

This application proposes to vary condition 2 (approved plans) and condition 4 (use class – used as dentists) attached to planning permission 23/05069/FU. This planning permission granted consent for change of use of mixed use dental practice and dwelling to dental practice (class E) with single storey rear extension; extension and conversion of detached garage and glazed link between garage and main building to 2 Breary Lane East, Bramhope.

Condition 2 states “The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans and Specifications above.

For the avoidance of doubt and in the interests of proper planning.”

It is requested that this condition is varied as the plan relating to the site/parking layout has been amended.

Condition 4 states “The unit shall be used solely as a dentists as shown on the approved plans and shall not be used for any other purposes within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order with or without modification.

In order that the Local Planning Authority can retain control over other uses in the same use class, in the interests of the viability and vitality of town centres, residential amenity, highway safety and parking requirements.”

It is requested that the wording of the condition is varied so the dentists restriction is removed which would allow the building to be used for any purpose within Class E.

The proposed new wording for condition 4 is “The unit shall be used solely for any purposes within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order with or without modification.

In order that the Local Planning Authority can retain control over other uses, in the interests of the viability and vitality of town centres, residential amenity, highway safety and parking requirements.”

SITE AND SURROUNDINGS:

The site occupies a corner position in a predominantly residential area on the junction of Breary Lane East and Leeds Road in Bramhope, with a vehicular access onto Breary Lane East. There is a bungalow on the site, which has been converted to a mixed use dental practice and dwelling but still retains the residential character, surrounded by gardens is located within Bramhope Conservation Area. The site is bounded by a stone wall and vegetation which is protected by TPO status and provides an important contribution to the visual amenity of the area and special character of the Conservation Area.

During the covid period the dental practice centralised to the Leeds clinic and during this time the residential use was offered through short term rent so it did not remain vacant and open to vandalism.

RELEVANT PLANNING HISTORY:

Planning Applications:

23/05069/FU - Change of use of mixed use dental practice and dwelling to dental practice (class E) with single storey rear extension; extension and conversion of detached garage and glazed link between garage and main building – Approved 4.12.2023

29/58/05/FU - 4 bedroom dwelling house with detached double garage – Refused 19.1.2006

29/189/99/FU - Extensions to form new consulting room and front entrance porch – Approved 18.11.1999

H29/256/91/ - Change of use of detached house to house and dental surgery – Approved 23.12.1991

Pre-Application Enquiries:

PREAPP/23/00021 - Demolish existing building (Dental Surgery) and replace with new build child day care centre – Advice given 6.2.2023

Planning Enforcement Cases:

None

CONSULTATIONS:

Flood Risk Management – No objection and can be dealt with by Building Regulations

Highways – Objection – The proposal could intensify the use and lead to highway and pedestrian safety issues

PUBLIC/LOCAL RESPONSE:

Parish Council:

Bramhope and Carlton Parish Council – No comment providing there will be no adverse on street parking issues. This section of Breary Lane East is already used for on street parking.

General Comments:

None

Comments in Support:

None

Comments in Objection:

6 letters of objection from 4 contributors have been received stating the proposal will increase traffic and noise, will impact on residents amenity, will increase on street parking which is already insufficient due to lack of on site parking and will result in highway and pedestrian safety issues. The site is also ill suited to commercial premises and the look of the residential property could be lost. Removal of trees and broken boundary treatment has also occurred.

RELEVANT PLANNING POLICY:

Conservation area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise, with respect to any buildings or other land in a conservation area of any functions under the Planning Acts, that special attention shall be had to the desirability of preserving or enhancing the character or appearance of that area.

LOCAL PLANNING POLICY AND GUIDANCE

The Development Plan

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan currently comprises the adopted Local Development Framework Core Strategy (2019), those policies saved from the Leeds Unitary Development Plan (Review 2006), the Site Allocations Plan (2019, as amended 2024), the Natural Resources and Waste Development Plan Document (2013, as amended 2015), the Aire Valley Leeds Area Action Plan (2017), and neighbourhood plans once adopted.

The following policies from the **Core Strategy** are considered to be of most relevance to this development proposal:

- P10 – Design
- P11 - Conservation
- P12 - Landscape
- T2 - Accessibility requirements and new development
- EN8 – Electric vehicle charging infrastructure
- SP2 – Hierarchy of centres
- P1 - Town and local centre designations
- P2 – Acceptable uses in and on the edge of town centres
- P3 – Acceptable uses in and on the edge of local centres
- P9 – Community facilities and other services

The following saved policies from the **Unitary Development Plan** are considered to be of most relevance to this development proposal:

- GP5 – Requirement of Development Proposals

BD6 - Extensions
N19 – Conservation
BC7 – Materials in Conservation Areas

Relevant Local Supplementary Planning Guidance/Documents

Bramhope Conservation Area Appraisal and Management Plan

Transport SPD

NATIONAL PLANNING POLICY AND GUIDANCE

National Planning Policy Framework

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.

