



*St Edmundsbury*  
BOROUGH COUNCIL

# DEV/SE/18/033

## Development Control Committee 4 October 2018

### Planning Application DC/18/0721/FUL – Saxon House, 7 Hillside Road, Bury St Edmunds

<b>Date Registered:</b>	09.05.2018	<b>Expiry Date:</b>	04.07.2018
<b>Case Officer:</b>	Britta Heidecke	<b>Recommendation:</b>	Refuse
<b>Parish:</b>	Bury St Edmunds Town Council	<b>Ward:</b>	Moreton Hall
<b>Proposal:</b>	Planning Application - (i) Change of use from dental clinic (D1) to dental clinic and community healthcare facility (D1); (ii) 5no. additional car parking spaces		
<b>Site:</b>	Saxon House, 7 Hillside Road, Bury St Edmunds		
<b>Applicant:</b>	Mr St Clair Armitage - Community Dental Services		

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

#### **Recommendation:**

It is recommended that the Committee determine the attached application and associated matters.

#### CONTACT CASE OFFICER:

Britta Heidecke

Email: [britta.heidecke@westsuffolk.gov.uk](mailto:britta.heidecke@westsuffolk.gov.uk)

Telephone: 01638 719456

# Committee Report DC/18/0721/FUL

---

## **Section A – Background:**

1. This application was deferred from consideration at the Development Control Committee meeting on 6<sup>th</sup> September 2018. Members resolved that they were minded to grant planning permission contrary to the officer recommendation of refusal. At this point, the risk assessment protocol was invoked requiring the further reporting of this matter before a decision is able to be made.
2. A Committee site visit was undertaken on 30 August 2018. At the subsequent Development Control Committee meeting on 6<sup>th</sup> September 2018 Members were minded to approve the application in light of the service it would provide to the local community. However, some of the Committee remained concerned about parking provision and that the location is not suitable for the proposed use. Members suggested to include a condition to limit usage to the applicant and agreed that deferral would also allow for a Car Park Management Plan to be submitted, to establish what other sites had been considered for the service and why they had been dismissed, and also for officers to consider whether it was appropriate to append a temporary condition to any decision should Members determine to approve the application.
3. The purpose of this report is to provide an update on additional information received as well as a risk assessment for Members in accordance with the Decision Making Protocol, which sets out the potential risks that might arise should planning permission be granted for the development.
4. The previous officer report for the 6<sup>th</sup> September 2018 meeting of the Development Control Committee is included as Working Paper 1 to this report. Members are directed to this paper for details of the site and development, summaries of consultation responses and neighbour representations, and for the officer assessment of the proposal.

## **Proposal:**

5. Please refer to Working Paper 1, Paragraphs 3 and 4 for a description of the proposal.

## **Application Supporting Material:**

6. Please refer to Working Paper 1, Paragraph 5 to 11 for details of the information submitted with the application and supporting materials.

## **Site Details:**

7. Please refer to Working Paper 1, Paragraphs 12 and 13 for a description

of the site and surroundings.

**Planning History:**

8. Please refer to Working Paper 1, Paragraph 14 for a summary of the relevant planning history.

**Consultations:**

9. Please refer to Working Paper 1, Paragraphs 15 for a summary of consultation responses received.

**Representations:**

10. Please refer to Working Paper 1, Paragraph 16; no third party comments have been received.

**Policy:**

11. Please refer to Working Paper 1, Paragraphs 17 for a list of policies and guidance that have been taken into account in the consideration of the application.

