

AGENDA

Meeting: Eastern Area Planning Committee

Place: Council Chamber - Council Offices, Browfort, Devizes

Date: Thursday 7 June 2012

Time: 6.00 pm

Please direct any enquiries on this Agenda to Roger Bishton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email roger.bishton@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

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Membership:

Cllr Jane Burton	Cllr Chris Humphries
Cllr Peggy Dow	Cllr Laura Mayes
Cllr Nick Fogg	Cllr Jemima Milton
Cllr Richard Gamble (Vice Chairman)	Cllr Christopher Williams
Cllr Charles Howard (Chairman)	

Substitutes:

Cllr Liz Bryant	Cllr Jerry Kunkler
Cllr Trevor Carbin	Cllr Francis Morland
Cllr Nigel Carter	Cllr Christopher Newbury
Cllr Bill Douglas	Cllr Jeffrey Ody
Cllr George Jeans	Cllr Jonathon Seed
Cllr Simon Killane	

AGENDA

Part I

Items to be considered when the meeting is open to the public

1 **Membership**

To note the membership of the Committee as appointed by Council at its annual meeting on 15 May 2012, as set out at the front of the agenda.

2 **Apologies for Absence**

3 **Minutes of the Previous Meeting** (*Pages 1 - 6*)

To approve and sign as a correct record the minutes of the meeting held on 26 April 2012 (copy attached).

4 **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

5 **Chairman's Announcements**

6 **Public Participation and Councillors' Questions**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register in person no later than 5.50pm on the day of the meeting.

The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than **5pm on Tuesday 29 May 2012**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

7 **Planning Applications**

To consider and determine planning applications in the attached schedule.

- 7a **E/2012/0443/FUL - Former Gasholder Site, Land adjacent to The Wharf, Devizes, Wiltshire - Redevelopment to form 37 Retirement Apartments for Older People including Communal Facilities, Car Parking and Associated Landscaping (Pages 7 - 36)**

A report by the Case Officer and a briefing note by Cllr Nigel Carter, the local Member are attached.

- 7b **E/2012/0362/FUL - 1 Church Street, Little Bedwyn, Marlborough, SN8 3JQ - Erection of New Dwelling, Demolition of Existing Office (resubmission of E/2011/1569/FUL) (Pages 37 - 42)**

A report by the Case Officer is attached.

- 7c **E/2012/0465/FUL - Barn at Dursden Lane, Pewsey, SN9 5JN - Conversion of Existing Agricultural Building to Dwelling (Pages 43 - 48)**

A report by the Case Officer is attached.

8 **Urgent items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency.

Part II

Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

EASTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 26 APRIL 2012 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BROWFORT, DEVIZES.

Present:

Cllr Jane Burton, Cllr Trevor Carbin (Substitute), Cllr Richard Gamble (Vice Chairman), Cllr Charles Howard (Chairman), Cllr Chris Humphries, Cllr Laura Mayes, Cllr Jemima Milton and Cllr Christopher Williams

Also Present:

Cllr Nigel Carter, Cllr Mark Connolly and Cllr Brigadier Robert Hall

24. Apologies for Absence

Apologies for absence were received from Cllr Peggy Dow (who was substituted by Cllr Trevor Carbin) and Cllr Nick Fogg.

25. Minutes of the Previous Meeting

Resolved:

To confirm and sign as a correct record the minutes of the meeting held on 5 April 2012.

26. Declarations of Interest

There were no declarations of interest.

27. Chairman's Announcements

There were no Chairman's announcements.

28. Public Participation and Councillors' Questions

The Committee noted the rules on public participation and the manner in which the meeting would be held.

29. **Appeal by The Society of Merchant Venturers: Land East of Quakers Walk, Roundway, Devizes - Development of Care Village - Planning Application Reference E/2011/1139/OUT**

Consideration was given to a report by the Area Development Officer which advised Members of the receipt of an appeal against the decision to refuse planning permission for a care village at Quakers Walk, Roundway, Devizes made by this Committee at its meeting on 15 March 2012.

