

WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 2 FEBRUARY 2012
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

S6/2011/2054/FP

7 BIRCHWOOD AVENUE, HATFIELD, AL10 0PL

ERECTION OF SINGLE STOREY REAR EXTENSION TO EXISTING
DENTAL SURGERY AND SINGLE STOREY OUTBUILDING TO
ACCOMMODATE A STAFF ROOM AND NEW VEHICULAR
HARDSTANDING

APPLICANT: Mr D Patel

(Hatfield Central)

1 Site Description

- 1.1 The application site is within a row of residential properties on the northern side of Birchwood Avenue. The application building was previously a semi-detached house and has the appearance of a residential building when viewed from the surrounding streetscene. The site has an enclosed front garden with a low picket fence to the front boundary. There is existing signage on the front of the building indicating that it is used as a dental surgery.
- 1.2 The application building has redbrick elevations below a dark brown, plain tiled roof. The immediate surrounding area accommodates mostly semi-detached housing and the Birchwood small neighbourhood shopping area is nearby to the east.

2 The Proposal

- 2.1 The proposed development would comprise the erection of a single storey rear extension, which would approximately measure 6m in width by 4.5m in depth with a pitched roof to a height of approximately 3.6m.
- 2.2 Within the rear garden a pitched roof outbuilding would be constructed to accommodate a staffroom. This addition would approximately measure 3m in width by 5.9m in depth with a pitched roof to a height of approximately 3m.
- 2.3 The plans have indicated sections of the plot's side boundaries are to be altered to be 2m high close boarded fencing.
- 2.4 To the front of the site a hardstanding would be constructed to provide a pedestrian footpath and a parking space with disabled access. This area would measure approximately 3.6m in width by 6.4m in depth.

3 Planning History

- 3.1 S6/2010/1475/PA Proposed alterations and extension to existing surgery – Positive feedback given on a scheme similar to the current proposal. It was suggested that the side boundary fences are raised to maintain privacy with the neighbouring properties.
- 3.2 S6/2009/215/LU Certificate of lawfulness for existing D1 use (Dental Surgery) – Approved 27 March 2009.
- 3.3 S6/2008/2007/FP Change of use of No.5 from two storey residential dwelling to ground floor dental surgery to be used in conjunction with existing dental surgery at No.7 including erection of single storey rear extension for proposed treatment rooms, and formation of 2, 1 bed flats in existing 1st floor accommodation at No.5 & No.7 along with associated vehicular crossover for new parking area – Withdrawn October 2008.

4 Planning Policy

- 4.1 National Planning Policy
PPS1: Delivering sustainable development
PPS9: Biodiversity and Geological Conservation
PPG13: Transport
PPG14: Development on Unstable Land
- 4.2 East of England Plan 2008
SS1: Achieving Sustainable Development
T14: Parking
ENV3: Biodiversity & Earth Heritage
ENV7: Quality in the Built Environment
- 4.3 Hertfordshire Structure Plan Review
None.
- 4.4 Welwyn Hatfield District Plan 2005
SD1: Sustainable Development

GBSP2: Town and Specified Settlements

R3: Energy Efficiency

R5: Waste Management

M14: Parking standards for new developments

D1: Quality of design

D2: Character and context

D7: Safety by Design

D8: Landscaping

D9: Access and Design for people with disabilities

4.5 Supplementary Design Guidance, February 2005

4.6 Supplementary Planning Guidance, Parking Standards, January 2004

5 Constraints

5.1 The site lies within the settlement of Hatfield and the Hatfield Chalk Mining Area as designated by the Welwyn Hatfield District Plan 2005.

6 Representations Received

6.1 This application has been advertised by site notice and neighbour notifications. No representations have been received. Period expired 25 November 2011.

7 Consultations Received

7.1 **Hertfordshire County Council (Transportation Planning and Policy)** – does not wish to restrict the grant of permission subject to the following conditions:

1) Before the premises are occupied all on-site vehicular areas shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

I recommend inclusion of the following advisory note to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980.

AN1. To ensure all work undertaken on the highway is constructed to the Highway Authority's current specification, to an appropriate standard and by a contractor who is authorised to work in the public highway and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments". Before proceeding with the proposed development, the applicant should contact the Mid-West Hertfordshire Highways Area Office located at Highways House, 41-45 Broadwater Road, Welwyn Garden City, Herts, AL7 3AX (Telephone 01707 356500) to obtain their permission and requirements.

