

**Item 5**                      **11/00437/FUL**

**Case Officer**            **Mr David Stirzaker**

**Ward**                        **Wheelton And Withnell**

**Proposal**                  **Application to vary condition no. 5 of planning permission no. 10/00901/FUL (which permitted the use of the property as a dental laboratory) to enable the opening hours of the dental laboratory to be 8am to 8pm Monday to Friday only**

**Location**                **Matrix Dental Laboratory 87 School Lane Brinscall Chorley Lancashire**

**Applicant**                **Mr Andrew Lee**

**Consultation expiry: 9 August 2011**

**Application expiry: 14 July 2011**

### **Proposal**

1. This application is retrospective and seeks planning permission for the variation of the condition attached to the planning permission (Ref No. 10/00901/FUL) which permitted the use of the property (formerly a picture framing workshop) as a dental lab. The condition in question restricts the hours of the dental lab to 8am until 6pm Monday to Friday with no working on Saturdays, Sundays and Bank Holidays. This application seeks to vary this condition by allowing extended opening hours in the evening until 8pm thus enabling the business to operate for a further 2 hours each weekday. No changes are sought in relation to working at weekends and on Bank Holidays.
2. The site comprises of Matrix Dental Lab which is located on the corner of School Lane and Dick Lane and is in the settlement of Brinscall. The dental lab operates from a building that was previously used as a picture framing workshop and planning permission was granted last year for the use of the property as a dental lab.
3. The property has 2 off road parking spaces available on site. The applicant advises that an agreement is in place which allows staff to park at the Cricket Club which is located further along School Lane. The issue of car parking is being dealt with separately through a travel plan submitted pursuant to the discharge of one of the conditions attached to the planning permission for the dental lab.

### **Recommendation**

4. It is recommended that the condition be varied to allow the new workings hours of 8am until 8pm Monday to Fridays only with the prohibition of working on Saturdays, Sundays and Bank Holidays maintained.

### **Main Issues**

- The main issues for consideration in respect of this planning application are as follows:
- Principle of the development
- Background information
- Impact on the neighbours
- Traffic and Transport

## Representations

5. To date, 21 letters of have been received in relation to this application with 20 of these being objections. The contents of these letters can be summarised as follows: -
- Car parking on Dick Lane is presently at capacity
  - The cricket club do not allow parking outside of the hours of 8am to 6pm
  - There would be an increase in noise and activity at the premises throughout the day and night 7 days a week
  - There are no other commercial premises in the area which operate with unrestricted opening hours
  - Unrestricted working hours will have a negative impact on the local population
  - The business, with unrestricted hours, would be more suited to an industrial estate
  - It is unreasonable to expect local residents to endure the existence of what could become a 24 hour a day, 365 days a year, commercial premises within 20 yards of residential property/properties
  - When local residents return from work, they should be able to park in their local area, if not outside their properties
  - The lack of blinds and late night use disturbs local residents
  - The completion of a new building at the cricket club means that the lab have lost some parking spaces
  - The proposal is contrary to Policy EM7 of the Local Plan Review
  - It is possible to overlook neighbouring garden areas from the windows in the dental lab
  - Car arriving early morning and early evening cause a lot of disturbance to local residents
  - Unrestricted working hours will exacerbate existing problems
  - The company do not work within the permitted hours at the moment
  - When the first employee arrives at 6am and turns off the alarm, this creates noise disturbance
  - The security light causes disturbance when it is in use
  - Late night working causes light pollution
  - When staff are working at weekends, they are parking on Dick Lane, causing further problems for residents
  - This application should be determined by Development Control Committee
  - Whilst 80% of staff park at the cricket club, some staff and delivery vehicles are still parking on Dick Lane
6. A further letter from a local resident has also been received in relation to the revised working hours stating that as a result of this change, there are no longer objections to the application.
7. No comments have been received from the Parish Council in relation to the application.

