

Planning Committee 21st March 2023
Report of the Head of Planning (Development Management)

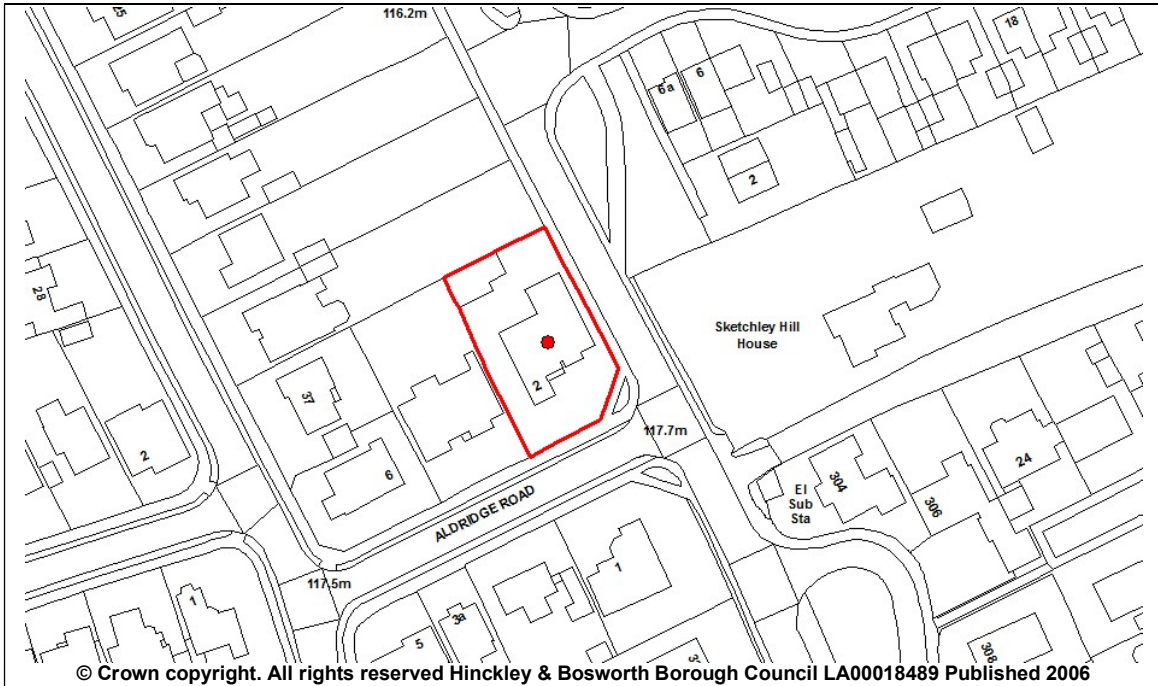
Planning Ref: 22/01072/FUL
Applicant: Mr Michael Broderick
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 2 Aldridge Road Burbage Hinckley

Proposal: Part change of use from dwelling to medical services (Class E(e) – Dental Surgery)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report
- That the Head of Planning be given powers to determine the final detail of planning conditions

2. Planning application description

2.1. This planning application seeks full planning permission for the part change of use of a residential dwellinghouse (Use Class C3 (Dwellinghouse)) to a dental surgery (Use Class E(e) (Medical or Health Service)) at 2 Aldridge Road, Burbage. This change of use facilitates the creation of a dental surgery and a facial aesthetics clinic on the north-eastern side of the property, but a two-bedroom residential use is retained on the south-western side of the building. The occupiers of the residential use at 2 Aldridge Road are different to the occupiers of the proposed commercial use.

2.2. There are no alterations proposed to the external elevations of the property. The scheme employs four members of staff: 1 x dentist/hygienist, 1 x skin professional, 1 x dental nurse, and 1 x receptionist, and the use is proposed to open Monday to Thursday between 8 AM and 5PM and on Saturday between 8 AM and 1 PM.

