

4.1 – SE/12/02836/FUL Date expired 18 December 2012

PROPOSAL: Change of use of part of the Pharmacy to Dentist facility.

LOCATION: The Village Pharmacy, 15 Main Road, Hextable BR8 7RB

WARD(S): Hextable

#### ITEM FOR DECISION

This application is being reported to Development Control Committee at the request of Councillor Ayres on the grounds that the officer's view is at variance with the needs of the local community and at variance with Kent Highway Services views.

**RECOMMENDATION:** That planning permission be REFUSED for the following reasons:-

The proposal fails to comply with Kent County Council vehicle parking standards by failing to provide appropriate off-street parking, in an area where there is already insufficient dedicated off street provision. Furthermore it would increase pressure for motorists to park kerb side in an area where parking restrictions apply to the detriment of highway safety. The proposal is therefore contrary to policy EN1 of the Sevenoaks Local Plan and the National Planning Policy Framework.

The development, by reason of the proposed parking to the front of number 6 Main Road, Hextable, would result in undue noise and activity levels detrimental to the amenities of the immediate surrounding occupiers contrary to policy EN1 of the Sevenoaks Local Plan and the National Planning Policy Framework.

#### Description of Proposal

- 1 Planning permission is sought for the change of use of part of the existing pharmacy to a dentist facility.
- 2 Associated parking in the form of two additional car parking spaces is proposed to be provided to the front of number 6 Main Road, Hextable. The application site includes the front garden of this property only. The dwelling on this property is excluded from the application site and is not shown on the application details as being land in the applicant's ownership.

#### Description of Site

- 3 The site the subject of this application is located within the settlement boundary of Hextable as defined on the proposals map to the Sevenoaks District Local Plan.
- 4 The area is characterised by a mix of differing architectural styles, heights of buildings and a mixture of uses which line both sides of Main Road. The application property is a two storey building currently comprising a pharmacy at ground floor. The premises would appear to have residents units above. The premises forms one of four commercial ground floor units which create a small terraced parade of shops.

- 5 There is a lay-by with parking for approximately three vehicles to the front of the terrace which serves all four units. A service road runs behind the parade with access gained via an unmade road adjacent to the application site. At present, no further parking is provided to the rear.
- 6 The remainder of the application site proposed to be used for additional parking, forms part of the residential curtilage to number 6, Main Road, Hextable, and is located on the opposite side of the road, opposite the pharmacy.
- 7 Also included within the application site, is an area of hard standing located to front of number 6 Main Road, Hextable within the curtilage of the property, where it is proposed to provide a total of four parking spaces. Of the four parking spaces, it is proposed to allocate two spaces for patients of the dentist surgery. The two remaining spaces are for continued use by the occupant(s) of number 6 Main Road, which is in residential use.

#### Constraints

- 8 Area of Special Control of Adverts

#### Policies

##### *South East Plan*

- 9 Policies: BE1, CC6, T4

##### *Sevenoaks District Local Plan (SDLP)*

- 10 Policies: EN1, VP1, S3A

##### *Sevenoaks Core Strategy*

- 11 Policies: SP1, L07

##### *Other*

- 12 National Planning Policy Framework (NPPF)

#### Relevant Planning History

- |    |              |  |
|----|--------------|--|
| 13 | 12/01780/FUL | Change of use of part of the Pharmacy to Dentist facility.<br>REFUSED 30.08.2012                                   |
| 14 | 11/00926/FUL | Erection of a single storey extension to the rear of 13 Main Road with access to 15 Main Road. GRANTED 08.06.2011. |
| 15 | 04/01491/FUL | Enclosure of rear yard, new roof over rear building and relocated exit. GRANTED 20.07.2004.                        |

## Consultations

### *Kent Highway Services – 10.12.12*

- 16 *Following the refusal of the previous proposal at this site on insufficient parking grounds, discussions have subsequently taken place between the applicant and KCC Highways to identify a solution to overcome the objection.*

*The proposal now put forward has a significantly reduced highway impact with an identified parking facility for both visitors and staff and as a result, provided that the future use of these parking facilities are protected by an appropriate planning condition, there are no KCC Highways objections to the proposals in this form.*

(NB: Whilst KCC Highways are raising no objection subject to a condition being imposed, it is your officer's view that a condition cannot be imposed for the reasons set out at paragraphs 33-36 below).