## Consultations

8. **Director People and Places** advises that no complaints have been received in relation to noise and disturbance and does not wish to raise any objections in relation to the amended working hours.
9. **Lancashire County Council (Highways)** raised objections to the original proposal to remove the working hours condition altogether stating the following: -
- School Lane is the main thoroughfare through the village, and it is very much apparent there is significant reliance on on-street car parking on School Lane and the adjoining side roads in the immediate area. The adjacent publicly maintained streets are subject to various traffic regulation orders prohibiting /restricting parking. As such there is little spare parking capacity in the area away from normal Mon- Fri working hours.
  - The likelihood of the extended hours of opening is that it will encourage staff to seek more local parking spaces closer to the site. However as indicated there is already little spare parking capacity in the area. This will place an unacceptable strain on the limited resources of the local network and result in indiscriminate parking and unnecessary trips in congested residential roads as drivers search for a legal parking space. This would be detrimental to the operation, sustainability and ultimately the safety of the public highway.

10. As a result of this, the applicant has agreed to now seek only a variation of the working hour's condition which if approved, will allow the dental lab to operate between the hours of 8am to 8pm Monday to Friday. The originally approved working hours would therefore be extended by 2 hours in the evening from 6pm to 8pm. **LCC (Highways)** now advise that such working hours would not have any strong objections to these working hours.

### **Applicants Case**

11. The applicant asserts the following in support of the application: -
- Directors are local people who have brought an old building back into use
  - A Travel Plan has been implemented to deal with parking issues
  - Extraction has been installed in the building
  - There will not be any changes to pedestrian arrangements
  - No changes with regards to light as blinds have been installed and utilised
  - The changes are critical to enable the current level of service to be maintained
  - The hours condition is ambiguous as it is not clear if paper work and cleaning can be carried out
  - Staff are local people including mums who require flexible working to maintain jobs within and outside of school hours
  - Flexible working reduces commuting times
  - The property is detached
  - No evidence that occupancy will disturb domestic properties in terms of acoustics and light and these are understood not to be above and beyond those of a domestic property
  - No further problems to neighbours as use will continue as has been since July 2009
  - Allowing increased working hours will allow business to prosper within these tough economic times
  - The Council encourages small to medium enterprises to sustain economic growth during these difficult times

### **Assessment**

#### Principle of the development

12. The change of use of the property to a dental lab was permitted in 2010 and the property is being used as such although the Council has received complaints that the working hour's condition which allows the dental lab to operate only between 8am and 6pm on weekdays has not been adhered to. This issue is presently the subject of an enforcement investigation. However, the 'principle' of the use of the property has already been established by virtue of the planning permission granted in 2010 (Ref No. 10/00901/FUL).

#### Background Information

13. One of the conditions attached to the original planning permission required the submission of a Travel Plan to the Council. This Travel Plan has now been deemed acceptable by the Council in liaison with the Travel Plan Officer at LCC. The Travel Plan requires staff members to park at the cricket club.
14. An enforcement investigation is also taking place in relation to a breach of the original working hour's condition attached to the planning permission which permitted the Dental Lab.

#### Impact on the neighbours

15. Prohibiting earlier opening hours in the morning will mean the impact on local residents will not be exacerbated, subject to the working hour's condition being adhered to by the applicant. Extending the working hours until 8pm in the evening will mean staff leave the premises later in the day but at this time, it is likely that most local residents would have returned or are returning from work and ambient noise levels in the locality would be higher than in the early part of the morning before the permitted 8am opening time.
16. It is considered that any noise and disturbance created as a result of the dental lab staff members leaving work between the hours of 6pm and 8pm would not be as significant as that generated by staff

arriving from 7am onwards. The Travel Plan prepared by the company requires staff to utilise the Cricket Club car park which is further along School Lane approx. 375m to the northwest of the site. Any staff members should therefore be leaving the premises on foot between 6pm and 8pm which would negate the noise and disturbance that would be caused by the opening and closing of car doors, engines starting, cars manoeuvring etc.