- 2.3. The Applicant wishes to undertake this development to establish their own practice.

3. Description of the site and surrounding area

- 3.1. The application site is an enlarged bungalow that is located to the west of, and within, the settlement boundary of Burbage. The site a substantial corner plot that is to the north of the junction between Aldridge Road and Rugby Road. Rugby Road is a classified 'B' road (B4109) that is subject to a 30mph speed limit.
- 3.2. The site is separated from the highway by a dwarf brick wall that has two gaps for vehicular access points on to Aldridge Road that benefit from dropped kerbs. Condition 4 of planning permission 09/00266/FUL, which was an amended scheme for extensions and alterations to the bungalow including a part change of use to a teaching facility at 2 Aldridge Road, required that the proposed alterations to the front boundary wall must be completed prior to the first use of the development. Planning application, 12/00548/FUL, which was for the removal of Condition 4 from planning permission 09/00266/FUL, was refused. However, a subsequent appeal was allowed subject to the condition that a scheme indicating the detailed arrangements for ensuring that the western access was used only for access into the site and the eastern access was solely used for exiting the site was submitted to, and approved in writing by, the Local Planning Authority. This condition was not requested by the Local Highway Authority.
- 3.3. A scheme was submitted on 28 June 2013, but the Local Highway Authority stated on 05 July 2013 that the scheme did not provide sufficient details to discharge the condition. It has been confirmed by the Agent that the condition was never fully discharged, however the Applicant is willing to comply with the existing condition if necessary.
- 3.4. The immediate context of the site is entirely residential, but the property itself was utilised as a sign-language training school and a base for a charitable organisation that provided services to deaf and disabled people between 2012 and 2015. This was approved via planning application 09/00266/FUL, which allowed a part change of use of so that the Applicant was still able to live at the address. Condition 5 of this planning permission stated that, "This permission shall operate solely for the benefit of the Applicant and shall not run with the land," in the interests of the amenity of neighbouring properties.
- 3.5. In October 2022, the Planning Enforcement Team confirmed that they had acquired sufficient evidence to substantiate a breach in planning control at the application site. It was established that the property was not utilised as a part of a teaching facility, and the property had been advertised to let by Wards Commercial as having a variety of open plan executive offices for commercial use, which is contrary to Condition 5 of planning permission 09/00266/FUL. However, according to the application form, all additional uses have ceased, and the site is now only used as a residential dwelling.

4. Relevant planning history

13/00004/PP

- Removal of Condition No. 4 of planning permission 09/00266/FUL to retain the existing access
- Appeal allowed
- 23.04.2013

12/00548/CONDIT

- Removal of Condition No. 4 of planning permission 09/00266/FUL to retain the existing access
- Refused
- 23.08.2012

09/00266/FUL

- Extensions and alterations to bungalow and part change of use to teaching facility (amended scheme)
- Permitted
- 20.05.2009

09/00087/FUL

- Extensions and alterations to bungalow and part change of use to teaching facility
- Withdrawn
- 06.04.2009

5. Publicity

5.1 The application has been publicised by sending out letters to local residents.

5.2 Objections to this application have been received from the occupiers of five neighbouring properties on the following grounds:

- Highway safety concerns
- Inadequate off-street parking provision
- Significant adverse impacts to neighbouring residential amenity

5.3 One of these objections related to the provision of a designated off-street disabled parking space, which would reduce the capacity of the off-street parking provision to four. It is noted by the Planning Officer that no disabled parking spaces are proposed within the development following the revised scaled drawings, which were received on 31 January 2023.

5.4 Whilst it is desirable for the development to provide a designated disabled parking space, the Local Highway Authority have advised that this is unfortunately not a requirement for this size of development. Although it is preferable that the proposal also provides two additional parking spaces to accommodate the clients arriving for the next appointment prior to the departure of the current customers, the Local Highway Authority have informed the Local Planning Authority that this is also not a requirement for this scheme.

