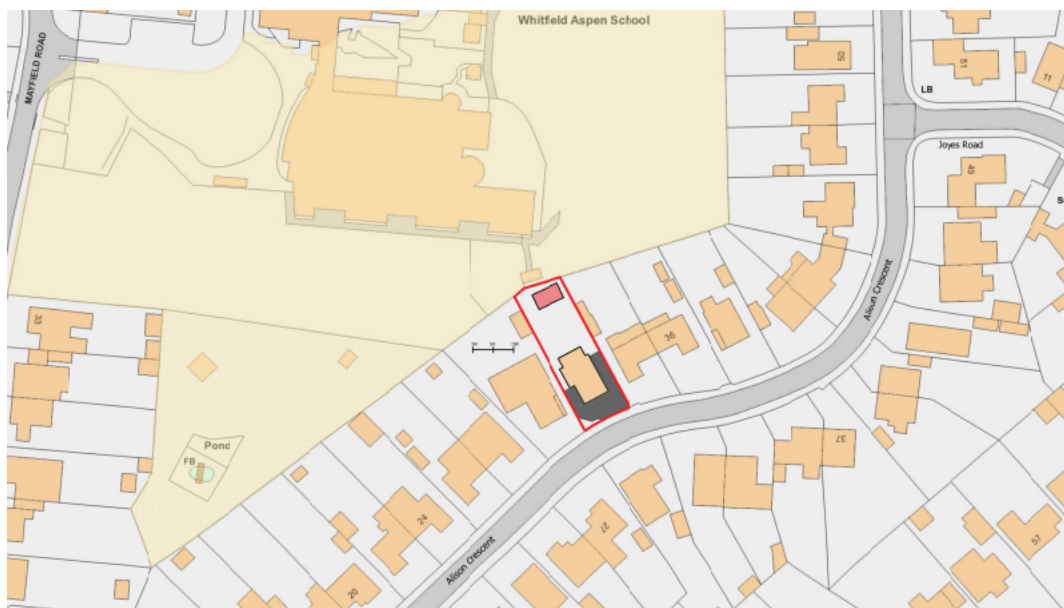


Figure 1: Proposed site location plan

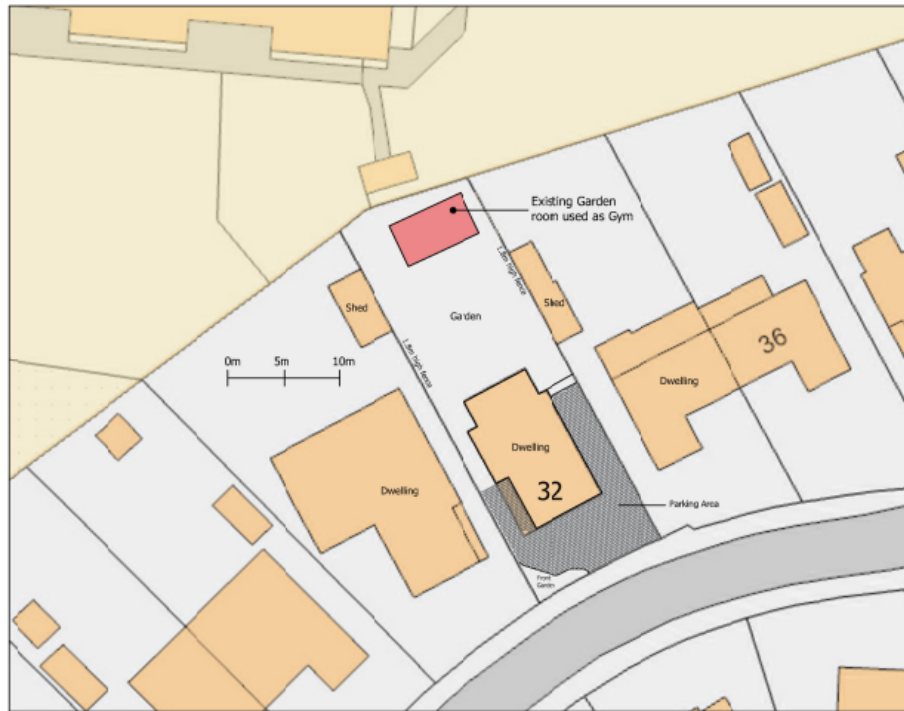


Figure 2: Proposed Block Plan

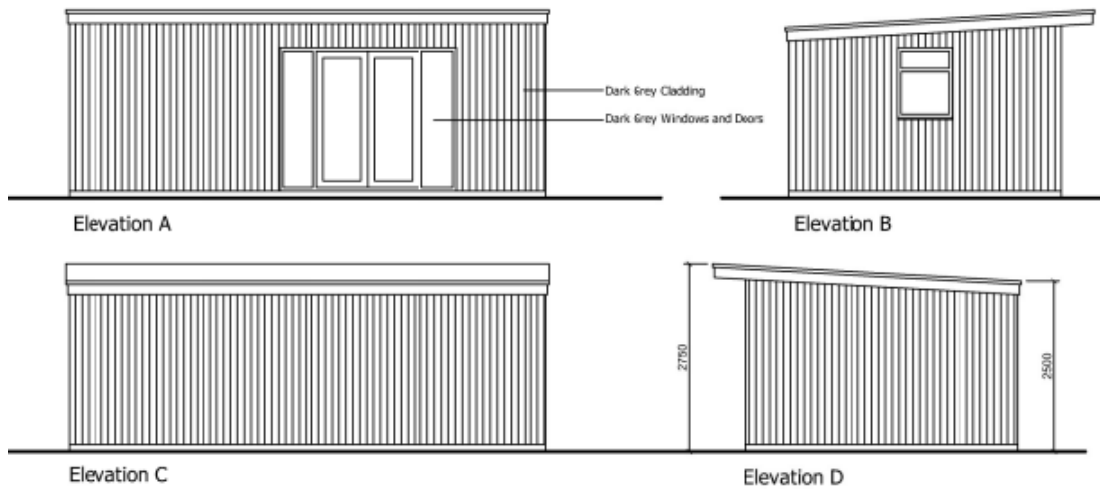


Figure 3: Existing and Proposed Elevations of Outbuilding

- 1.3 The application originally proposed opening hours of 06:00 – 20:00 Monday to Friday and 07:00 – 12:00 Saturdays and provided limited details of the proposed operation. Following a site visit and comments received from Environmental Health further information has been provided and the application has been amended to address concerns raised.
- 1.4 The amended scheme is supported by a Noise Management Plan (NMP) which clarifies and sets out how the proposed operation will be managed and the noise mitigation measures to prevent an unacceptable impact on the residential amenities of the surrounding adjacent neighbours. This includes a maximum of two visiting clients at any one time, all doors and windows closed at all times during sessions, no sessions instructed outside of the outbuilding, the installation

of rubber matting to the floor, and for the production of an agreed statement for clients to accord with the measures of the NMP, among others. The proposed hours of use have been amended in response to Environmental Health's comments to 07:00 – 20:30 Monday – Friday and 7:00 – 13:00 Saturdays. An amended plan has also been provided which details the extension of the existing driveway which can now incorporate 4No. parked vehicles, which will provide 2No. spaces for the visiting clients. The amended scheme now proposes clients utilise the existing drive, with the provision of the 5–10-minute change of time between sessions to avoid crossovers and associated highway implications.

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on visual amenity
- Impact on residential amenity particularly regarding noise and disturbance
- Highway safety and amenity

Assessment

Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan unless material considerations indicate otherwise.