**Officer Comment:**

12. Please refer to Working Paper 1, Paragraphs 24 to 44 for the officer assessment of the proposals.

**Section B - Update:**

SCC Highways:

13. Following the submission of the applicant's Transport Technical Note and supporting statements from the NHS and CDD, a further response from Suffolk County Council Highways was received on 17.09.2018 to clarify the recommendations for refusal detailed in their response of the 26th June. Please refer to Working Paper 2:
14. Existing use: SCC Highways only accepted the reduced parking provision below the recommended level in the Suffolk Guidance for Parking for the existing use because of the specialist nature of the dentistry and because the permission was granted for this use only, as agreed with the applicant.
15. However, with regards to the Technical note submitted by the applicants, Suffolk County Council as Highway Authority question the methodology and note that on the basis of the surveys submitted it can be assumed that there will be occasions with all 13 staff on-site. It is also indicative that that the location does not attract sustainable trips from its staff. Para 2.3 sets out that *"It has been confirmed by the operator of the site that the surveys recorded conditions that were*

*typical of the dental practice*". If this was compared to a standard TRICS assessment of a dental surgery (based on the criteria used in the applicants TRICS assessment of the clinic) the peak car parking at the site is greater, which may indicate a site that is more car based than those within TRICS.

16. Community Healthcare Facility: The applicants have used TRICS to assess the healthcare use using the category Health – Clinics and applied to the proposed 12 full time employees. This equates to a peak accumulation of ten vehicles. Suffolk County Council as Highway Authority identified inaccuracy here, and assume that the peak is actually at least 11 cars. Assuming that 5 of the vehicles are patients and 13 members of staff, this equates to 7 staff travelling sustainably, which has been indicated as unlikely given the results above for the dental surgery. As above the TRICS assessment for the dental facility underestimated the car parking demand.

17. Total Site: SCC Highways observe that the applicants have used two methods for the total site.

Method 1: Survey + TRICS for 12 employees

According to their assessment this results in a peak occupancy of 22 vehicles. For 31 spaces this equates to 71% occupancy. With obviously more capacity if you were to assume 36 spaces.

Method 2: 25 Employees

According to the applicant's assessment this results in a peak occupancy of 19 vehicles. For 31 spaces this equates to 61% occupancy. With obviously more capacity if you were to assume 36 spaces.

The applicants go on to state that a maximum of 10 patients are likely to attend specific group therapy sessions, but that even if they all were to drive, the car park would still operate within capacity, which assuming that method 2 is accepted, then would be correct for both 31 and 36 car parking spaces, but assuming method 1 is accepted would only be correct for 36 spaces.

18. **Suffolk County Council as Highway Authority conclude that the methodologies above assume a significant, and unrealistic, amount of sustainable travel, which the existing use survey shows is not the case, and which officers consider highly unlikely in the circumstances of this site for the reasons already explained.**

19. Car Parking Provision: Suffolk County Council as Highway Authority note that the level of car parking provision has been justified based on correspondence with the NHS which states the following:

*"I am aware that the planning authority is concerned about the provision of sufficient parking at Saxon House. You may be aware that in general terms, NHS England supports reimbursement for a maximum of 3 parking spaces per clinical room for primary care facilities for which*

*we reimburse rental costs. I understand that the guidance currently being applied is for four spaces per treatment room. NHS England's view is that due to the type of services being delivered at this facility 3 parking spaces per treatment room will be sufficient."*

The applicants state that 2 disabled persons bays, which equate to 5.56% (36 bays) of the provision is acceptable, this is unevidenced. Suffolk Parking Guidance states that for Medical Centres:

*"Dependent on actual development, on individual merit, although expected to be significantly higher than business or recreational development requirements".*

Business or recreational standards are in the order of 5 to 6% dependent on the use. 5.56% is not significantly higher than 5% leading to a robust conclusion that the number of disabled spaces is inadequate for the proposed use.

20. Suffolk County Council as Highway Authority further note that;

- The additional 4 parking spaces proposed to the rear of the site (33 to 36) render spaces 5 to 12 inaccessible, and if used would cause additional vehicle movements and staff disruption as staff using the existing spaces would be totally blocked in. Space 32 removes the only passing space on the narrow access to the rear parking leading inevitably to further operational problems as the car park is used.
- The ancillary back office use to support 'community health care professionals' is not detailed until the technical note and supporting information and appears to be an additional use to that initially detailed in the application. Whether or not the proposed facility is to also be a base for these community-based professionals is not made clear, nor is any associated parking for them.

