

7 DCCE2004/3690/F - CHANGE OF USE FROM STUDY TO CHIROPODY PRACTICE, 37 BRAEMAR GARDENS, HEREFORD, HEREFORDSHIRE, HR1 1SJ**For: Mrs. J. Lennick, Mayfield, 37 Braemar Gardens, Hereford, HR1 1SJ****Date Received: 20th October, 2004****Ward: Tupsley****Grid Ref: 53460, 39016****Expiry Date: 15th December, 2004**

Local Member: Councillors G.V. Hyde, Mrs M.D. Lloyd-Hayes and W.J. Walling

1. Site Description and Proposal

- 1.1 The application is a retrospective application for a change of use at 37 Braemar Gardens. The site is located in a modern residential development to the south of Hampton Park Road. The dwelling is in the corner of a hammer head cul-de-sac. The property is a relatively substantial detached dwelling house of standard catalogue design. It is within an Established Residential Area as designated in the Hereford Local Plan.
- 1.2 The proposal is for a change of use of the study of the dwelling for use as a chiropody practice. The proposed use would occur on Tuesday afternoons, Thursday afternoons and throughout Wednesdays.

2. Policies**2.1 Planning Policy Guidance:**

PPG1 General policy and principles

2.2 Hereford Local Plan:

H21 - Compatibility of non-residential uses
H22 - Existing non-residential uses
SC1 - Health care

2.3 Herefordshire Unitary Development Plan:

S1 - Sustainable development
S2 - Development requirements
E9 - Home based businesses

3. Planning History

- 3.1 None relevant to this application site.

4. Consultation Summary

Statutory Consultees

4.1 None

Internal Council Advice

4.2 The Head of Conservation raised no objection to the proposal.

4.3 The Head of Highways and Transportation raised no objection to the proposal.

5. Representations

5.1 Hereford City Council: The City Council objects to the application on the grounds that the area in question is purely residential and should remain so.

5.2 A single letter of objection has been received from the following source:

- F & B Williams, 33 Braemar Gardens

The objections raised can be summarised as follows:

1. Property Deeds restrict the operation of a business from homes on the estate;
2. Vehicle movements causing noise, obstruction, and disturbance;
3. Setting of a precedent
4. Operation restricted to 2 afternoons per week

5.3 The full text of these letters can be inspected at the Central Divisional Planning Office, 4 St. Owen Street, Hereford, and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 The need for a planning application for the operation of a business from a domestic property is a matter of fact and degree. In this instance it is considered that the extent of the operation involved is such that a material change of use has occurred, necessitating a planning application. The use of a dwelling house for the running of a business is not, in principle, contrary to planning policy. That said, the details of the scheme must be acceptable. It is considered that it is the issues of residential amenity and highway issues that are of greatest relevance to this application.

6.2 The existing property is provided with four off street parking spaces; two garage spaces, two driveways. A maximum of two spaces will be required at any one time, specifically at the change over time between appointments. It is acknowledged that it cannot be guaranteed that two spaces will be available but it is considered that four spaces is reasonable for the associated business use. A condition to retain the on site parking facilities is proposed.

6.3 The proposal involves the use of the study over three days, and only in the afternoon for two of those. It is considered that the operating times are adequate to allow for the effective operation of the business without being detrimental to the residential amenities of the locality. A condition will restrict the hours of operation and as such these specified times will enable the Local Planning Authority to control any

intensification of the use which could lead to an unacceptable level of traffic movement and disturbance within the area. Additionally, a condition is proposed restricting the use to a specific person, in this case the applicant. Therefore in the event that the applicant should move from the premises the use will revert to that of residential. This is to have regard to the special circumstances of the applicant and their profession.

- 6.4 It is considered that through the proposed conditions the use of the premises can be effectively controlled. It is further considered that with said conditions in place the operation of this premise will not be detrimental to this residential area. No precedent will be set by this application as the proposal is in accordance with development plan policies. Any future application would be considered on its own merits and if it related to a similar proposal for a neighbouring property, this application would be a material consideration in the assessment of its acceptability. The implications of this consent and any new proposal would be considered in combination.
- 6.5 As a final note, the presence of a legal covenant on the property regarding the use of any part of the property other than for private residential purposes for the purpose of this application is not considered to be a material consideration under planning legislation and is therefore a civil matter. That said, it is stressed for reasons of clarification that this application has no over riding in invalidating implication upon any Deed that may exist.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 This permission shall ensure for the benefit of Mrs. J. Lennick only and not for the benefit of the land or any other persons interested in the land. The use hereby permitted shall only be conducted from the ground floor study as indicated on the ground floor plan received by the Local Planning Authority on the 20th October 2004.**

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances.

- 2 The study shall be used for appointments for the chiropodist practice only on Tuesdays and Thursdays between the hours of 12:00 and 17:00, and Wednesdays between the hours of 09:00 and 17:00.**

Reason: In the interest of the amenities of occupiers of nearby properties.

- 3 The parking facilities associated with the application site shall be retained and kept available for such use.**

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.

Informatives:

- 1. This decision does not convey any approval or consent that may be required under any other contractual agreement/covenant which this property may be the subject of.**

2. N15 – as Reason(s) for the Grant of PP/LBC/CAC

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.