

**WELWYN HATFIELD BOROUGH COUNCIL
ASSISTANT DIRECTOR (PLANNING)**

DELEGATED APPLICATION

Application No: 6/2024/0209/FULL
Location: 5-7 Birchwood Avenue Hatfield AL10 0PL
Proposal: Change of use of first floor from C3 residential to Class E(e) dental use, associated with the existing ground floor dental practice
Officer: Ms Ashley Ransome

Recommendation: Granted

6/2024/0209/FULL

Context	
Site and Application description	<p>The application site is located to the northern side of Birchwood Avenue and is comprised of a pair of semi-detached dwelling. At ground floor level, the properties are occupied by a dental practice, whilst at first floor level there is a three-bedroom residential flat. The surrounding area consists of residential properties of varying design, with Birchwood Neighbourhood Centre located to the east of the site.</p> <p>Planning permission is sought for the change of use of first floor from C3 residential to Class E(e) dental use, associated with the existing ground floor dental practice.</p>
Constraints	<p>SAG - 0 - Distance: 0 PAR - PARISH (HATFIELD) - Distance: 0 Wards - Hatfield Central - Distance: 0 A4HD - Article 4 HMO Direction - Distance: 0 A4DAS - Hatfield Additional Storeys Article 4 Direction - Distance: 0 FM10 - Flood Zone Surface Water 100mm (2723286) - Distance: 0 FM00 - Flood Zone Surface Water 1000mm (7661787) - Distance: 0 HEN - No known habitats present (medium priority for habitat creation) - Distance: 0 SAGB - Sand and Gravel Belt - Distance: 0 HHAA - Hatfield Heritage Assessment Area (Hatfield New Town) - Distance: 0</p>
Relevant planning history	<p>Application Number: E6/1957/0369/ Decision: Granted Decision Date: 16 May 1957 Proposal: Use of house as dental surgery</p> <p>Application Number: S6/2008/2007/FP Decision: Withdrawn Decision Date: 10 December 2008 Proposal: Change of use of No.5 from two storey residential dwelling to ground floor dental surgery to be used in conjunction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 & 7, along with associated vehicular crossover for new parking area</p>

	<p>Application Number: S6/2009/0215/LU Decision: Granted Decision Date: 27 March 2009 Proposal: Certificate of lawfulness for existing D1 use (dental surgery)</p> <p>Application Number: S6/2011/2054/FP Decision: Granted Decision Date: 03 February 2012 Proposal: Erection of single storey rear extension to existing dental surgery and single storey outbuilding to accommodate a staff room and new vehicular hardstanding</p> <p>Application Number: S6/2013/0354/FP Decision: Granted Decision Date: 26 April 2013 Proposal: Change of use of ground floor accommodation from residential to dentist surgery at No.5 Birchwood Avenue and single storey rear extension (No.5 and 7 Birchwood Avenue) to create extended dental surgery at No.7 Birchwood Avenue. Creation of 2 bedroom flat at first floor level following change of use of first floor accommodation at No.7 Birchwood Avenue from existing dental surgery use with existing ground floor access to No.5 Birchwood Avenue retained along with existing parking space and front garden. New disabled parking space and vehicular access to dental surgery at No.7 Birchwood Avenue</p> <p>Application Number: S6/2014/0765/FP Decision: Granted Decision Date: 02 June 2014 Proposal: Erection of single storey front extension</p>		
Consultations			
Neighbour representations	Support: 0	Object: 0	Other: 0
Publicity	Site Notice Display Date: 13 March 2024 Site Notice Expiry Date: 5 April 2024 Neighbour Letters		
Summary of neighbour responses	No neighbour representations received.		
Consultees and responses	WHBC Public Health and Protection – No issues to raise. WHBC Client Services – No impact on domestic waste arrangements as this would require commercial/trade waste service. Hatfield Town Council – No response received.		
Relevant Policies and Guidance			
National Planning Policy Framework			
The Welwyn Hatfield Borough Council Local Plan 2016-2036:			
<ul style="list-style-type: none"> • SP1 Delivering Sustainable Development • SP3 Settlement Strategy and Green Belt Boundaries • SP4 Transport and Travel 			

- SADM2 Highway Network and Safety
- SADM3 Sustainable Travel for All
- SP6 Community Services and Facilities
- SADM7 New Community Services and Facilities, and Losses of Community Services and Facilities
- SADM9 Loss of Residential
- SP8 The Local Economy
- SP9 Place-making and High Quality Design
- SADM11 Amenity and Layout
- SADM12 Parking, Servicing and Refuse
- SP10 Sustainable Design and Construction
- SADM13 Sustainability Requirements