COMMENTS:

Pre-application advice was sought by the applicant for extensions and alterations to the dental surgery at 7 Birchwood Avenue. This proposal seeks to extend the ground floor to the rear to create an additional treatment and consulting room, replace the outbuilding as a staff room in addition to providing a new crossover off Birchwood Avenue leading to a disabled parking space.

In former highway comments, concerns were raised with regards to the overall lack of parking for an increased development on the site and the location of the proposed new driveway directly next to the hardstanding for bus passengers. The strip of grass verge separating the bus stop from the driveway has now been omitted as recommended by the Highway Authority. Although the potential for conflict between passengers waiting at the bus stop and cars trying to reverse into or out of the site would be increased, the bus stop is not on a main bus route and therefore the number of buses using the stop is small, with the main ones being school buses. During pre-app the applicant indicated that the surgery does not open until after the morning school buses that arrive at 7.50AM. The application form stated dental surgery hours would operate from 9AM to 6PM Monday to Friday, and will be open for emergency use from 6PM to 7.30PM on Mondays and one weekend per year. If the opening hours of the surgery could be conditioned this would ensure this potential morning conflict would be reduced.

It would still be preferable from the Highway Authority's point of view if the new parking space and cross-over were omitted, however I also understand that as planning authority you may have concerns over the level of parking. I note that drawing number BSH/PL03 Rev B appears to indicate the disabled parking space and footpath are separated by a wall, leaving little side clearance for disabled users. Given there are no accident records along this section of Birchwood Avenue and there are other driveway arrangements that require vehicles to reverse out onto the highway, on balance I feel it would be difficult to justify a refusal.

- 7.2 **Welwyn Hatfield Council (Environmental Health)** – I have looked at the application and I have a slight concern at the impact the extension would have on the neighbouring premises. Because the properties are terraced there is the potential for impact on the neighbours. The Dental surgery has obviously been in existence and in use for some time without cause for complaint but I would like the applicant to show that there will be no extra impact on the

neighbouring property by the increased use or the building itself. The extension should be isolated from the neighbouring conservatory. From the plans it appears to be adjoined. Any extra ventilation or air movement plant must be located and designed so as not to disturb neighbouring premises and not increase existing background noise levels.

8 Discussion

8.1 This application is presented to the Planning Control Committee because the proposal represents a departure from the Parking Standards of the Welwyn Hatfield District Plan 2005.

8.2 The main issues to be considered are:

- 1. The impact upon the character and appearance of the locality**
- 2. The impact upon the residential amenity of neighbouring occupiers**
- 3. Parking provision and highway safety**
- 4. Other material planning considerations**

1. The proposed development's impact upon the character and appearance of the locality

8.3 The proposed development would be largely sited to the rear of the property. The proposed crossover and hardstanding would be viewed within the surrounding streetscene. As existing some of the surrounding properties have vehicular hardstandings within their front gardens. The hardstandings do not appear prominent and are within generally well landscape frontages. The application plot would retain an area of soft landscaping to the front of the building and the proposed hardstanding would not appear too prominent or out of place. As proposed the site would have an acceptable appearance within the well landscaped streetscene and would not have an adverse impact upon the character and appearance of the locality.

8.4 The proposed rear extension and outbuilding would be viewed from limited areas within the adjacent plots and dwellings. The proposed rear extension would have a relatively large depth (approximately 4.5m). However, due to the adjacent dwellings having existing single storey rear extensions the proposal's full depth would not be viewed at ground floor level from the adjacent properties. The first floor windows of the neighbouring properties would retain a good outlook towards the rear of the relatively deep landscaped gardens.

8.5 The adjoining dwelling has a single storey rear conservatory which is obscure glazed to the side fronting the application site. The conservatory is also slightly set away from the shared boundary. Although the proposed rear extension would be sited on the boundary and larger in height and depth, it would have a hipped roof and not have a significantly dominant or prominent appearance when viewed from the surrounding areas.

8.6 The proposed outbuilding would be sited to the eastern side of the rear amenity space and would replace an existing outbuilding. The adjacent

dwelling to the east has a particularly large outbuilding which is built up to the boundary and set back significantly. The proposal would therefore be partly screened by the neighbouring outbuilding. When compared to the neighbouring outbuilding the proposal would have a taller pitched roof and different design, however, these changes would not have an adverse impact upon the character and appearance of site and surrounding area.

