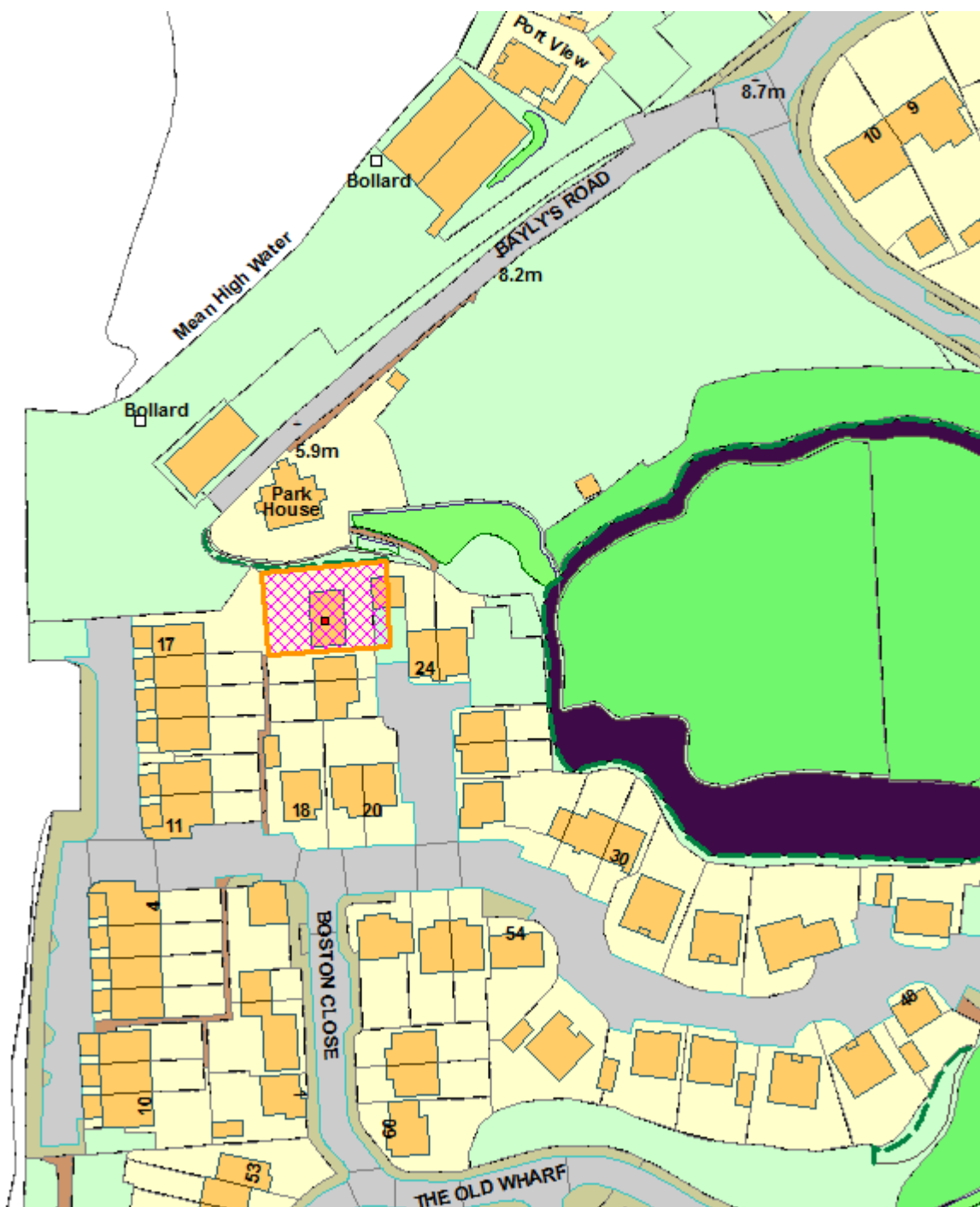


PLANNING APPLICATION OFFICERS REPORT



Application Number	20/01487/FUL	Item	03
Date Valid	29.09.2020	Ward	PLYMSTOCK RADFORD
Site Address	23 Boston Close Plymouth PL9 7NR		
Proposal	New garden building for use as a Chiropractor Clinic		
Applicant	Mr & Mrs May		
Application Type	Full Application		
Target Date	24.11.2020	Committee Date	10.12.2020
Extended Target Date	N/A		
Decision Category	Councillor Referral		
Case Officer	Ms Abbey Edwards		
Recommendation	Grant Conditionally		



This planning application was referred to Planning Committee by Cllr Watkin

I. Description of Site

23 Boston Close is a detached property located at the end of a cul-de-sac on a modern estate built on the site of the former Boston's Boatyard in the Turnchapel, Hooe and Oreston neighbourhood. The site was also a former quarry and the area to the north and west of the property is set substantially higher. To the north is an older stone built building called Park House. To the east, south and west the application site is bound by residential properties.