Planning Guidance:

- Supplementary Design Guidance 2005
- Supplementary Planning Guidance Parking Standards 2004
- Interim Policy for Car Parking Standards and Garage Sizes 2014
- Planning Practice Guidance
- National Design Guide

Main Issues

Principle of Development

Policy SP1 of the Council's Local Plan states that development will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. Of particular note is that the location of new development should be delivered in a sustainable pattern of development which prioritises previously developed land; minimises the need to travel by directing growth to those areas with good transport networks which are well served by jobs, services and facilities; protects areas of highest environmental value; and avoids areas of high flood risk. Moreover, the Council will take a positive approach when considering development proposals that reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework, as well as the principles set out within Policy SP1.

With the site already in use as a dentist, the location is considered to remain sustainable.

Loss of Residential

Policy SADM9 outlines that there is a policy presumption against the loss of existing dwellings. However, Policy SADM 9 sets out the circumstances in which site specific or other circumstances may outweigh the general policy objective, setting out that *"Proposals which result in the loss of one or more dwellings will only be permitted where:*

- i. The resultant development would result in a net gain in the overall number of dwellings on the application site; or*
- ii. It can be demonstrated that the existing dwelling is significantly affected by adverse environmental conditions and there is no reasonable prospect that the impacts can be adequately mitigated against to create a healthy living environment for existing or future occupants; or*
- iii. The social, economic or environmental benefits of doing so are demonstrated to significantly outweigh the need to minimise net losses to the borough's housing stock."*

The proposal would involve the loss of a three bedroom, first floor flat which is sited above the existing ground floor dentist.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan, unless material considerations indicate otherwise. The proposed change of use would result in a net reduction in the number of dwellings in the district in conflict with Policy SADM9. However, case law has established that a breach of a particular development plan policy does not necessarily equate to a failure to accord with the development plan as a whole. The Court of Appeal judgment *Corbett v Cornwall Council* [2020] provides relevant guidance. Referring to previous case law, it held that the section 38(6) duty can be met where the decision-maker establishes whether or not the proposal accords with the development plan as a whole, given that it is not at all unusual for development plan policies to “pull in different directions” and a judgement therefore has to be made.

Whilst the conflict with Policy SADM9 is acknowledged, it is not considered that this conflict alone would amount to reasonable grounds to withhold planning permission. Other factors including the provision of an expanded community facility, in this instance a dental practice, in accordance with the objectives of Policies SP6 and SADM7 are to be weighed in the balance.

Design (form, size, scale, siting) and Character (appearance within the streetscene)

No external alterations are proposed. The character and appearance of the existing property would therefore not be altered. The proposal is therefore in accordance with Policies SP1 and SP9 of the Welwyn Hatfield Borough Local Plan, Supplementary Design Guidance and the National Planning Policy Framework.

Residential Amenity

Paragraph 130 of the NPPF seeks to secure a high standard of amenity for all existing and future users of land and buildings. Policy SADM11 provides the local policy framework for assessing the impact of development on the residential amenity and living conditions of neighbouring properties and aims to ensure adequate amenity for future occupiers of the proposed development. This is expanded upon in the Council's SDG which outlines that development should be designed and built to ensure that there is a satisfactory level of sunlight and daylight, that adequate amenity space is provided and that overlooking is minimised.

By virtue of the nature of the proposal only resulting in a change of use with no physical alterations involved, the proposal is not considered to detrimentally impact upon neighbouring amenity in terms of loss of light, appearing unduly dominant or result in an impact on privacy. Whilst it is acknowledged that the change of use from a C3 residential unit at first floor level to an increased dental use (E(e)) to span the pair of semi-detached properties may increase the comings and goings from the site and thus the impact on noise, it is however considered that the impact on noise to surrounding neighbouring occupants would not be significantly altered. This is due to the existing use of the ground floor of the pair of semi-detached dwellings as a dentist, as well as the location of the property in close proximity to a Neighbourhood Centre which has increased comings and goings in comparison to other residential areas. The Council's Environmental Health officer was consulted on the application and raised no objection.

Notwithstanding the above, in order to protect the amenity of neighbouring occupants from undue noise impacts, a condition will be imposed upon any grant of permission restricting the opening hours of the business. The use of the building shall also be restricted to a dental practice only, and for no other use within Class E or purpose through the imposition of a condition, so that the amenity of neighbouring residents can be maintained.