2. The impact upon the residential amenity of neighbouring occupiers

- 8.7 The proposed development would be sited closest to the adjacent dwellings (No's 5 and 9), the other surrounding properties would be sited a sufficient distance from the proposal to ensure the occupants would not suffer an adverse loss of residential amenity.
- 8.8 The adjoining property to the west (No 5) has an existing rear conservatory which would offset the proposal's depth when viewed from the ground floor windows. The apparent depth of the proposal would be relatively shallow and would not have an adverse impact upon the outlook from this property. The proposed rear extension would have a hipped roof and would be relatively low close to the boundary, which would prevent it from appearing overbearing or too dominant.
- 8.9 The adjacent property to the east (No 9) has a rear extension and is set away from the shared boundary, which would help offset the proposed rear extension's depth. The proposal would not appear overly prominent or dominant when viewed from No 9.
- 8.10 The proposed extension and outbuilding would be single storey and would not appear overbearing when viewed from the neighbouring plots. Both of the adjacent properties would retain good outlooks to the rear.
- 8.11 The proposal has illustrated that the fences to the side boundaries would be partly increased in height to be 2m. This alteration would ensure that privacy is maintained for the neighbouring plots and proposed additions are partly screened. This fencing would prevent the proposed outbuilding from overlooking the rear amenity space of No 5.
- 8.12 The application forms have indicated that the business would operate between the hours of 9am and 6pm, with an emergency opening time of 6pm to 7:30pm on Mondays to Fridays and one weekend per year. When considering the existing site does not have time restrictions in terms of planning conditions, it would only be reasonable to condition the proposal to prevent the additional development from having a further cumulative adverse impact. In terms of noise and disturbance, The Council's Environmental Health Team would be best placed to monitor and control any nuisances if the site is operating unreasonably in the future.
- 8.13 To ensure that there is some constraint on the site's intensification of activity from the proposed scheme, it would be appropriate to ensure that the site does not frequently have a lot of visitors during unsociable hours. Therefore, to allow the applicant some flexibility, it is considered reasonable to restrict

customers from using the site between 8:30am and 8pm between Monday and Saturday. The proposal would therefore comply with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

3. Parking provision and highway safety

- 8.14 The application site currently does not have any off road parking space and the proposed development would provide one space with disabled access. The application site is within zone 3 as designated by the parking standards of the Welwyn Hatfield District Plan 2005. The parking standards give a maximum standard of 3 off road parking spaces per consulting room and 1 space per full time member of staff other than consulting dentists. As existing the site has 2 treatment rooms and 5 full time members of staff. The applicant has indicated the site currently has 2 dentists, two nurses and a receptionist. Therefore, as existing the site has a maximum parking space requirement of 9 off road spaces.
- 8.15 The applicant has indicated that if the proposal is built the site would employ 1 additional dentist and 1 additional nurse, therefore 7 members of full time staff. As proposed the site would have 3 treatment rooms, with an additional room that has been labelled as a consulting room. The proposed fourth consulting room is relatively small. Therefore, taking the proposal to comprise an additional 3 rooms, the development would have a maximum parking space requirement of 13 off road spaces. If the additional consulting room is included the parking requirement is 16 off road spaces.
- 8.16 Being located within zone 3 the parking standards allow a reduced parking provision which can be between 50-75% of the maximum standards. It should also be noted that the site does not currently have any off road parking space and the increase in demand is therefore 4 – 7 spaces, dependent on how many rooms are counted as consulting rooms. When taking into account the discounted standard this would equate to 2 – 3.5 spaces when the proposal is considered to result in a total of 3 consulting rooms.
- 8.17 The application site is located close to the Birchwood small neighbourhood centre, which has a parade of shops and some time-limit controlled on-street parking provision. At the time of the officer site visit, although the surrounding area was relatively busy there was some short-term parking capacity within easy walking distance of the application site. With the proposal providing a disabled off road space the surrounding area would have the capacity to accommodate the increase parking requirement without resulting in an adverse impact upon highway safety.
- 8.18 The application has been assessed by Hertfordshire County Council (Transportation Planning and Policy). No objection has been raised and their comments reflect the information provided within the pre-application consultation. It has been suggested that the disabled parking space to the front of the site is only used when school buses would not be arriving in the morning. However, it would be difficult to condition the parking space to be occupied in this way and it would not be enforceable, if approved it would be

appropriate to condition the business to only be used within reasonable hours to prevent an impact upon the residential amenity of the adjoining occupiers. Therefore, any further use of the parking space outside of these hours is likely to be limited and would not have an adverse impact upon highway safety. The application therefore meets the intentions of Policy M14 of the Welwyn Hatfield District Plan 2005.