5.5 No further responses have been received.

6. Consultation

6.1 Burbage Parish Council objects to the application for the following reasons:

- Concerns of the arrangements for the disposal of clinical waste in a residential setting
- Highway safety concerns
- Inadequate off-street parking provision
- Inappropriate location for the proposed use
- Lack of information regarding the number of vehicle movements, staff, and patients

6.2 There have been no objections from the following consultees:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer
- HBBC's Waste Management Officer
- Leicestershire City Council (LCC)'s Highways Officer (subject to conditions)

6.3 The Local Highway Authority (LHA) requested further information on 13 December 2022 in relation to the undischarged condition attached to the previous planning appeal at the site. The LHA were informed that the condition had still not been discharged. It was highlighted by the LHA that they did not recommend the previously undischarged condition and did not intend to recommend it for this current application due its lack of enforceability and necessity.

6.4 The LHA also requested a revised scaled drawing that addressed the off-street vehicular parking discrepancies within the site. The Applicant provided these revised scaled drawings on 31 January 2023.

6.5 No further responses have been received.

7. Policy

7.1 Core Strategy (2009)

- Policy 4: Development in Burbage

7.2 Site Allocations and Development Management Policies (SADMP) DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM25: Community Facilities

7.3 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.4 Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highway Design Guide (LHDG)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of Development
- Design and Impact upon the Character of the Area
- Impact upon Residential Amenity
- Impact upon Parking Provision

Principle of Development

8.2 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted SADMP set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in

accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions.

- 8.3 Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.4 The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.5 Both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.6 Section 6 of the NPPF states that planning policies and decisions should help to create the conditions in which businesses can invest, expand, and adapt. The application is not for an existing business and therefore this section of the NPPF is not applicable.
- 8.7 However, Policy 4 of the adopted Core Strategy identifies Burbage as a local centre that supports Hinckley's role as a sub-regional centre. To support Burbage, Policy 4 of the adopted Core Strategy requires development to create a range of employment opportunities within the local centre and in close proximity to Hinckley.
- 8.8 Paragraph 17.4 of the SADMP identifies healthcare facilities as a community facility. The Borough Council will seek to support the formation of new community facilities across the Borough via Policy DM25 (Community Facilities) of the SADMP. To reduce reliance on the private car, where new facilities are to be established, it should be demonstrated that they are accessible to the community which they intend to serve by a range of sustainable transport modes.
- 8.9 However, it is noted by the Planning Officer that healthcare facilities such as dental surgeries are not specified within Paragraph 94 or Section 8 (Promoting Healthy and Safe Communities) of the NPPF. Furthermore, the use of the property as a dental surgery is not relevant or applicable with Section 7 (Ensuring the Vitality of Town Centres) of the NPPF, nor Policies DM20 (Provision of Employment Sites), DM21 (Locating Sustainable Town Centre Uses), or DM22 (Vitalising District, Local and Neighbourhood Centres) of the SADMP.
- 8.10 Nevertheless, the application site is within the settlement boundary of Burbage and provides an opportunity to create a community facility and employment opportunities within Burbage. The bus stop for the X6 bus service on Rugby Road is within a two-minute walk, (100 metres) of the site. Although the proposed use is not directly supported by National Policy, as a healthcare facility that is in a location

which is accessible by a range of sustainable transport modes, the application is supported by Policy DM25 of the SADMP.