For these reasons, the proposal is considered acceptable in terms of impact upon neighbour amenity and is therefore in accordance with Policy SADM11 of the Welwyn Hatfield Borough Local Plan, the Welwyn Hatfield Supplementary Design Guidance and the National Planning Policy Framework.

Access, car parking and highway considerations

Paragraph 111 of the NPPF states that in setting local parking standards, authorities should take into

account the accessibility of the development; the type, mix and use of the development; the availability of and opportunities for public transport; local car ownership levels; and the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

Policy SADM12 of the Local Plan in regard to parking is informed by the standards that are set out within the Council's parking standards. The Parking Standards SPG use maximum standards that are not consistent with the Framework and are therefore afforded less weight. In light of this, the Council have produced an Interim Policy for Car Parking Standards that states that parking provision will be assessed on a case-by-case basis and the existing maximum parking standards within the SPG should be taken as guidance only. This means that higher or lower car parking standards than those set out in the SPG can be proposed and determined on a case-by-case basis taking into account the relevant circumstances of the proposal, its size, context, and its wider surroundings.

Policy SADM2 also states that development proposals will be permitted provided there would be no negative impacts on highway safety, they are designed to allow safe and suitable means of access and site operation and they provide satisfactory and suitable levels of parking.

In terms of parking provision, the SPG guidance suggests that surgeries and clinics (falling under the previous use class of D1 (e)) should have a maximum parking provision of 3 spaces per consulting room, plus 1 space per employee.

The existing dental practice has one off-street parking space sited on an area of hardstanding to the front of the site. The existing residential unit also benefits from one off-street parking space. The dental practice currently has 4 consultation/treatment rooms and employs 4.5 members of staff, thus requiring 8.5 off-street parking spaces, as a maximum.

In comparison, the proposal seeks to increase the number of consultation/treatment rooms to 8, as well as increase the number of employees to 8. The proposed use should therefore have a maximum of 16 off-street parking spaces.

It is proposed to utilise the existing vehicular access and there is an existing area of hardstanding that is used for off-street parking. A total of two off-street parking spaces are therefore proposed to be provided.

The proposed use would represent a significant under provision of off-street parking. Whilst it is acknowledged that this is not an ideal situation with respect to parking, it should be noted that the site currently operates as a sizeable dental practice with an under provision of parking. This appears to be effective since there are no known complaints with regards to parking within the surrounding area. Moreover, the surrounding street affords some on-street parking which can be utilised by the dental practice, as well as the designated spaces located within the Birchwood Neighbourhood Centre across the road.

Furthermore, the submitted Design and Access Statement sets out that the patient base of the practice is drawn mostly from the local area and patients either walk to the practice or use public transport- there is a bus stop immediately outside the premises. The Design and Access Statement also sets out that the applicant is prepared to introduce measures to discourage the use of cars. Such measures could include:

- When making an appointment patients would be asked to use public transport.
- Offer a small incentive to patients who do not arrive by car.
- Display bus timetables in reception;
- Display contact details for local taxi firms in Reception.
- Display information in Reception regarding the health benefits of walking and cycling.

The proposal also involves the provision of three cycle parking spaces. Full details have not been

provided with respect to cycle storage. A condition can be imposed to control this.

Therefore, for the reasons set out above, it is considered that whilst the proposal would increase the size of the business and thus the likely number of people using the site at any one time, and would have an under-provision of off-street parking, the existing parking to visitor/employee situation is similar with no known issues raised. Both patients and employees are likely local residents and could therefore reasonably access the site via foot, bicycle or public transport. Notwithstanding, if the site is accessed using a car, there are two off-street parking spaces as well as unrestricted on-street parking within the surrounding residential roads and the Birchwood Neighbourhood Centre adjacent the site. It is therefore not considered reasonable for the Local Authority to withhold planning approval on the basis of an under provision of car parking.

Any other considerations

Waste and recycling

The Council's Client Services team were consulted on the application, advising that the proposal would not impact on domestic waste arrangements as this would require commercial/trade waste service.

Planning Balance

Policy SP1 sets out principles which seek to bring about sustainable development in the Borough. At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF outlines, in its introduction, three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles. The NPPF does not require development to jointly and simultaneously achieve planning gain in each of the three considerations. It is sufficient for all three to be considered and for a balance between benefit and adverse effects to be achieved across those three areas.