The Area Development Manager explained that since the decision made on 15 March, the Government had published its National Planning Policy Framework (NPPF) which replaced the previous planning policy statements which this Committee took into account when determining the application. It also replaced the draft NPPF to which only limited weight could be given at the time the decision was made. It was noted that the Planning Inspector would no longer have regard to any of these documents and would instead have regard to the NPPF, the policies of the Development Plan and any other material considerations.

The Committee was informed that it could not reverse its earlier decision on this application as it had already determined it. The decision making power on this application now rested with the Secretary of State through his Planning Inspector and the appeal would continue unless withdrawn by the appellant. The Council could proceed with its reasons for refusal at appeal but, if it did so, would need to produce substantive evidence to justify its decision.

However, the Committee could decide to withdraw its objections to the scheme at any time. In such circumstances, the appeal would still proceed and third parties would be able to present their views on the application but the length and cost of the appeal could be substantially reduced. Members were advised that if this action was to be taken that such a decision was made as early as possible to avoid the appellants in unnecessary costs in providing evidence to challenge the Council's grounds for refusal.

The Area Development Manager also referred to the Council's recent experience of costs awarded by Planning Inspectors and, in particular, two substantial cost awards where the Planning Inspector had found that the Council's reasons for refusal had no substantial evidence to back up the reasons for refusal that it put forward.

He then stated that officers had examined the three reasons for refusal as determined by this Committee at its meeting on 15 March and explained in each case how the reasons would not demonstrate any substantial evidence as would be required by the Planning Inspector.

The Committee then received details of several questions which had previously been submitted by Mr John Kirkman, Chairman of the CPRE Kennet Branch

together with responses which were read out at the meeting and copied to Mr Kirkman.

Statements in support of the Committee's reasons for approval were received from the following members of the public:-

Mrs Judy Rose, representing Quakers Walk Protection Group
Mr Rick Rowland, Chairman, DCAP Housing & Built Environment Thematic Group
Mr John Kirkman, Chairman, CPRE Kennet Branch
Mr Tony Sedgwick, Traffic Advisor, Trust for Devizes
Cllr Chris Callow, Chairman, Roundway Parish Council

The views of Cllr Nigel Carter, Member for an adjoining Division.

On hearing the views of Cllr Laura Mayes, the local Member and after a full discussion,

Resolved:

To advise the Planning Inspector that, in the light of the changed circumstances brought about by the NPPF and a review of the reasons put forward, the Council no longer wishes to pursue the reasons but forward for refusing the application.

(The Committee had agreed to a recorded vote which was as follows:-

Those in favour of the Motion

Cllr Trevor Carbin, Cllr Richard Gamble, Cllr Charles Howard, Cllr Jemima Milton and Cllr Christopher Williams.

Those against the Motion

Cllr Jane Burton, Cllr Chris Humphries and Cllr Laura Mayes.)

30. Planning Applications

30.a E/2012/0204/FUL - 13 Manor Bridge Court, Tidworth, SP9 7NH - Change of Use of Garage to form a Play Room for Childminding

The following people spoke against the proposal

Mrs Karen Mackie, a local resident
Mr Derek Atkinson, a local resident

The following person spoke in support of the proposal

Mrs Natasha Handoll, the applicant

The Committee received a presentation by the Area Development Manager which set out the main issues in respect of the application. He introduced the report which recommended that planning permission be granted subject to conditions.

Members of the Committee then had the opportunity to ask technical questions after which the Committee received statements from members of the public as detailed above, expressing their views regarding the planning application.

Members then heard the views of Cllr Mark Connolly, as local Member, who explained that the Town Council, of which he was a member, had raised no objections to the proposal. He had met with several of the local residents and also with the applicant and considered that a reasonable compromise could be reached by:-

- including conditions prohibiting childminding at weekends and Bank and Public Holidays, and
- the erection of a gate by the applicant safeguarding children from access on to the highway.