- 8.11 The Applicant has applied for a change of use from a residential dwelling (Use Class C3 (Dwellinghouse) to Use Class E (Commercial, Business and Service). In accordance with the Town and Country Planning (Use Classes) Order 1987 (as amended), Use Class E(e) is for the provision of medical or health services, except when the use of the premises is attached to the residence of the consultant or the practitioner. The proposal is not attached to the residence of the consultant, but the development is connected to a residential property. However, there is no access between the residential and the commercial use of the property and therefore it is considered that the application is acceptable as a partial conversion from a dwellinghouse to a commercial use.
- 8.12 In addition, the application site has an extant planning permission for a part change of use to the property from a residential dwelling to a non-residential institution (Use Class D1) in 2009 via planning application 09/00266/FUL. This planning permission approved three rooms to be utilised for teaching facilities where one teacher would operate one class with a maximum of eight students at a time. However, this level of use was not conditioned other than to make the permission personal to the Applicant.
- 8.13 Given the fact that the current scheme has six people within the commercial use at any given time, excluding the residential use and patients waiting to be seen, it is considered that, whilst there is the potential for the development to cause an intensification of the use of the site, it is not considered that the development results in a significant intensification of the use of the property in comparison to the extant planning permission.
- 8.14 Whilst Condition 5 of the previous planning permission reduces the weight of that permission's influence on this current application, the previously approved scheme was not considered to detrimentally affect the amenity of the neighbouring residents. Therefore, in spite of the previously imposed planning condition, the extant planning permission remains a material consideration that demonstrates that the proposed commercial use is possible, in principle, within this residential setting, and without a detrimental impact on the amenity of neighbouring residents.
- 8.15 By virtue of these factors, the principle of the change of use within this application is considered acceptable in accordance with Policies DM1 and DM25 of the SADMP, and Policy 4 of the adopted Core Strategy.

Design and impact upon the character of the area

- 8.16 Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features. Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.17 The application makes no alterations or amendments to the elevations to 2 Aldridge Road. As set out above, the development is not considered to result in a significant intensification in the use of the property in comparison to the use within the extant planning permission. Therefore, it is considered that the application does not have a

significant impact on the character of the surrounding area in accordance with Policy DM10 of the SADMP.

Impact upon residential amenity

- 8.18 Policy DM10 of the SADMP also states that proposals should not adversely affect the occupiers of the neighboring properties or the future occupiers of the property. Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create spaces that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.19 As there are no external alterations or amendments to the property, it is not considered that the application results in any significant adverse overbearing, overshadowing, overlooking or loss of privacy impacts to any of the neighbouring properties.
- 8.20 The change of use relates to the aspects of the dwellinghouse that are closest to Rugby Road, which is 13.8m east of 4 Aldridge Road, 30.6m north of 1 Aldridge Road. As the property has had previous approval for both Use Class F1(a) (Provision of Education) and Use Class C3 (Dwellinghouse), it is not considered that a part change of use to a dental surgery to the property has a significant adverse impact to neighbouring residents in regard to noise pollution.
- 8.21 The new change of use is not considered to significantly intensify the use of the property in comparison to the previously approved change of use, which was for teaching facilities for the deaf for up to eight students at a time. As a result, the proposal is not regarded to have a significant adverse impact on the residential amenity of the residents of 2 Aldridge Road in comparison to the extant educational use.
- 8.22 With regard to the nature of the new proposed commercial use of the site as a dentist and facial aesthetics treatment, and the opening hours of the development, it is not considered that the proposal has a significant adverse impact on the residents of 2 Aldridge Road in regard to air, noise, and light pollution. In addition, the access between the two units is closed, which ensures that the residential occupiers of 2 Aldridge Road are not subject to any loss of privacy impacts.
- 8.23 By virtue of these factors, the application does not have a significant adverse impact on the residential amenity of neighbouring properties or the residential occupiers of 2 Aldridge Road in accordance with Policy DM10 of the SADMP, and the Good Design Guide.

Impact upon parking provision

- 8.24 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed. Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 8.25 The Applicant is not proposing any changes to the current access arrangements. Given the previous use of part of this building was an educational facility, it is

considered unlikely that the proposal results in an intensification of the use of the accesses.