4. Other material planning considerations

- 8.19 **Chalk Mining:** As with all developments across Hatfield, the suitability of the development in accordance with PPG14: Development on Unstable Land needs to be assessed. The site is not within any designated area that has been identified as possibly being at risk of chalk mining. As the development would result in little alteration in terms of weight bearing load upon ground conditions, an informative only is required.
- 8.20 **Sustainable Development:** The application has been submitted with a sustainability checklist which notes that the proposal's design would maximise energy efficiency and the fixtures and fittings would be chosen to reduce energy and water usage. Considering the proposal comprises extensions to an existing building, these provisions would be reasonable to meet the requirements of Policies SD1 and R3 of the Welwyn Hatfield District Plan 2005.
- 8.21 **Protected Species:** The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.
- 8.22 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).
- 8.23 In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:
- “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”*
- 8.24 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
 - (a) to impair their ability –
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
 - (b) to affect significantly the local distribution or abundance of the species to which they belong
- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
 - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates)

8.25 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

8.26 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

- a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
- b) If the answer is yes, consider whether the three “derogation” tests will be met.

- 8.27 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 8.28 The existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.
- 8.29 **East of England Plan 2008:** On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:
- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and
 - He failed to consider the likely environmental effects of revoking Regional Strategies
- 8.30 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Act. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.
- 8.31 The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

10. **Conclusion**

- 8.32 The proposed development would not have an adverse impact upon the character and appearance of the locality or the residential amenity of the adjoining occupiers. Subject to conditions the proposal would meet the design requirements of the Welwyn Hatfield District Plan 2005.
- 8.33 The existing site does not have any off street parking. The proposal would increase the capacity of the site's use, but the parking provision would not meet the requirements of the Parking Standards of the Welwyn Hatfield

District Plan 2005. However, when considering the existing situation and the limited further impact of the proposed use, the surrounding area has sufficient capacity for short-term customer parking. Therefore, the proposal would not result in vehicles parking in inappropriate places and would not have an adverse impact upon the safety and free flow of the surrounding highway network.

9 Recommendation

9.1 It is recommended that planning permission be approved subject to the following conditions:

1. C.2.1 Time limit for commencement of development
2. C.13.1 Development in accordance with approved plans/details Site Location Plan 1:1250 & BSH/PL03 REV.B & BSH/PL04 REV.B & BSH/PL05 REV.A & BSH/PL06 REV. A & BSH/PL07 received and dated 4 October 2011.

Pre development

3. C.4.1 Scheme of landscaping to be submitted and agreed
 - c) means of enclosure and boundary treatments
 - e) hard surfacing, other hard landscape features and materials
 - f) existing trees, hedges or other soft features to be retained and a method statement showing tree protection measures to be implemented for the duration of the construction
 - g) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing
4. Before the premises are occupied all on-site vehicular areas shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

REASON: To ensure that the spaces are provided prior to the occupation of the units in the interests of highway safety in accordance with Planning Policy Guidance Note 13: Transport

Post Development

5. C5.2 Matching materials
6. C.4.2 Implementation of landscape planting

7. Unless otherwise agreed in writing by the Local Planning Authority, the use of the premises for the purposes hereby permitted shall operate only between the hours of 0830 and 2000 hours Mondays to Saturdays (inclusive) and not at all on either Sundays, Bank or National Holidays and no customer shall be permitted to be on the premises outside of these times.

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPS4, PPS9, PPG13, PPG 14, East of England Plan 2008 policies SS1, T14, ENV7 and development plan policies SD1, GBSP2, R3, EMP8, M14, D2, D1 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

INFORMATIVES:

1. That applicant is informed that if the development hereby approved requires further air handling equipment or air conditioning units to be resited, these changes area likely to require planning permission.
2. INF 9: Chalk mining
3. To ensure all work undertaken on the highway is constructed to the Highway Authority's current specification, to an appropriate standard and by a contractor who is authorised to work in the public highway and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments". Before proceeding with the proposed development, the applicant should contact the Mid-West Hertfordshire Highways Area Office located at Highways House, 41-45 Broadwater Road, Welwyn Garden City, Herts, AL7 3AX (Telephone 01707 356500) to obtain their permission and requirements.
4. INF11: Damage to grass verges

Damian Manhertz (Strategy and Development)

Date (20 January 2012)

Background papers to be listed (if applicable)