- 2.3 The site lies within the settlement boundaries of Whitfield. Policy CP1 seeks to direct the location and scale of development in compliance with the settlement hierarchy. Policy DM1 permits development within the settlement boundaries. Policy DM11 seeks to manage travel demand and locate development within sustainable locations. There are no policies which directly relate to the creation of commercial development within the settlement confines. The National Planning Policy Framework proactively encourages sustainable economic growth and requires planning policies to be flexible enough to allow for new and flexible working practices.
- 2.4 Policy SP6 of the Draft Dover District Local Plan supports economic growth within the district. Policy E3 relates to businesses operating from a residential property and permits business operations provided the proposed use would not be of a scale that would not result in a change of the lawful residential use of the property and is acceptable with regard to its impact on living conditions, highway implications and does not result in the erosion of the residential character of the area. Given the stage of the Regulation 19 Plan then this policy can only be afforded moderate weight at this time but it does mirror the objectives of the NPPF.
- 2.5 The proposed gym use of the outbuilding (Use Class E(d)) constitutes a main town centre use, and paragraph 87 of the National Planning Policy Framework and emerging Policy R2 of the Draft Dover Local Plan requires a sequential assessment, with main town centre uses directed to town centres, and then edge of centre locations and so forth, to be applied. The proposed gym is modest in scale and scope, operating from a compact outbuilding associated with a

residential dwelling, with a maximum of 2No. clients for each session. Given the limited scope of the operation, it is not considered that the proposed development necessitates the application of the sequential test in this instance.