- 8.26 As previously stated, the LHA note there is an outstanding condition attached to 12/00548/CONDIT, which has remained undischarged since 2013. In that time the LHA can reasonably expect that the Applicant has used both accesses to access or egress the site given the information provided as part of this application. The LHA have checked their Personal Injury Collision (PIC) database and can confirm there has been no recorded PICs along the entire length of Aldridge Road in the last recorded 5 years. This also includes the junction of Aldridge Road/Rugby Road (B4109). Given the lack of evidence to the contrary in these site-specific circumstances, and the business and residential uses of the application site in the last 5 years, it is not considered that the development has a significant adverse impact on highway safety and, consequently, the undischarged planning condition 2013 is not considered to be required for this application.
- 8.27 The development provides two off-street vehicle parking spaces for the existing dwelling via a double garage to the rear of the property. Whilst the dimensions of the double garage are not in accordance with Paragraph 3.200 of Part 3 of the Leicestershire Highway Design Guide (LHDG), as the garage is an existing situation, it is not considered to warrant refusal of the application.
- 8.28 As per the 'Highway Requirements for Development (HRfD) Part 4' document, given the proposal is for two surgical rooms, the LHA would normally expect the provision of six off-street vehicle parking spaces. However, the Applicant is only proposing five off-street vehicle parking spaces for the business use of the property. The Applicant states that this provision is to ensure that all vehicles (residential and business) can access and egress the site from both accesses.
- 8.29 The Inspector for the appeal of planning application 12/00548/CONDIT stated that, "Sight-lines at the junction are very good [at the junction from Aldridge Road on to Rugby Road] (there being no evidence from the Council to the contrary), and the absence of traffic regulation orders suggests that any on-street parking which takes place has not given rise to any concern in highway safety terms." Therefore, whilst the LHA would normally seek to resist applications where there is inadequate off-street vehicle parking, it is not considered that the shortfall of one off-street vehicle parking space has a severe impact on the highway contrary to Paragraphs 110 and 111 of the NPPF, and therefore this is not considered to warrant refusal of the application.
- 8.30 It is noted by the LHA that the turning and manoeuvring space that the Applicant has provided to the rear of the site adjacent to the garage is limited and has the potential to lead to difficulties when negotiating the parking area. However, the LHA anticipate that familiarity would aid regular users, and this is not considered to warrant refusal of the application.
- 8.31 The LHA have also requested that the Applicant provides a minimum of two covered cycle spaces to encourage sustainable transport opportunities to the site. These should be of a Sheffield type or similar and are secured via planning condition.
- 8.32 By virtue of these factors, it is considered that on balance, the proposal provides sufficient adequate off-street parking for both the residential and business uses within the property and that the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as being

in accordance with Policies DM17 and DM18 of the SADMP and the adopted highway authority design guide.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1 The proposed development is considered to be compliant with the relevant national and local policy as it:

- Is an appropriate scale and design
- Does not have a significant adverse impact upon the character and appearance of the area
- Does not have a significant adverse impact upon the amenity of neighbours
- On balance, provides sufficient vehicle parking spaces for off-street parking

10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report
- That the Head of Planning be given powers to determine the final detail of planning conditions

11.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Application Form (submitted: 11.11.2022)
 - Proposed Floor Plan (submitted: 17.01.2023)
 - Garage Dimensions 170123 (submitted: 17.01.2023)
 - Parking Plan / Swept Path Analysis (submitted: 31.01.2023)
 - Site Location and Block Plan (submitted: 18.11.2022)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not become operational until such time as the parking and turning facilities have been implemented in accordance with swept path analysis, drawing number JG01. Thereafter the onsite parking and turning provision shall be kept available for such use in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

4. The development hereby permitted shall not become operational until such time as secure cycle parking shall be provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the onsite cycle parking provision shall be kept available for such use(s) in perpetuity.

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2021).

5. The development hereby permitted shall not become operational until a scheme for the demarcation of the parking spaces has been submitted to, and approved in writing by, the Local Planning Authority. The premises shall operate in accordance with the approved details at all times.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

11.3 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.