During discussion, whilst Members supported the erection of a 5 foot gate to safeguard children, several Members did not support the limiting of childminding activities in view of the small number of children who would be on the premises at any one time.

Resolved:

To grant planning permission for the following reason and subject to the conditions as set out below:-

Reason for Decision

The proposed development (now retrospective) seeks to convert the double garage at the front of the dwelling into a childminding business, accommodating a maximum of 6 children at any one time. It is considered that due to the relatively small scale of the childminding business, its limited operating hours and the adequate amount of on-site / public parking spaces nearby, the proposal would be acceptable in principle, would not cause any harm to residential amenity and would not cause any harm to highway safety. The development would therefore accord with the aims and objectives of the development plan, having regard in particular to policy PD1 of the Kennet Local Plan 2011.

Conditions:

1. The use of the premises for childminding shall be limited to a maximum of six children at any one time.

REASON: To limit the intensity of use of the premises, to safeguard the amenity of neighbours and in the interests of highway safety.

2. When the childminding use hereby permitted ceases, the use of the property shall revert to a single dwellinghouse (Use Class C3).

REASON: In the interests of neighbouring amenity.

3. The childminding use hereby permitted shall only take place between the hours of 07:30 – 17:30 on any day.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

4. This development shall be in accordance with the submitted drawings deposited with the Local Planning Authority on 20/02/12, with the additional provision of a 5 foot pedestrian gate on the northern boundary of the garden to allow pedestrian access to the site.

REASON: For the avoidance of doubt.

5. **INFORMATIVE TO APPLICANT:**

Any business operations at the site other than that specified in the application documentation provided may be in breach of planning control and liable to enforcement action. In addition to the planning conditions, Section 79 of The Environmental Protection Act 1990 (legislation that operates outside of the planning system) identifies noise as a statutory nuisance. If a complaint of statutory nuisance is justified an Abatement Notice can be served upon the person responsible, occupier, or owner of the premises requiring that the Nuisance be abated. Failure to comply with an Abatement Notice is an offence and legal proceedings may result.

31. **E/2011/1714/FUL - Land South of 33 Avon Square, Upavon, SN9 6AD - Construction of 5 New Dwellings with Associated Gardens and Sheds, and 20 Car Parking Spaces**

The following people spoke against the proposal

Mr Ralph Hilliard, a local resident
Cllr Cowan, Chairman, Upavon Parish Council

The following person spoke in support of the proposal

Mr Jonathan Arnold, BBA Architects, the agent

The Committee received a presentation by the Area Development Manager which set out the main issues in respect of the application. He introduced the report which recommended that planning permission be granted subject to conditions.

Members of the Committee then had the opportunity to ask technical questions after which the Committee received statements from members of the public as detailed above, expressing their views regarding the planning application.

Members then heard the views of Cllr Robert Hall, the local Member, who did not support the proposal.

After discussion,

Resolved:

To defer and delegate the Area Development Manager to grant permission, subject to conditions and the completion of a legal agreement under Section 106 covering the areas outlined in the report, and to the Case Officer reaching agreement with the applicant regarding:-

- **Securing the best practicable parking provision possible, and**
- **An improvement to the design of the houses.**

32. Urgent items

There were no urgent items of business.

(Duration of meeting: 6.00 - 8.10 pm)

The Officer who has produced these minutes is Roger Bishton, of Democratic Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Date of Meeting	7 th June 2012
Application Number	E/2012/0443/FUL
Site Address	Former gasholder site, land adjacent The Wharf, Devizes
Proposal	Redevelopment to form 37 retirement apartments for older people including communal facilities, car parking and associated landscaping
Applicant	McCarthy & Stone Retirement Lifestyles Ltd.
Town/Parish Council	DEVIZES
Grid Ref	400310 161778
Type of application	Full Planning
Case Officer	Rob Parker

Reason for the application being considered by Committee

This application is being brought to Committee at the request of the Division Member, Cllr Carter.

1. PURPOSE OF REPORT

To consider the recommendation that planning permission be granted.