21. **Suffolk County Council as Highway Authority conclude: '*In summary, we do not accept the Technical Note shows the existing level of parking to be sufficient for both proposed and approved uses, and as the application falls so far short of the recommendations in the Suffolk Guidance for Parking and this is not a sustainable location we retain our recommendation of refusal.*'**

#### Car Park Management Strategy:

22.A Car Parking Management Strategy was submitted by the applicant's agent on 13.09.2018. Please refer to Working Paper 3

23.This Strategy explains that the on-site director will be responsible to ensure compliance with the parking management plan. The day to day parking will be managed by the site receptionist.

24.The statement sets out how visitor and staff parking will be distributed and managed. In summary, spaces to the side and front (spaces 13-32) nearest to the entrance, including the accessible bays, will be

allocated to visitors. Upon booking an appointment, visitors to the site will be informed regarding the car park management and where to park if travelling to the site via car. Car parking space 32, located in front of the main entrance will only be used by visitors to the site if all other car parking is unavailable. The parking to the rear (spaces 1-12 and 33-36) will be allocated to staff. Upon arrival into the building, staff that have parked within spaces 33 to 36 (which restrict the use of spaces 1-12) will inform the reception so that they can be identified if required to move. It further explains how staff will be directed to certain parking spaces first, depending on the length of their stay.

25. The strategy also provides some information with regard to minimising staff parking numbers. It states at para 3.10 that *'Staff are actively encouraged to journey to work by foot and cycle. Furthermore, the site operates a car sharing / pooling scheme to enable compatible journeys to be undertaken together. Further notices and encouragement will be provided to ensure that the benefits and savings that can be achieved through car sharing or through sustainable travel are identified.'*

26. Additional information submitted by the applicant's agent:

A statement in regards to site searches and two appendices with email chains between CDS and Norfolk and Suffolk NHS Foundation Trust and CDS and NHS Property Services LTD have been submitted on 18.09.2018. Please refer to Working Paper 4.

27. The statement explains that ***'They [the applicant] did not know, and it would be unreasonable to expect them to have known of the sequential approach to site selection that they might have been expected to adopt. Regardless, a sequential approach was adopted in any case, as this was the most logical way to approach the search. However, understandably in the circumstances, records of the search were not kept. In any case, it should be noted that there is no requirement in planning policy for proposals of this nature to adopt the sequential approach to site selection. Therefore, while it is helpful for the applicant to demonstrate a logical approach to site selection they cannot be expected to satisfy formally the sequential test.'***

28. The statement confirms in its conclusion that *'the available evidence of the site searches undertaken by CDS and SCH is limited'*. In summary the search was undertaken through:

- Various communications with NHS Property Services Ltd and Norfolk and Suffolk NHS Foundation Trust
- Discussions with NHS estates bodies
- Web searches
- Local commercial property agents

29. It is said that Local commercial property agents identified Saxon House for CDS and eventually secured the lease. The same property was discounted by SCH on the basis that it was too large and therefore too expensive for them to occupy on their own.

### 30.The Statement Concludes:

'While the available evidence of the site searches undertaken by CDS and SCH is limited it is clear that appropriate searches did occur and that a great deal of effort was made to find the most suitable premises for each of the organisations to relocate to.

'The suitability of Saxon House as a premises for CDS has already been accepted by the Council in its approval of planning application DC/17/2406/FUL. However, as has been explained in the current planning application for the site this leaves the upper floor of the building vacant. Given the benefits associated with colocation of similar uses, particularly those as closely aligned as the delivery of specialist healthcare to vulnerable patients (especially where the uses have been co-located previously); the excellent access arrangements available at Saxon House; and the suitability of the premises in terms of facilities, quality and specification; Saxon House automatically ranks highly in terms of suitability when establishing the optimal site for the relocation of SCH.