- 2.6 Similarly, whilst the proposed use of the outbuilding as a gym forms a separate use to the residential dwelling, its modest scale and scope and detached siting and arrangement from the dwelling is not considered to result in a change of the residential use of the main dwelling and wider site or result in the erosion of the residential character of the area. As such, the proposal would not conflict with emerging Policy E3, subject to the assessment of its suitability with regards to its impact upon residential amenity and highway implications, which will be considered in the following sections. The development is located within the confines of Whitfield, on a bus route, and whilst the application site is not located in a town or edge of centre location, it is not considered to be unsustainably located. The proposal does not conflict with other applicable policies within the current and emerging Local Plan and would accord with the NPPF approach regarding encouraging sustainable economic growth and the allowance of new and flexible working practices. The development is therefore considered to be acceptable in principle, subject to the consideration of all other material planning considerations.

Visual Impact

- 2.7 The outbuilding to which this application relates is a compact, ancillary outbuilding of a simple and unassuming appearance and design, which is commensurate with the application site and does not form an uncommon feature in the locality. Given the modest scale and location of the outbuilding within the rear garden of 32 Alison Crescent there is limited visibility of the outbuilding within the surrounding public realm, and the proposed development does not alter the appearance of the outbuilding. As such, the proposal is not considered to be detrimental to the appearance of the local area.
- 2.8 The proposed use of the outbuilding as a gym for external clients has the potential to alter the character of the application site and surroundings to a degree through associated activity and comings and goings. The proposed development given its nature and the size of the building, is limited in scope, with no more than 2No. clients being present at any one time and the use is predominantly contained within sociable hours, with no operation on Sundays. Sessions will be confined to within the outbuilding, with no windows and doors openable during, and the existing driveway has been extended to provide parking for 2No. vehicles in addition to the residents' cars, which will largely contain the impact of the development upon the application site. Given these operational restrictions and measures, together with the modest scope of the proposal, the development is considered to have a limited impact on the character of the area, which would not significantly alter the primary residential use of the application site or result in undue harm to the character of the area. Accordingly, the proposal is considered to be compatible with emerging Policies E3 and PM1 of the Draft Dover District Local Plan and the National Planning Policy Framework.

Impact on Residential Amenity

- 2.9 Section (f) of Paragraph 130 of the NPPF identifies that development should ensure a high standard of amenity for existing and future users. The use of the outbuilding as a gym for business use has the potential to generate adverse noise and disturbance impacts above what would be expected from the

residential use of the application site to surrounding adjacent neighbours. The gym shall operate from the existing outbuilding towards the rear of the garden, with adjacent residential neighbours either side, and parking will be located on the extended driveway to the frontage of the dwelling.

2.10 Environmental Health raised concerns with the original proposal and required sufficient controls and restrictions to minimise the impact of the proposed development and prevent unacceptable harm to the residential amenities of the adjacent neighbours. The scheme has been amended in response to these concerns, and controls and mitigation measures are proposed to manage the operation of the use, which are set out within the submitted Noise Management Plan. The most important key measures are as follows:

- Only two visiting clients at any one time
- No sessions held outside of the outbuilding, with doors and windows closed at all times during sessions
- Minimise volume and base of amplified noise/music, no music played outside or when doors are opened for access/egress
- Aircon used to ensure doors and windows can remain closed on hot days
- Provision of rubber matting to floor
- A minimum of two parking spaces available on the drive at all times, with clients directed to park on the driveway
- A 5-10 minute change of time between sessions to minimise crossover
- Hours of operation between 07:00 – 20:30 Monday – Friday and 07:00 – 13:00 Saturdays, with no operation on Sunday.

The application site is bounded by approximately 1.8m high close boarded fencing and some separation distance is provided to each adjacent neighbour by virtue of the detached formation of the surrounding neighbours and siting of the outbuilding, which will provide some limitation on the impact of the proposal.

2.11 The amended scheme has been reviewed by Environmental Health who accept the provisions of the revised Noise Management Plan and have raised no objection to the proposal on this basis, provided the requirements of the NMP are implemented and maintained for the lifetime of the development, which will be secured by condition should the application be approved. The activity and vehicular movements associated with the proposal will result in some impact to the surrounding area, however given the limited number of clients (2) at any one time, the proposed 5-10 minute change of time between sessions and the provision of vehicular parking on the extended driveway which will contain the majority of movements within the application site, it is considered that sufficient controls are in place to prevent a significant or unacceptably harmful impact from this element of the proposal. Given the agreed controls and restrictions, the proposal is considered to incorporate sufficient mitigation measures, within the context of the limited scope of the proposed operation and its surrounding environment, to prevent unacceptable harm to residential amenity of surrounding neighbours.