17. In terms of the concerns expressed by the neighbour in relation to overlooking, this matter was addressed in the Case Officers report for the application to use the property as a dental lab (10/00901/FUL) which also confirms that the roof lights installed constituted permitted development so did not require planning permission from the Council. The Case Officer, in recommending approval for the dental lab, did not consider it necessary for any of the windows in the property to be fitted with obscure glazing or be non-opening in the interests of neighbour amenity. An extension to the working hours until 8pm will obviously mean the building is occupied later than it is at present but even so, it is not considered that an additional 2 hours working time is sufficient to justify, for example, requiring the applicant to change the glazing in the windows from clear to obscure glass, when the dental lab operates from 8am to 6pm as existing.
18. The applicant has also requested clarification on the issue of cleaning so the proposed amended hour's condition is worded to allow cleaning between the hours of 7:30am and 8:30pm Monday to Friday and between the hours of 8am and 12pm on Saturdays. Cleaning is not permitted outside of these hours. It is not considered that enabling cleaners to go into the building 30 minutes earlier in the morning and leave the building 30 minutes later in the evening would cause detrimental harm to the living conditions of neighbours as the level of activity generated by cleaning would be low in comparison to the main use of the premises as a Dental Lab.
19. On this basis, it is not considered that extending the opening hours by 2 hours will result in detrimental harm to the living conditions of local residents that would be sufficient to justify recommending the refusal of planning permission.

#### Traffic and Transport

20. LCC (Highways) objected to the original proposal to remove the working hour's condition on the basis that unrestricted working hours would have the potential to impact on highway safety due to an increased likelihood of vehicle movements taking place earlier in the day prior to the present approved opening time of 8am. The applicant then amended the application to encompass working hours of 7am to 7pm but further concerns were raised by LCC (Highways) in terms of extending the working hours in the morning to 7am.
21. The applicant, in an attempt to address LCC (Highways) concerns, now proposes working hours of 8am to 8pm. The morning opening time is to therefore remain as approved whilst an additional 2 hours working time is requested in the evening. LCC (Highways) do not now raise concerns. Notwithstanding this, the Council is currently considering a Travel Plan which was a requirement of one of the conditions attached to the planning permission which permitted the use of the building as a Dental Lab. This Travel Plan states that staff should park on the Cricket Club car park which is further along School Lane to the northwest of the site approx. 375m away.

#### **Overall Conclusion**

22. The original proposal to remove the working hour's condition has now been changed and the applicant is now seeking to extend the working hours until 8pm with the starting time of 8am remaining unaltered. This means that additional activity will be limited to only the evening between 6pm and 8pm. Increased activity at this time is less likely to cause detrimental noise and disturbance to local residents as most residents will have arrived home from work or will be arriving home around this time. Allowing the cleaning of the building 30 minutes before opening and 30 minutes after closing is something that is unlikely to have a detrimental impact on the living conditions of local residents as the level of activity associated with cleaning is likely to be much lower than that associated with the use of the premises as a Dental Lab. It is also considered reasonable to word the hour's condition to allow essential maintenance to take place in the building if/when it is necessary.

## **Planning Policies**

### National Planning Policies:

PPS1

### Adopted Chorley Borough Local Plan Review

Policies: GN4 / GN5 / EP20 / EM2 / TR4

### Joint Core Strategy

Policy 1: Locating Growth

Policy 10: Employment Premises & Sites

## **Planning History**

**98/00644/FUL** - Erection of metal railings and raising in height of existing stone pillars – Permitted – 4<sup>th</sup> November 1998

**10/00901/FUL** - Retrospective application for change of use from picture framing workshop and gallery to dental laboratory and for a proposed first floor rear extension – Permitted – 24<sup>th</sup> December 2010

**11/00438/DIS** - Application to discharge condition no. 4 of planning permission no. 10/00901/FUL (which permitted the use of the premises as a dental laboratory) which requires the submission of a Travel Plan – Pending Consideration

**Recommendation: Permit Full Planning Permission**

## **Conditions**

1. The use of the premises as a Dental Lab shall be restricted to the hours between 8am and 8pm Monday to Friday only and there shall be no operation on Saturdays, Sundays or Bank Holidays. Cleaning shall only take place between the hours of 7:30am and 8:30pm Monday to Friday and between the hours of 8am and 12pm on Saturdays. There shall be no cleaning outside of the specified times. This condition shall not operate so as to prevent, outside of the specified hours, essential maintenance works associated with the Dental Lab.

*Reason: To safeguard the amenities of local residents and in accordance with Policy Nos. EM2 and EP20 of the Adopted Chorley Borough Local Plan Review.*