National Planning Practice Guidance

The National Planning Practice Guidance (NPPG) offers guidance in addition to the NPPF.

The Town and Country Planning (use classes) Order 1987 as amended

Class E

OTHER RELEVANT MATTERS:

Climate Change

The Council declared a climate change emergency on 27th of March 2019 in response to the UN's report on Climate Change.

The Planning Act 2008 alongside the Climate Change Act 2008 sets out that climate mitigation and adaptation are central principles of plan-making. The NPPF makes clear that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions in line with the objectives of the Climate Change Act 2008.

As part of the Council's Best City Ambition, the Council seeks to deliver a low-carbon and affordable transport network, as well as protecting nature and enhancing habitats for wildlife. The Council's Development Plan includes a number of planning policies which seek to meet this aim, as does the NPPF. These are material planning considerations in determining planning applications.

Public Sector Equality Duty

The Equality Act 2010 requires local authorities to comply with the Public Sector Equality Duty. Taking into account all known factors and considerations, the requirement to consider, and have due regard to, the needs of diverse groups to eliminate discrimination, advance equality of opportunity and access, and foster good relations between different groups in the community has been fully taken into account in the consideration of the planning application to date and at the time of making the recommendation in this report.

In this instance it is considered that the proposals do not raise any specific implications in these respects and therefore it is not considered that a full Equality, Diversity, Cohesion and Integration Impact Assessment (EDCI) is required.

MAIN ISSUES:

1. Extent of variation to approval
2. Representations

APPRAISAL:

Extent of variation to approval

The only proposed amendments to the approved plans since the last approval are to alter the parking layout increase the spaces from 8 to 11 and to include a wider turning area. A dropped crossing for pedestrians is also proposed opposite the access. The proposal is also to amend the wording of the use condition to enable any use within use class E to be implemented rather than solely a dentists.

The site has had an established mixed residential dwelling and dental practice use for many years which retains the character and appearance of a residential dwelling within a predominantly residential area. The previous approval granted the change of use of the mixed use site to solely a dental practice within class E. This was due to the historic presence of the dental surgery on the site and the comings and goings would not intensify to a detrimental level which would not cause an impact on the residential amenity of neighbouring sites or highway and pedestrian safety. A condition was imposed restricting the use to a dental practice within class E due to a number of factors.

Use Class E is wide ranging and if a site has an open Class E permission this would allow businesses such as shops, cafes, restaurants, creches, day nurseries, gyms, health centres, indoor sports and recreation, light industrial, vets to name some examples to operate from the premises. This is not an exhaustive list but highlights the different businesses that can operate under Class E. Whilst in some instances and areas this ability to operate different businesses on a site without further consent is appropriate, in this instance it is considered it would lead to a conflict with material planning issues.

Should the site be able to operate under any use within Class E, it is considered this could lead to a detrimental impact on visual amenity and impact on the conservation area. For example many of the alternative uses would require signage and wish to further

commercialise the appearance of the building, such as larger doors and windows although it is acknowledged these alterations would require further planning consent.

It could lead to a detrimental impact on residential amenity of neighbouring sites. For example a different business could generate an increased numbers of comings and goings. A creche or day nursery is likely to have intensive comings and goings in the morning and in the evening when parents are picking their children up before and after work. A restaurant or café is likely to have intensive comings and goings during the lunchtime and evening periods. This would lead to an increase in noise and general disturbance. The nature of the use of other businesses within Class E could also generate an increase in noise which could be to the detriment of neighbouring sites. For example a childrens day nursery is likely to generate noise during the day from children partaking in outdoor activities. A use as a café or restaurant is likely to generate food odours which could be detrimental to the amenity of neighbouring sites.

An alternative business to a dentist's is likely to generate different volumes of comings and goings both by pedestrians and vehicles. For example a dentist's is limited by the number of dentists operating from the site (three) and comings and goings are staggered throughout the day and on an appointment basis. Other uses such as a gym, restaurant or day nursery for example have the potential to generate far more vehicle and pedestrian movements throughout the day and an intensification of people attending the site at the same time. As such these would have different parking provision requirements. Having an unrestricted use class in this location would likely have a detrimental impact on highway and pedestrian safety. Although the applicant is proposing an increase of onsite parking spaces to 11 this does not provide sufficient on site parking to accommodate the demand associated with all Class E uses. Some uses also within the use class will also require loading and storage areas. As such it is likely that there would be an intensification of a demand for on street parking which is already being used. The likely increase in pedestrian movements would also require the footpath from the corner of the A660 to be extended to the entrance. This would result in the loss of the grass verge along Breary Lane East which would be detrimental to the character and appearance of the streetscene and special character of the conservation area. The proposed site plan shows a dropped pedestrian crossing opposite the access to the site. The location of the proposed dropped crossing would lead to pedestrians to a vehicular access, which is unacceptable and would lead to a pedestrian safety concern. If there is an intensification of comings and goings the vehicular access would also need to be widened which would result in the loss of some of the boundary wall and grass verge and would therefore be detrimental to the conservation area.