Factors which are key to this proposal include: planning positively for growth in a way which increases the supply of healthcare facilities within the local area and helps to reduce social and health inequalities whilst recognising environmental and infrastructure constraints. That the location of new development should deliver a sustainable pattern of development which minimises the need to travel.

The submitted Design and Access Statement sets out the demand for dental care- "The existing practice has a patient list of around 10,000, approximately 85 per cent of which are NHS registered. Currently, there are 357 patients on the waiting list who cannot be given a date as to when treatment will be available." The proposal therefore seeks to address this need by significantly increasing dental provision within the local area which in turn would help to reduce the social and health inequalities, thus acting as a benefit of the proposal in accordance with Policies SP1, SP6 and SADM7. Moreover, the expansion of the dental practice would also bring further employment to the area, representing an economic benefit.

Weighing against the proposal is the loss of a residential unit in conflict with Policy SADM9. Other factors weighing against the proposal include the intensification of the use of the site which would have implications on the parking situation, contrary to Policies SP1, SADM2, SADM3 and SADM12.

In view of the above, the benefits of the proposal are not outweighed by significant or demonstrable harms. As such, the proposed development is considered to accord with the relevant policies of the Development Plan and the National Planning Policy Framework, and there are no other material considerations sufficient to justify a refusal of planning permission.

Conclusion

Having regard to the above, subject to conditions, on balance, the proposed development is considered to be in accordance with the aims and objectives of the policies set out within the Welwyn Hatfield Borough Council Local Plan, the adopted Supplementary Design Guidance and the

National Planning Policy Framework. It is therefore recommended that planning permission is granted.

Conditions:

1. Prior to occupation of the first floor as a dental practice, full details of secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved secure cycle storage must be fully implemented and made available for use before the development is occupied and thereafter retained for this purpose, unless otherwise agreed in writing.

REASON: To ensure that there is adequate provision for secure cycle storage within the application site, encouraging alternative modes of transport in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

2. The use of the premises for the purposes hereby permitted shall not operate other than between the hours of 08:30 and 20:00 Monday to Saturday and at no time on Sundays or Bank Holidays. 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 the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

3. Notwithstanding the provisions of Article 3 of the Town and Country Planning Use Classes Order 1987 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking or re-enacting these Orders) this permission shall only permit the use of the units at 5-7 Birchwood Avenue as a dental practice only and for no other use within Class E or purpose.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by these Orders in the interest of protecting the residential amenity of adjoining occupiers in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

DRAWING NUMBERS

4. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
02		BLOCK PLAN	2 February 2024
		Location plan	2 February 2024
SP/604/01 'A'		EXISTING AND PROPOSED GROUND AND FIRST FLOOR PLANS	2 February 2024

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

1. POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

Informatives:

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (water interest etc.) Neither does this permission negate or override any private covenants or legal interest (easements or wayleaves) which may affect the land.
2. The granting of this permission does not convey or imply any consent to build upon or access from any land not within the ownership of the applicant.
3. Any damage to the grass verges caused by the development/works hereby approved is the responsibility of the applicant and must be re-instated to their original condition, within one month of the completion of the development/works. If damage to the verges are not repaired then the Council and/or Highway Authority will take appropriate enforcement action to remedy any harm caused.
4. In addition, and separate to your planning permission, for the majority of schemes, you are required by law to appoint a building regulator who will inspect your property at various stages during the course of your building project. This is to ensure it is compliant with the Building Regulations and the Building Act 1984.

The checks the building regulator will carry out include, but are not limited to, the structure, foundations, fire precautions and escape routes, electrical and plumbing compliance and other issues such as drainage and insulation. The objective of these checks is to ensure that your building is safe to live in, accessible and environmentally sustainable.

Once all build stages are checked and the works are finished, a Completion Certificate is issued confirming that these objectives have been met. You will also need the Completion Certificate, should you sell the property, as it will confirm to future owners that the work has been carried out in compliance with the Regulations.

As the owner of the property, you are responsible for Building Regulations compliance so we would urge you to decide which regulator to use, as opposed to leaving your builder or architect to make the choice. This is so that you can be sure the building regulator is truly independent and working to protect you from any breach or omission during the works.

Hertfordshire Building Control Limited are a Company wholly owned by eight local

authorities in Hertfordshire including Welwyn Hatfield Borough Council. Please contact them on 01438 879990 or at buildingcontrol@hertfordshirebc.co.uk to discuss the process and all that is involved. Or alternatively refer to the Homeowner Information section on their website at www.hertfordshirebc.co.uk

Determined By:

Mr Ganesh Gnanamoorthy
11 April 2024