Due to the position that both organisations were put in owing to the very limited notice they were given of the closure of Saxon House, and the fact that, quite understandably, they had no knowledge of the planning system with respect to sequential site searches, records of the site searches were not kept. The site searches evolved quickly and both parties were in a race against time to find suitable premises. The searches were therefore necessarily forward looking and producing an audit trail was not necessary, nor was it a prudent use of resources at the time.

'Notwithstanding the foregoing, sufficient information has been collated and presented to demonstrate that a logical process was followed and that no sites which were either as suitable as Saxon House or more suitable than Saxon House were available.

'While there is no planning policy requirement for a sequential approach to site selection for the facilities proposed the applicant has demonstrated that the site searches conducted adopted the principles of a sequential search and therefore that, at the time of the completion of the search, Saxon House was the most suitable of the premises available. Indeed, it was the only suitable premises available at the time and, to the best of the applicant's knowledge, remains so.'

### **Section C – Refusal Reasons:**

31.The Officer recommendation for this current application remains one of **REFUSAL** for the following reasons:

#### 32.Reason 1:

*The proposal is for community healthcare service facilities, a D1 Use,*

*intended for a geographically wider area than within walking distance. The application site lies 2.3km from the town centre, within an area designated as employment land for B1 and B8 Use Classes in policy BV14(e). The site does not benefit from good public transport and/or walking access nor would it benefit from possible linked trips. The proposal therefore fails to comply with policy CS7, which seeks to reduce the need to travel through spatial planning and design, and is contrary to policy in the NPPF, notably para 103, 108 and 110 which (inter alia) seek to actively manage patterns of growth to make the fullest possible use of walking, cycling and public transport, and focus significant development in locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.*

*Moreover, the intensification of the existing D1 use at the application site, in an inaccessible location where most patients and staff are likely to arrive by car, together with the insufficient on-site parking means that it is considered likely that the use will in turn fetter the activities of existing neighbouring employment uses through additional traffic movements and insufficient on-site parking thus potentially preventing them from expanding or intensifying. As such the proposal will have likely adverse effects on employment generation and is contrary to policy DM30 and policy in the NPPF, particularly paragraph 80, which seeks to ensure that decisions help to create the conditions in which businesses can invest, expand and adapt.*

*The provision of the service and the need for suitable premises are factors which weigh in favour of the proposal. However, the policy conflict and harm identified above together with the inaccessible location and adverse effect on highway safety significantly and demonstrably outweigh the benefits of the proposal.*

33. Members are advised to determine whether they consider the proposal would be in an accessible, sustainable location. If it is considered that the development would not be in a sustainable location Members must consider whether there are material considerations to justify the impact of this.

34. Reason 2:

*The proposal includes five additional parking spaces where in accordance with the Suffolk Parking Guidance 28 additional parking spaces would be required for the 12 (equivalent full time) staff members and four treatment rooms. There would therefore be a severe under-allocation of on-site parking. This is considered likely to lead to inappropriate on-street parking which can often be part or fully on the footway causing an obstruction to other road users and a danger to pedestrians.*

*Furthermore, the proposed additional five parking spaces would reduce the available space for manoeuvring for the existing parking spaces five to 12 from the required 6.0m to 4.0m. 4.0m is considered insufficient*



*for safe reversing and turning of cars and would render spaces five to 12 inaccessible. Additionally, space 32 reduces the access width to 3.0m throughout, removing the small wider passing place which would allow vehicles entering the site a passing place when encountering vehicles leaving the site. Without this passing space the access would be too narrow to be acceptable for a shared use access.*

*The proposal therefore fails to provide adequate parking and safe and suitable access for all, contrary to policy DM2 (I) and DM46. And the proposal would have an unacceptable impact on highway safety as a result of significant under provision with parking. As such the proposal is contrary to policy in the NPPF, particularly 105, 108 to 110.*

35. Members are advised to determine whether they consider the proposal would have an adverse impact on highways safety and safe access for all. If it is considered that the development would have an adverse impact Members must consider whether there are material considerations to justify this adverse impact.
36. The purpose of this report is to advise Members of the risks associated with the 'minded to' resolution to grant planning permission for the development proposal, having regard to the conflict with Policy CS7, DM30 and DM46 in this case and the officer recommendation to refuse planning permission. For the reasons set out in this report it remains officers' recommendation that permission be refused. If Members remain minded to approve the application, they must be satisfied that any risks associated with doing so have been properly considered.