### *Hextable Parish Council*

- 17 *Fully support - a dentist is an identified need in the village.*

## Representations

- 18 Three letters have been received, supporting the application on the following grounds:

- Identified need for a dentist surgery;
- The proposal will be of benefit to adjacent businesses; and
- Cars are only generally parked for a brief amount of time.

- 19 One letter has been received raising the following concerns:

- Highway safety;
- Parking of motor vehicles on the path outside the shop is a hindrance to the safe passage of pedestrians; and
- Illegal parking is a hindrance to the visibility of those accessing their driveways;

## **Group Manager Planning Services Appraisal**

### Principal Issues

- 20 The principal issues to consider in the determination of this application are:
- Whether the proposal complies with the relevant policy criteria regarding alternative uses in village centres.
  - Impact on highway safety; and
  - Impact on neighbouring residents

- 21 There are no proposed external alterations. As such, harm to the character and appearance of the building and the street scene are not material to the consideration of this application.

### Background

- 22 The current application is a resubmission of planning application reference SE/12/01780/FUL, also for change of use of part of the pharmacy to a dentist facility, which was refused on 30 August 2012 for the reason set out below:

*“The proposal fails to comply with KCC Vehicle parking standards by failing to provide any additional off street parking. The proposal would lead to a significant increase in the amount of required off street parking in an area where there is already insufficient dedicated off street provision. Furthermore it would increase pressure for motorists to park kerb side in an area where parking restrictions apply to the detriment of highway safety. The proposal is therefore contrary to policies EN1 and VP1 of the Sevenoaks District Local Plan”.*

- 23 The previous application resulted in a shortfall of 6 off street spaces. The applicants now seek to address this shortfall in parking by providing two car parking spaces within the curtilage of number 6 Main Road, opposite the application site.

### Policy Issues

- 24 The principal policies solely relevant to the use of part of the pharmacy as a dentist facility are policy S3A of the SDLP, policy L07 of the Sevenoaks Core Strategy and the National Planning Policy Framework (NPPF) namely paragraph 70.
- 25 Government state within the NPPF, that planning decisions should *“plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and ensure an integrated approach to considering the location of housing, economic uses and community facilities and services”* (paragraph 70).
- 26 At a local level policy S3A states that *“in those local shopping centres and village centres shown on Inset Maps of the Proposals Map and in the centres of other smaller villages without Inset Maps, the change of use of the ground floor of existing shop premises from Class A1 of the Use Classes Order 1987 to another use will not be permitted unless it would provide for an essential local service and/or sufficient retail space would remain to meet local needs”.*
- 27 Policy L07 of the Core Strategy States that the Council *“will support and encourage innovative proposals to improve provision of services and facilities to serve the local community, subject to any development being of a scale and character appropriate to the area”.*
- 28 Having regard to the above, it is acknowledged that the proposal would enhance the sustainability of the local community and comply with the provisions of the

NPPF and policy LO7 of the Core Strategy, by providing a local service which is in demand and is lacking at present.

- 29 Furthermore, the proposal would effectively result in a mixed use which would provide for an essential local service and retain sufficient retail space to meet local needs. As such the proposal would comply with policy S3A of the SDLP.
- 30 In light of the above, I raise no objection to the principle to the proposed dentist facility, subject to no adverse highway or amenity implications.

#### *Highway Issues*

- 31 Policy T4 of The South East Plan advises Local Planning Authorities to adopt a restraint based approach to maximum levels of parking for non-residential development. In this respect, as set out in policy VP1 of the Local Plan, Sevenoaks District Council have adopted Kent County Council's Vehicle Parking Standards which seek to achieve four off-street spaces per consulting/treatment room, plus one space per two members of staff.
- 32 The existing retail area of the pharmacy would generate a need for 3 off-street parking spaces which is calculated on retail floor area alone. The associated demand for parking from the additional consultation rooms is off-set by the residual demand generated from the remaining floor space within the existing unit which will be occupied by the dentist facility. The dentist facility comprises one consulting room and there will be an increase in the number of staff from 6 to 9. As such, the recommended total off-street parking provision for the proposed dentist facility equates to 6 full spaces.
- 33 As stated previously, the applicants propose to provide two car parking spaces within the curtilage of number 6 Main Road, opposite the application site. Having regard to this, Kent Highways comments received on 10.12.12 state that provided that the future use of these parking facilities are protected by appropriate planning condition, there would be no KCC Highways objections to the proposals in this form. Having regard to this, any condition required to control the use of the parking spaces would need to satisfy the six tests set out at paragraph 14-42 of Circular 11/95 relating to the use of conditions in planning permissions. In brief, paragraphs 14-42 explain that conditions should be:
- i. necessary;
  - ii. relevant to planning;
  - iii. relevant to the development to be permitted;
  - iv. enforceable;
  - v. precise; and
  - vi. reasonable in all other respects.
- 34 In this instance, the conditions required to secure parking within the curtilage of 6 Main Road, would fail to satisfy test iv of the Circular which relates to enforceability.