The property has previously been extended and this application relates to a detached outbuilding located in between and north of the dwelling and the property's garage.

2. Proposal Description

Change of use of garden building to a chiropractor clinic. The outbuilding was approved under application 20/01099/FUL and this proposal solely relates to the use of the building.

The proposed chiropractor clinic would be open to customers 0900 - 1600 Mondays to Fridays. There would be a maximum of 9 customers visiting the premises each day with appointments lasting 30 minutes. A 15 minute gap will be required in between appointments to allow for cleaning. The clinic would be operated by the occupier of the dwelling.

3. Pre-application Enquiry

None

4. Relevant Planning History

19/00085/FUL- Two-storey side and front extensions to enlarge property and form residential annexe - Application withdrawn

19/00449/FUL- Two-storey side extension- Grant conditionally

19/01972/AMD- Non-material Amendment: Removal of window W13. Replace Door ED4 with a window for application 19/00449/FUL- Non-material Minor Amendment Agreed

20/01099/FUL- Garden building (part-retrospective) - granted conditionally

5. Consultation Responses

Local Highway Authority - No objection

Public Protection Service - No comments

6. Representations

11 letters were received from members of the public; 4 letters of support and 7 objections. The objections were made on the following grounds:

- Not conforming to the condition attached to previous planning application (20/01487/FUL) requiring the outbuilding to provide recreational use ancillary to the dwelling
- The proposed commercial use is not in keeping with the residential area
- Existing driveway has been constructed without planning permission
- Roads are privately owned and residents are responsible for maintenance costs which may increase with the proposed commercial use
- Noise nuisance of increased traffic
- Increased traffic is a danger to local residents, particularly the old and vulnerable, young children who play in the street, dog walkers and those exercising
- Access to outbuilding is across neighbouring properties
- Raises the potential for extension of hours in the future
- Detrimental impact on a coastal area
- Commercial customers will create congestion and parking pressures including that on the existing visitor parking bays
- Inaccuracies in the Local Highway Authority's comments regarding the driveway being proposed instead of existing
- Single road access to the cul-de-sac is inappropriate for commercial traffic

The following objections were raised but are non-planning matters:

- Breach of developer covenants
- Increased visitors result in increased health risk in light of COVID 19
- The proposal will devalue local property prices

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

- Plymouth and South West Devon Supplementary Planning Document 2020

8. Analysis

8.1. This application has been considered in the context of the development plan, the Framework and other material policy documents as set out in Section 7.

8.2. The main considerations in the determination of this application are the principle of development, impact on residential amenity and impact upon highway safety and parking.

Principle of development

8.3. It is noted that a number of objections refer to the proposed breach of the previous condition attached to planning application 20/01099/FUL. The Officer Report stated 'If the structure is used in the future for business purposes, then further enforcement investigations can take place to establish whether or not any further planning permission would be required.' As such, a condition was added, ensuring that the outbuilding was used for purposes incidental to the enjoyment of the dwelling house, as it was considered that the independent use of the premises would be likely to produce conditions unacceptable to the Local Planning Authority. In line with the officer report, a planning application for the proposed change of use has been submitted and can be assessed accordingly.

8.4. The National Planning Policy Framework (NPPF) defines main town centre uses as: "Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)."

8.5. The NPPF does not define a chiropractor clinic as a main town centre use and there is therefore no requirement to undertake a sequential test to establish whether the proposal could be located within a designated centre.

8.6. Whilst the application site is located within a predominantly residential area, given the low intensity of the proposed use, on balance, officers consider the location to be acceptable subject to the considerations set out in this report.

8.7. It is noted that should the application be approved then under Permitted Development rights, the use of the building in the future can change to other categories within Use Class E without planning permission. However, given the residential nature of the area any future change of use

should be made subject to a planning application and assessed accordingly. As such, officers consider that a condition restricting the use of the building to a chiropractor clinic, should be attached to any approval.

Impact on neighbour amenity

8.8. The Applicant has confirmed that the chiropractor clinic would operate weekdays only Monday to Friday from 0900 to 1600 hours. The Applicant has confirmed that there would be no more than one customer at any one time and a 15 minute gap between client appointments to allow for cleaning. There would be no more than 9 clients visiting the site per day.