## **Section D – Implications of Granting Planning Permission:**

### **Contrary to Policy**

37. Officers consider the development proposed in this case to be contrary to policy CS7, DM30 and DM46. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be made in accordance with the development plan unless there are material considerations that indicate otherwise. The material considerations in this case are the specialist nature of the proposed D1 use.
38. Whilst it is accepted that there were / are no suitable NHS or Council properties available for this use, Officers do not consider that there is sufficient evidence to demonstrate that more sustainable sites are not available. Moreover, the long-term lease agreed by CDS for this building and any subsequent viability issues are not material planning considerations.
39. If Members remain minded to approve the application, they must be satisfied, that based on the evidence provided material planning considerations therefore justify the clear policy conflict with policy CS7, DM30 and DM46. CS7 'Sustainable Transport' seeks to direct commercial developments which generate significant demands for

travel, in areas well served by a variety of transport modes, within an area designated as employment land for B1 and B8 Use Classes in policy BV14(e). DM30 seeks to prevent non-employment uses having an adverse effect on employment generation, and DM46 requires all proposals for re-development, including change of use, to provide appropriate designed and sited car and cycle parking in accordance with the adopted standards at the time of the application.

### Highways Issues

40. The Highway Authority have considered the Transport Statement and further Transport Technical Note 1710-70 TN01 dated August 2018 and conclude that the assumptions cannot be used as strong arguments. Whilst flexibility may (in fact must) be applied to the Suffolk Guidance for Parking, this should be based on robust evidence. The existing use on the ground floor has parking below the standard for that use only. This application doubles the use of the site while offering no extra useable parking acceptable to the Highways Authority. The Highway Authority accepted the existing (specialist dentist) based on their specialist use as they provided a detailed account of how the parking provision would work. This Transport Assessment (1710-70/TS/01A dated November 2017) did not include any significant excess of parking and concluded at para 5.24 *'The level of car parking is sufficient for the daily requirements of the dental practice and provides an adequate level of residual capacity to be able to accommodate irregular, short term peaks in use.'*
41. The Highway Authority reiterate that *'concerns with the insufficient parking are that overspill will be on-street which will either obstruct HGV's turning within this industrial area or obstruct the footway, or both. Either obstruction will create a safety issue for all users, particularly pedestrians and more particularly vulnerable users, visually impaired, wheelchair users etc. which is the main clientele of the dentist. There is no nearby public car park and the public bus service is hourly and the nearest bus stop some distance meaning clients with restricted mobility are unlikely to use it.'*
42. The Car Park Management Plan shows that the proposed parking bays may be workable and provides reassurance that the proposed parking spaces on site can be managed for patients and staff, however it provides no comfort that the proposed use would not result in off-site overspill parking with consequential significant harm.
43. On this basis Officers do not consider that the proposal will provide adequate parking for the proposed use, and which consequentially would have an unacceptable impact on highway safety, contrary to Policy DM46 and the relevant provisions of the NPPF.

## Knock-on Effects

44. A further risk is the possible knock-on effects upon adjacent sites as the proposal is considered likely to fetter the activities of neighbouring employment uses through the introduction of traffic movements and the consequential effects arising from insufficient on-site parking. The proposal therefore has the potential to adversely impact on existing employment uses and potential future expansions on this designated employment site. Additionally, there is some reputational risk unless effective justification can be given for setting aside this policy conflict, albeit it is recognised that the community benefits of the scheme can be used in this regard as offering some support, in the planning balance.