- 35 Paragraph 26 of the Circular states, '*that a condition should not be imposed if it cannot be enforced*'. In practice, a condition requiring, patients to park within the curtilage of number 6 Main Road would be impracticable to monitor and pose severe difficulties in proving a contravention. As such, whilst it is accepted that patients of the surgery who are aware of the proposed parking spaces may still utilise them (reducing the shortfall in parking spaces to a total of 4), it is not considered that the spaces opposite can be secured by condition.
- 36 As a result a shortfall of 6 securable off-street parking spaces still exists, when the proposal is assessed against the adopted KCC Vehicle Parking Standards. On that basis the previous highway ground of refusal has not been adequately overcome and should continue to be upheld.

#### *Impact on Amenity*

- 37 Paragraph 17 of the NPPF identifies a set of core land-use planning principles that should underpin decision-taking. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 38 At a local level, policy EN1 of the SDC Local plan states that proposed development including any change of use should not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements.
- 39 There are no extensions proposed to the existing building and as such, adverse impacts arising from loss of privacy, form, scale, height and outlook are not material to the consideration of this application.
- 40 Having regard to the proposed use, whilst the proposal would result in an increase in activity in and around the premises, any daytime noise generated by the new use is likely to be minimal especially given the ambient noise of the busy Main Road. Furthermore the activity would be carried out during reasonable working hours within the existing operating hours of the pharmacy. As such it is not considered that the proposed use would harm the amenities of nearby residents by means of noise and disturbance.
- 41 Having regard to the activity associated with the proposed parking to the front of number 6 Main Road, the proposal has the potential to significantly increase noise and activity including pedestrian and vehicle movements within the curtilage of the property. This activity would take place in close proximity to number 6 Main Road, which is located outside of the application site, and in close proximity to the adjoining neighbouring properties numbers 4 and 8 Main Road. In addition, the application as submitted, does not show that number 6 is in the ownership of the applicant.
- 42 Whilst the area is already used for parking in connection with the residential use, vehicular activity would be less frequent than that associated with the proposed dentist facility. For example, if the dentist facility were to operate for 7.5 hours a day and allocate a 15 minute slot per patient, this has the potential to accommodate 30 patients a day which could result in a maximum of up to 60 vehicle movements. Whilst it is acknowledged that this is an estimate based on maximum use of the facility, it serves to highlight the potential significant increase

in vehicle movements which would be readily noticeable to occupants of neighbouring properties due to the close proximity of the parking area to these properties. In winter months, this disturbance could include disturbance from headlights close to the windows of these houses, as well as noise and general disturbance.

- 43 I therefore consider that the proposed parking in connection with the dentist facility would cause an unacceptable level of noise and disturbance to the occupants of the neighbouring properties contrary to policy EN1(3) of the adopted local plan. Whilst we have no received objections from those residents we consider would be harmed from the location and use of the parking area, we must still consider whether the proposal would harm their amenities.
- 44 Taking all of the above into account, whilst I consider that the proposed dentist facility would be of benefit to the local community, I do not consider that this would sufficiently outweigh the significant harm which would occur to the occupants of properties neighbouring the proposed parking area, and that this harm would be overriding.

#### Other matters

- 45 I have considered the possibility of a temporary planning permission and for the reason set out above, do not consider this to be appropriate due to the identified harm to neighbouring amenities. Equally there are no other conditions that could be imposed that would protect the amenity of residents from the use of the parking area by members of the public.

#### **Conclusion**

- 46 The proposal fails to comply with KCC Vehicle parking standards by failing to provide any additional off street parking. The proposal would lead to a significant increase in the amount of required off street parking in an area where there is already insufficient dedicated off street provision. Furthermore it would increase pressure for motorists to park kerb side in an area where parking restrictions apply to the detriment of highway safety.
- 47 The development, by reason of the proposed parking to the front of number 6 Main Road, Hextable, would result in undue noise and activity levels detrimental to the amenities of the immediate surrounding occupiers.
- 48 The proposal is therefore contrary to policy EN1 of the Sevenoaks Local Plan and the National Planning Policy Framework.

