

2.2 REFERENCE NO - 23/503055/FULL		
PROPOSAL Change of use of Garden Studio to a Health Clinic (Class E) (Retrospective).		
SITE LOCATION 7 Chegworth Gardens Sittingbourne Kent ME10 1RJ		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions, and the completion of a Section 106 agreement as set out in the report, with further delegation to the Head of Planning/Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions and precise Heads of Terms as may be consequently necessary and appropriate.		
APPLICATION TYPE Change of use		
REASON FOR REFERRAL TO COMMITTEE Applicant is related to SBC employee.		
CASE OFFICER Claire Attaway		
WARD Woodstock	PARISH/TOWN COUNCIL Tunstall	APPLICANT Mr David Sawyer AGENT
DECISION REGISTERED 28/07/23	TARGET DATE 22/09/23	
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - All drawings submitted All representations received Applicant's Supporting Statement dated 25.08.2023 and comments uploaded 07.09.2023 The full suite of documents submitted pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RX210KTYN1N00		

1. **SITE LOCATION AND DESCRIPTION**

- 1.1 No. 7 Chegworth Gardens is a two storey 4 bedroom detached dwelling located within the built up area boundary of Sittingbourne. The site lies within a residential area and backs onto the King George V Recreation Ground. The surrounding properties are mainly detached and semi-detached dwellings with off-street parking and landscaped front gardens. There are no on-street parking restrictions in place in Chegworth Gardens.
- 1.2 There is a side gate in-between No's 5 and 7 Chegworth Gardens which provides access to a walkway. This walkway runs along the side boundary of the rear garden to No. 5 and leads to a large timber outbuilding at No.7. The outbuilding (approx. 11.6m x 3.8m) is situated at the end of the rear garden and is currently being used by The Kent Detox and Well Being Clinic as a health clinic. There is no planning history for the outbuilding although the structure itself has become lawful through the passage of time.

The information provided as part of the application sets out that the outbuilding was used by the applicant as a tattoo studio from 2014 until 2019, although that specific use never benefitted from planning permission.

2. **PLANNING HISTORY**

- 2.1 **17/502101/FULL** Planning permission granted on 26.05.2017 for a first floor front extension with pitched roof.
- 2.2 **SW/08/1315** Lawful Development Certificate granted on 04.02.2009 for a single storey rear extension.
- 2.3 Both of the above developments relate to the property itself rather than the outbuilding.

3. **PROPOSED DEVELOPMENT**

- 3.1 Retrospective planning permission is sought for the change of use of the Garden Studio to a Health Clinic (Class E).
- 3.2 The use of the building as a health clinic started on 01.07.2022 and provides blood testing, ear irrigation, DNA testing, workplace health screening, COVID antibody testing, medical screening, and colonic irrigation.
- 3.3 The opening hours of the health clinic are 8am to 6pm Monday to Friday, and 8am to 1pm on Saturdays. The health clinic is closed on Sundays and bank holidays.
- 3.4 The application sets out that one client visits the clinic at a time (sometimes with a carer) and all appointments are scheduled with a 20-30 minute break in-between. The clients are given details of where to park when booking their appointment, and a reminder is sent on the day.

4. **CONSULTATION**

- 4.1 Neighbouring occupiers adjoining the site were notified in writing and a site notice was displayed at the application site. Full details of representations are available online.
- 4.2 Letters of representations were received from 4 separate addresses in relation to the consultation. Objections were received from two separate addresses, and concerns/comments were raised in relation to the following matters: -

Comment	Report reference
Impact of parking on surrounding roads, including outside of the opening hours and on pavements making access difficult.	Paragraph 7.10
Potential for the clinic to expand which will also increase the amount of cars parked in a quiet residential area.	Paragraph 7.18
The use has been operating outside of the hours which neighbours had originally been informed of.	Paragraph 7.15
Noise concerns related to conversations in the outbuilding when	Paragraph 7.14

the door is left open and due to the access path being located close to the neighbouring dwelling.	
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4.3 2 letters were received supporting the application on the following grounds:

Comment	Report reference
Clients are given instructions on where to park.	Paragraph 3.4
The Recreation Ground behind the building opens at 6am with dog walkers that can be noisier.	Paragraph 7.14
When the clinic moved to this site, the availability for evening appointments reduced to respect neighbours amenity.	Paragraph 3.3
Understood that the amount of treatments may reduce as time goes on.	Paragraph 3.4
The complaints have only happened recently despite the clinic open less now than when it first started.	Paragraph 3.3

4.4 **Tunstall Parish Council:** No response.

5. **REPRESENTATIONS**

5.1 **KCC Highways and Transportation:** The proposal does not meet their criteria for comment.

5.2 **KCC Archaeology:** No archaeological measures are necessary.

5.3 **NHS Kent and Medway:** No comment.

5.4 **SBC Environmental Health:** The hours of use are acceptable for this location and limiting the hours by condition would address resident's concerns. The use of the outbuilding as a tattoo studio received a complaint in relation to whether the tattooist was registered or not.

6. **DEVELOPMENT PLAN POLICIES**

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 - policies:**

ST3 The Swale settlement strategy

CP1 Building a strong, competitive economy

CP5 Health and wellbeing

DM7 Vehicle parking

DM14 General development criteria

6.2 **Supplementary Planning Document (SPD):** Parking Standards May 2020.