45. Committee suggested Officers explore whether a temporary condition could be attached to any decision should Members determine to approve the application, to allow the medium term use of the site for the proposed use. Conditions generally have to meet the test set out in paragraph 206 of the NPPF and should only be imposed where they are:

- necessary;
- relevant to planning and;
- to the development to be permitted;
- enforceable;
- precise and;
- reasonable in all other respects.

46. Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only, however the NPPG explains that *'A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.'*

*'Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.'*

47. Therefore, if members consider in this case that the material considerations indicate that planning permission should be granted a temporary consent cannot be argued to be necessary. Moreover, a medium term temporary consent for 3 or 5 years could not be justified as a trial run to for example test the impacts on highways safety. Any shorter temporary consent would not be likely to be viable.

## **Section E – Conclusions:**

48. For the reasons outlined above therefore and also set out within the original report to Development Control Committee, Officers have attached great weight to the benefit of the provision of the service and

the need for suitable premises but remain of the view that in the planning balance the combination of issues and harm identified significantly and demonstrably outweighs the benefits of the proposal; the harm being:

- A community use in an inaccessible, unsustainable location;
- Unacceptable adverse impact on highways safety due to severe under provision with parking and;
- Likely resultant knock on effects on adjacent sites and their potential to expand or intensify in the future.

49. In coming to their decision Members must clearly identify whether they consider the proposal complies with the development plan and their reasons for reaching their decision. If it is decided that the proposal does not comply with the policies of the development plan and they wish to approve the application, the material considerations which justify the departure must be identified. Failure to adequately identify the reasons for a decision would adversely impact on the reputation of the Council.

50. Whilst every application must be considered on its own merit, it is also important for the Council to be consistent in its application of policy when determining applications of a similar nature. Failure to provide clear reasons for the decision could expose the Council to the risk and cost of Judicial Review in the High Court and would impact on the ability for the Council to be consistent for other applications of a similar nature. This would also adversely impact upon the reputation of the Council.

51. If applications are not treated equally, in the event that a similar application is refused the applicant would have the right to seek to recover their appeal costs (in full or part depending on the circumstances) from the Council should the Inspector conclude that the Council has acted unreasonably. This would result in financial and reputational implications for the Council.

52. Members should have regard to the attached Working Papers 1, 2, 3 and 4 in reaching their decision.

53. In the event that Members grant planning permission, it is recommended that the reasons for the decision are clearly stated and that the following matters should be controlled by conditions:

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

2. Before the first floor use hereby approved commences details of the travel arrangements to and from the site for employees and customers, in the form of a Travel Plan, including monitoring provisions shall be submitted to and approved in writing by the Local

Planning Authority. The approved arrangements shall be implemented before the first floor use hereby approved commences and thereafter adhered to.

Reason: In the interests of sustainable development

3. This permission shall be personal to Community Dental Services (CDS) for special dentistry care and Suffolk Community Healthcare (SCH) and shall not enure for the benefit of the land.

Reason: To restrict the extent of the permission and enable the Local Planning Authority to keep the site under review having regard to the exceptional circumstances in which permission has been granted.

4. The number of treatment rooms shall be limited to 6 at ground floor and to 4 at first floor.

Reason: To ensure adequate onsite vehicle parking provision appropriate to the specialist dental and health care being provided.

5. The use hereby approved shall be operated in accordance with the details set out in the Car Parking Management Plan (received 13.09.2018).

Reason: To ensure that sufficient on-site parking for vehicles is provided.

6. The first floor use shall not commence until the cycle parking has been provided in accordance with the details shown on drawing PL01 Rev.A and thereafter the areas shall be retained and used for no other purposes.

Reason: To ensure that sufficient cycle parking is provided and maintained to enable and encourage sustainable travel in accordance with policy CS7.

7. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Block Plan - SAH-MAR-XX-00-DR-A-0122

Proposed Ground Floor Plan - SAH-MAR-XX-00-DR-A-0112 REV 8

Proposed First Floor Plan - SAH-MAR-XX-00-DR-A-0122

Parking Layout – PL01 Rev.A

Reason: To define the scope and extent of this permission.

### **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