The Council supports a centres first approach which directs certain uses to the city centre and designated town and local centres in order to promote their vitality and viability as the focus of shopping, employment, leisure, culture and community services. Many of these uses are contained within the Class E use class and the site is not located within a town or local centre therefore it is considered allowing any use within the Class E use class on the site would be contrary to policy and would potentially undermine the vitality and viability of town and local centres.

Although policy P9 of the Core Strategy acknowledges the need for community facilities and services such as education, training, places of worship, health, sport and recreation and

community centres to a neighbourhood, they should not adversely impact on residential amenity and where possible be located in centres with other community uses. The scale of the facility or service should be considered in conjunction with the level of need within the community and its proposed location within the settlement hierarchy. Whilst this is the case many of the uses allowed within Class E are not considered to be community services and would also likely result in a detrimental impact on the residential amenity of surrounding sites.

As such it is considered the variation of condition 2 (approved plans) to alter the parking layout and variation of condition 4 (use restriction) to allow any use within class E rather than restricting the use to a dentists would on balance in all likelihood result in a detrimental impact on visual amenity and the Conservation Area, residential amenity of neighbouring sites, highway and pedestrian safety and the vitality and viability of town and local centres.

Therefore in this regard it is considered the proposal is contrary to policy and is unacceptable.

Representations

6 letters of representation from 4 contributors have been received with the material planning issues raised addressed within the report. As part of the previous approval conditions were imposed requiring sufficient tree protection measures to be approved in writing by the local planning authority and installed prior to commencement of works. The applicant is liable for enforcement action should damage to protected trees have occurred without consent. Issues in relation to broken boundary treatment is a civil matter.

CONCLUSIONS:

In conclusion the proposals do not conform to the development plan and for the reasons set out in the report is considered unacceptable.

Recommendation

Refuse

BACKGROUND PAPERS:

Application file reference 24/00950/FU and 23/05069/FU

RECOMMENDATION:

Refuse for the following reason(s):-

- 1) The Local Planning Authority considers the proposal to allow any use on the site within Class E of The Town and Country Planning (use classes) Order 1987 as amended rather than restricted to a dental practice without further consideration from the Local Planning Authority would likely result in a detrimental impact on the residential amenity of neighbouring sites through an intensification of the use of the site, increased comings and goings, noise, odour and general disturbance. Therefore the proposal is contrary to Policies P9 and P10 of the Core Strategy, saved policy GP5 of the UDPR and the NPPF.
- 2) The Local Planning Authority considers the proposal to allow any use on the site within Class E of The Town and Country Planning (use classes) Order 1987 as amended rather than restricted to a dental practice without further consideration from the Local Planning Authority would likely result in a detrimental impact on the visual amenity of the site and streetscene and conservation area particularly by reason of the need for a footpath and wider access resulting in the loss of wall and grass verge. Therefore the proposal is contrary to Policies P10 and P11 of the Core Strategy, saved policies GP5, BD6 and N19 of the UDPR, Bramhope Conservation Area Appraisal and Management Plan and the NPPF.
- 3) The Local Planning Authority considers the proposal to allow any use on the site within Class E of The Town and Country Planning (use classes) Order 1987 as amended rather than restricted to a dental practice without further consideration from the Local Planning Authority would likely result in a detrimental impact on highway and pedestrian safety through an intensification of the use of the site, increased comings and goings, lack of on site parking provision for all uses within the use class and increased indiscriminate on street parking, lack of pavement and substandard access and pedestrian crossing facilities. Therefore the proposal is contrary to Policies P10 and T2 of the Core Strategy, saved policies GP5 of the UDPR, the Transport SPD and the NPPF.
- 4) The Local Planning Authority considers the proposal to allow any use on the site within Class E of The Town and Country Planning (use classes) Order 1987 as amended rather than restricted to a dental practice without further consideration from the Local Planning Authority would likely result in a detrimental impact on the vitality and viability of town and local centres, as many uses within the Class E use class should be directed towards town and local centres in the first instance. Therefore the proposal is contrary to Policies SP2, P1, P2, P3 and P9 of the Core Strategy, saved policies GP5 of the UDPR and the NPPF.

For information:-

- 1) The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. This particular application was considered contrary to the provisions of the Development Plan. Further discussions took place to find a solution to address the concerns raised, but no mutually acceptable solution was achievable.

This recommendation relates to the following Refused Plans

Plan Type	Plan Reference	Version	Received
Site Location Plan/Red Line/OS Plan			04.03.2024
Block Plan/Layout Plan	23-477-011	A	30.05.2024