#### **Background Papers**

##### Site and Block plans

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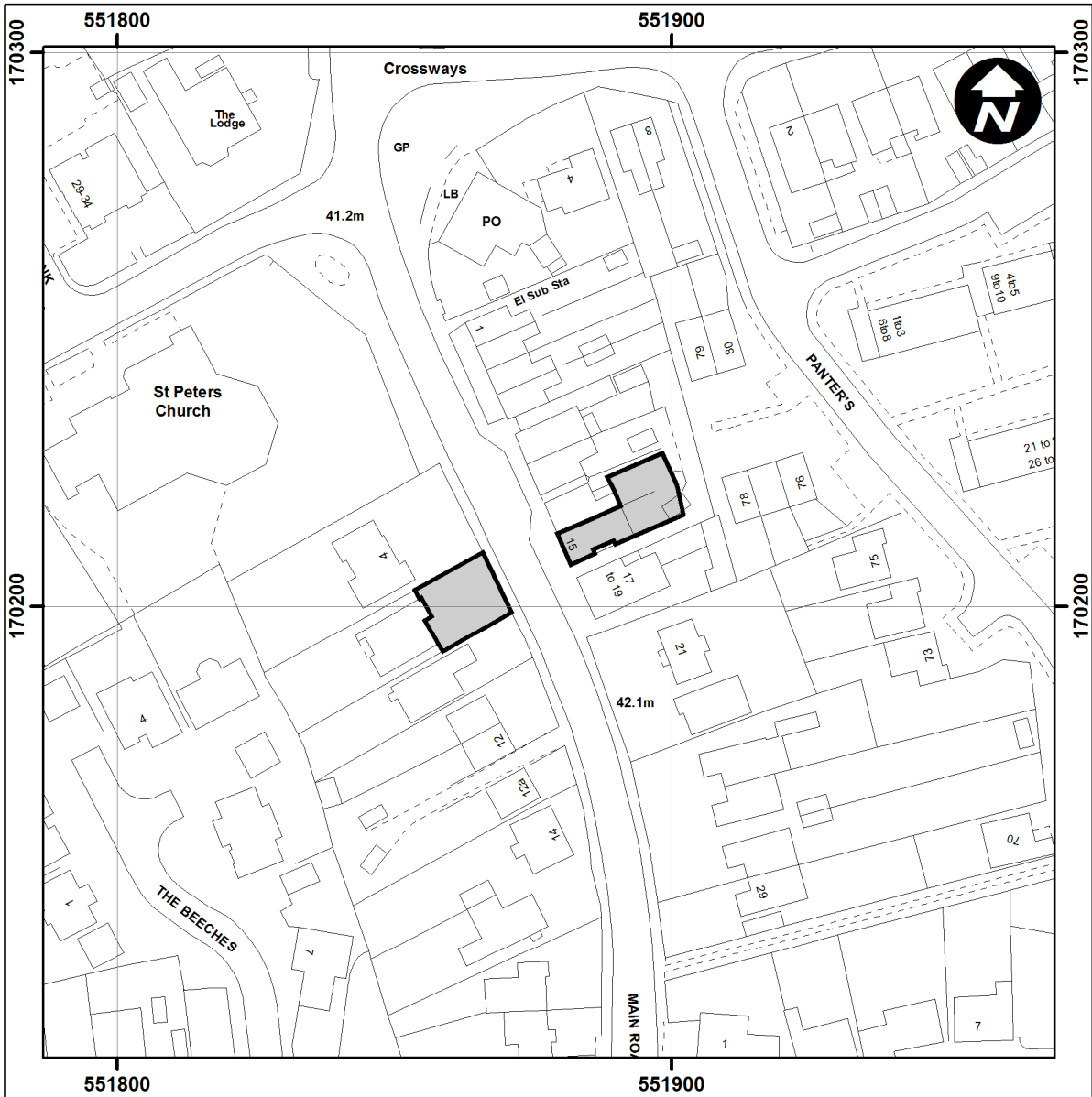
Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MCE4DXBK0L000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MCE4DXBK0L000>





# Site Plan

Scale 1:1,250

Date 26/02/2013



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Sevenoaks District Council, 100019428, 2013.

BLOCK PLAN