7. **ASSESSMENT**

7.1 This application is reported to the Committee because the applicant is related to a Council employee.

7.2 The main considerations involved in the assessment of the application are:

- The Principle of Development
- Highway safety and parking
- Living Conditions

Principle

7.3 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.4 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.5 The application site lies within the built-up area boundary of Sittingbourne, within a residential area and in a sustainable location. Policy ST3 of the Local Plan states that the primary focus for growth will be in the main urban centre of Sittingbourne. Policy CP1 is generally supportive of home-grown business creations. In addition, paragraph 81 of the NPPF states that *“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”* The outbuilding was used as a tattoo studio for five years (without planning permission), but the applicant is now seeking to regularise its use as a health clinic. The proposal provides a small business opportunity within Sittingbourne and as such complies with policies ST3 and CP1 of the Local Plan.

Highway safety and parking

7.6 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.7 The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

- 7.8 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.9 The SBC Parking Standards SPD recommends 3+ parking spaces for a four bedroom dwelling situated in a suburban location. The gravelled area in front of No.7 extends across the entire frontage of the property, and as such can accommodate at least three off-road parking spaces for the occupiers of the dwelling. However, the staff member that operates the business from the outbuilding does not reside at the property, and as a result, there is no guarantee that driveway parking will be available. Nonetheless, any road parking would be likely limited to 2 vehicles, being one for the employee and one for a client.
- 7.10 Local objectors raise concern that the proposal generates an increase in on-street parking from clients visiting the health clinic. The supporting statement sets out that between 5 and 8 clients visit the health clinic per day with a scheduled break in-between appointments. This amount of traffic would not result in significant stress on local parking. Chegworth Gardens is a wide road where on-street parking appears common without significantly prejudicing highway safety. The scale of development falls below the threshold for KCC Highways and Transportation to comment, however it is considered that a potential slight increase in on street parking here is unobjectionable. As such the proposal is considered to be in accordance with Policy DM7 of the Local Plan.

Living conditions

- 7.11 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.12 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 7.13 There is potential for additional noise/disturbance from the day to day use of the health clinic and also generated by vehicles coming and going.
- 7.14 The outbuilding is situated at the rearmost end of the garden away from the rear elevations of neighbouring properties. The levels of noise generated from the proposed use will not be dissimilar from typical domestic noise. However, the comings and goings of clients could potentially result in noise and disturbance to No.5, particularly given that the access to the health clinic is alongside their private rear garden, separated by a close boarded fence.
- 7.15 The main control over the potential impact in this respect will be the hours of use proposed by the applicant and the number of clients visiting the site at any one time, which is limited to one. The SBC Environmental Health team raises no objection to the proposed opening hours, which are 8am – 6pm Monday to Friday and 8am – 1pm on

Saturdays (with the business being closed on Sundays and Bank Holidays). Condition (2) has been recommended to control the hours to ensure that there would be no significant impact on the residents nearby because of the proposed use. A further condition, requiring the use to operate in accordance with the statement submitted by the applicant has also been recommended. This includes matters such as the number of clients per visit, the break between appointments and the parking information to be provided to clients.

7.16 It is often the case that when a business use is proposed in an outbuilding within a rear garden of a residential dwelling, the applicant and the operator of the business is one and the same. As a result, in those scenarios a condition would likely be imposed restricting the business use to the applicant only, in order to protect amenity, including the living conditions of the occupiers of the host dwelling. However, a condition restricting the use to the applicant only (who resides at 7 Chegworth Gardens) cannot be imposed in this case as the operator of the health clinic does not reside at No.7 Chegworth Gardens. However, due to the very close relationship between the outbuilding and No.7 Chegworth Gardens, in that it is located within the private amenity space, there would be concern that if the land was severed, and the property was sold separately from the outbuilding, that the living conditions of future occupants of the dwelling would be unacceptably impacted due to this proximity. Therefore, the applicant has agreed to enter into a legal agreement to ensure the land having benefit of this permission cannot be severed from the main dwelling.

7.17 On this basis, the opening hours and use of the clinic would not seriously harm the living conditions of nearby residents and as such complies with Policy DM14 of the Local Plan.

Other Matters

7.18 The neighbour objection raises concern about the clinic expanding. The clinic is operated by a therapist and the proposal does not seek to increase the number of employees. Condition (5) restricts the number of staff employed at the clinic to ensure this is the case.

8. CONCLUSION

8.1 The proposal provides a small business opportunity situated in a sustainable location which generates low levels of noise and additional vehicular movement. The SBC Environmental Health team consider the opening hours to be acceptable. Conditions restricting the opening hours and use of the building will ensure that the living conditions of the neighbouring properties will not be adversely impacted. On the basis of the above, the proposal is considered to be in compliance with Policies ST3, CP1, DM7 and DM14 of the Local Plan and the NPPF.

8.2 The application is therefore recommended for approval subject to safeguarding conditions and a legal agreement precluding the land upon which the outbuilding is situated being severed from the dwelling and the remainder of its curtilage.

9. RECOMMENDATION

GRANT subject to the following conditions and completion of a legal agreement:

CONDITIONS

- (1) The premises shall be used for the purpose of a health clinic only and not for any other purpose, including any other uses otherwise provided for under Class E of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, The Town and Country Planning (Use Classes) Order 1987 (as amended), or The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) other than if reverted to a use for purposes incidental to the enjoyment of No. 7 Chegworth Gardens as a dwellinghouse.

Reason: In the interests of the amenities of the area.

- (2) The use of the outbuilding as a health clinic shall be restricted to the hours of 8am to 6pm on weekdays, 8am to 1pm on Saturdays and shall not take place at any time on Sundays or Bank Holidays.

Reason: In the interests of the amenities of the area.

- (3) The premises shall be operated only in accordance with the statement submitted by the applicant received on 25 August 2023.

Reason: In the interests of the amenities of the area.

- (4) No more than 1 staff member shall be employed at the premises hereby permitted.

Reason: In the interests of the amenities of the area.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