2.12 The development does not propose any additional built form or alterations that might have the potential to impact upon residential amenity in this regard. The proposed development is therefore considered to be acceptable in terms of the residential amenity of adjacent neighbours, in accordance with paragraph 130 of the NPPF.

Highways

- 2.13 Concerns have been raised by neighbours and members of the community regarding increased vehicular movements and parking demand associated with the proposed use, including on road parking of users of the proposed gym resulting in disruption to the free flow of traffic and restricting the use of resident's drives. These concerns were noted during the assessment of the application, and the scheme has been revised to address concerns regarding the highway implications of the proposal.
- 2.14 The amended scheme now incorporates an extended driveway (understood to have been implemented under permitted development) which provides an additional 2No. parking spaces, in addition to the existing 2No. parking spaces for the residents of the residential dwelling, with no alteration to the existing vehicular access. The revised scheme through the provisions of the submitted NMP, which would be secured by condition should the application be approved, is restricted to a maximum of 2No. clients at any one time, with clients directed to park on the driveway alongside a 5-10 minute change of time between sessions to limit crossover of clients and associated highway implications. These controls and provisions would result in a limited number of vehicular movements associated with the proposed use at any one time, which in the context of the residential street of Alison Crescent, which serves a number of cul-de-sacs and other roads, is not considered to result in a significant increase in vehicular movements which would materially alter the existing situation or be detrimental to highway amenity or safety. The proposed extended driveway is considered to incorporate sufficient parking provision to serve the proposed use, which seeks to contain parking demand at the application site, with likely minimal associated on street parking, which would result in limited additional impacts to the surrounding highway in this regard. The proposed development is therefore considered to be acceptable with regards to highway amenity and highway safety, in accordance with Policies DM11 and DM13 of the Core Strategy and the National Planning Policy Framework.

3. Conclusion

- 3.1 The application is not considered to conflict with the relevant policies of the current and emerging Development Plan and the National Planning Policy Framework and is acceptable in principle. The proposal would have limited impact upon the character and appearance of the area. The amended scheme incorporates a range of operational and mitigation measures and controls through the submitted Noise Management Plan which have been agreed with Environmental Health and are considered to mitigate and manage the impact of the development to an acceptable degree. Subject to these controls being implemented and maintained, which will be secured by condition, together with the modest scope of the proposed operation, the development is not considered to result in unacceptable impacts to the residential amenities of surrounding neighbours. Parking provision shall be provided on site and the number of clients restricted to 2No. clients at any one time, which together with other measures would result in limited associated vehicular movements and parking demand which is considered capable of being sufficiently accommodated at the application site and the existing highway. As such, the proposal is not considered to result in unacceptable impacts with regard to highway safety and residential amenity. When considering the proposal, no adverse impacts of granting permission have been identified that would significantly and demonstrably outweigh the benefits of the proposal. The development is therefore considered to represent sustainable development in

accordance with the applicable Local Plan Policies and the NPPF, and it is recommended that planning permission is granted.

g) Recommendation

I PERMISSION BE GRANTED subject to the following conditions:

- 1) 3-year commencement;
- 2) In accordance with the approved plans and details;
- 3) The use of the outbuilding as a gym hereby permitted shall operate in accordance with the provisions and mitigation measures as set out in the approved Noise Management Plan for the lifetime of the development;
- 4) An up-to-date register shall be kept of the customers using the gym for each session which shall be made available for inspection by the LPA on request at any reasonable hour for the lifetime of the development;
- 5) Outbuilding to be used as a commercial gym during the hours of 07:00 – 20:30 Monday – Friday and 07:00 – 13:00 Saturdays only and not on Sundays;
- 6) Doors and windows to remain closed during gym sessions;
- 7) No amplified music/noise played externally or when doors/windows are open;
- 8) The 2No. parking spaces to the frontage as shown on the approved plan and detailed in the Noise Management Plan shall be provided for parking for the use hereby approved during operational hours and thereafter maintained for the lifetime of the development;
- 9) The outbuilding shall be used for the particular use class hereby permitted, namely Class E(d) indoor sport, recreation or fitness, and for no other purpose except for that ancillary to the residential use of the dwelling 32 Alison Crescent.

II Powers be delegated to the Head of Planning and Development to settle any necessary wording in line with the recommendations and as resolved by the Planning Committee.

Case Officer

Jenny Suttle