8.9. On this basis, it is considered that the proposal would not have a harmful impact on the amenity of nearby occupiers sufficient to warrant a refusal of this application.

8.10. It is noted that objections have been raised in regards to increased danger to pedestrians, particularly the old and vulnerable and children playing in the street. Whilst it is recognised that there will be an increase in traffic and footfall, the impact of this is mitigated by the proposed hours and the level of increased risk would not provide a reason to refuse the application.

8.11. With regards to proposed noise, it is acknowledged that the business will operate solely from the detached outbuilding, which is separated from the nearest neighbouring property by a double garage. As such, it is not anticipated that the proposed use would generate noise nuisance sufficient to warrant a refusal of this application.

8.12. It is noted that the Council's Public Protection Team were consulted on the application and had no comments to make.

8.13. By conditioning the use of the building, opening hours and the maximum number of clients visiting the premises, it is considered that the impact of the proposed use on neighbouring amenity will be limited. It should be noted that any breach of these conditions could be subject to enforcement action.

8.14. On balance, the proposal is compliant with Policy DEVI of the Plymouth and South West Devon Joint Local Plan.

Highway Considerations

8.15. The Local Highway Authority (LHA) was consulted on the proposal and raised no objections. The site currently provides a driveway able to accommodate up to four vehicles. It is considered that whilst stacking of vehicles is usually discouraged, given that the applicant is in full control of the area, the stacking of cars is acceptable.

8.16. The Local Highway Authority note that the clinic will not be in use during the evening when parking demand is likely to be at its highest in the local area.

8.17. The LHA also considers that due to the small size of the clinic, it is unlikely that the use will generate noticeable traffic and parking demand. Whilst planning officers argue that the traffic demand caused by the proposed use would be noticeable, given that the site will be restricted to a maximum of 9 clients per day, it is not anticipated that the increased traffic demand generated by the proposed use would be sufficient to warrant a refusal of this application.

8.18. It is noted that objections have been raised in regards to the existing driveway of No. 23 Boston Close and whether this requires planning permission. Officers consider that the driveway is permeable and therefore does not require planning permission.

8.19. Objections have also been raised in relation to the highway being privately owned with residents responsible for maintenance costs. However as this is a civil matter, officers are unable to comment on this.

8.20. Officers therefore consider the proposal is acceptable in terms of highway impacts and accords with Policy DEV29 of the Joint Local Plan.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

No charge under current schedule

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the proposed development of a chiropractor clinic at 23 Boston Close does not cause discrimination on the grounds of gender, race and disability. The application building contains level access entrance.

13. Conclusions and Reasons for Decision

The proposal is not considered to have a significant adverse impact on local amenity, parking or traffic demand sufficient to warrant a refusal of this application. Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 29.09.2020 it is recommended to Grant Conditionally.

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

I CONDITION: APPROVED PLANS

Existing and proposed plans 23BC-001 REV A received 29/09/20

Existing and proposed elevations 23BC-002 REV A received 29/09/20

Site plan showing position of cabin and parking area 23BC-003 REV A received 29/09/20

Block plan 29072020 received 29/09/20
Site location plan 29072020 received 29/09/20

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

2 CONDITION: RESTRICTED USE

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), or the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting or amending that Order), the building shall only be used as a chiropractor clinic and for no other purpose.

Reason:

The Local Planning Authority considers that, in the particular circumstances of the case, the uses of the premises for the purpose specified is appropriate, but that a proposal to use the premises for any other purpose would need to be made the subject of a separate application to be considered on its merits in accordance with Policies DEVI, DEV2, DEVI0 and DEV29 of the Plymouth and South West Devon Joint Local Plan and policies and provisions of the NPPF.

3 CONDITION: OCCUPIERS

The approved use shall be operated by the occupiers of No. 23 Boston Close only.

Reason:

In order to safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy DEVI of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework.

4 CONDITION: MAXIMUM NUMBER OF APPOINTMENTS

Only 9 appointments shall be permitted in a working day.

Reason:

In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy DEVI of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework.

5 CONDITION: HOURS OF USE

The premises shall only be open for customers between the hours of 0900 - 1600 Mondays - Fridays.

Reason:

In order to safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy DEVI of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework.

INFORMATIVES

1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

2 INFORMATIVE: CONDITIONAL APPROVAL (NEGOTIATION)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework 2019, the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

3 INFORMATIVE: ANCILLARY USE

When not in use as a Chiropractor Clinic the outbuilding may be used for purposes incidental to the enjoyment of the dwelling house.