2. REPORT SUMMARY

The main issue in this case is whether or not the applicant has addressed the appeal inspector's concerns in respect of the height of the eastern block.

3. SITE DESCRIPTION

The application relates to the former gasholder site which lies adjacent to Devizes Wharf. The gasworks closed in 1955 but the two former gasholders survived until the 1990s. The site has been derelict since their removal. Covering an area of 0.37 hectares, the site has a frontage onto the Kennet & Avon Canal. To the east lies Devizes Wharf itself, dominated by its public car, slipway and The Wharf Theatre building. The site abuts Wadworths Brewery to the west and there is a barrel store building abutting the western boundary with the barrel handling yard beyond. Immediately to the south lies a car park for brewery employees and beyond that the Crown public house fronting onto New Park Street. Access to the site is via Devizes Wharf and the applicant has an easement across the Council's car park.

4. RELEVANT PLANNING HISTORY

K/41361 – Erection of 3 storey block of 42 retirement apartments, 24 parking spaces, associated landscaping, external works and creation of canalside walkway - Application withdrawn.

E/11/0057/FUL - Redevelopment to form 39 retirement apartments for older people including communal facilities, car parking and associated landscaping, planning permission refused and subsequent appeal dismissed on 24th November 2011 (see Inspector's decision letter included at Appendix 1).



East Elevation facing The Wharf car park (Scheme dismissed on appeal)



East Elevation facing The Wharf car park (Current proposal)

6. PLANNING POLICY

Saved policies PD1, HC2, HC5, HC10, HC30, HC34, ED21, AT1, NR3 & NR4 of the Kennet Local Plan 2011 are relevant to the consideration of this application, as are the contents of the Devizes Strategic Brief.

Government policy contained in the National Planning Policy Framework (NPPF) is also a material consideration.

The contents of the emerging Wiltshire Core Strategy and Draft Devizes Wharf Planning Brief are also relevant, although it should be noted that the appeal inspector gave little weight to the Planning Brief because it was unadopted at the time of the appeal (this status is unchanged).

The Devizes Conservation Area Statement and Devizes Town Centre Design Code are material considerations.

7. CONSULTATIONS

Devizes Town Council – objects on the following grounds:

- a) It is an overdevelopment of the site in a conservation area;
- b) There is insufficient parking; and
- c) The proposed development is in isolation and should be seen as a whole.

British Waterways – no objections subject to suitably worded conditions and informatives.

English Heritage – The application should be determined in accordance with national and local policy guidance, and on the basis of the Council's own specialist conservation advice.

Environment Agency - no objections subject to suitably worded conditions and informatives.

Wessex Water – no objections.

Wiltshire Council Archaeologist – no objections, subject to a planning condition to ensure that the watching brief is carried out in accordance with the submitted Written Scheme of Investigation.

Wiltshire Council Contaminated Land Officer – no objections in respect of the impact of the proposals upon human health.

Wiltshire Council Ecologist – no objections subject to the following:

- A condition to secure a Construction Environmental Management Plan, to include measures to avoid impacts upon protected species;
- A condition requiring the provisions of the submitted Habitat Management and Biodiversity Strategy to be implemented in full;
- A condition requiring the submission and approval of a sensitive lighting scheme for the development, including a lux plot;
- A planning obligation for £8,000 to provide compensation for unavoidable biodiversity losses (to be implemented by British Waterways).

Wiltshire Council Environmental Health – makes the following comments:

- The Environmental Health Officer expresses disappointment that the applicants have not taken the intervening time since the planning appeal to consider the comfort of their customers, the future residents of the development, in order to come up with a better design that takes into account the working environment in which the building will be located.
- The Inspector's comments are noted; however, the Environmental Health Officer remains of the opinion that residents are likely to suffer detriment to their amenity and possible nuisance from the activities of neighbouring businesses. If consent is granted the applicant should make its customers aware of the nature of the locality that they will be moving to.
- The noise mitigation measures recommended by the applicant's acoustic consultant should be secured by planning condition, if consent is granted. Conditions should also be used to secure the measures contained in the submitted Construction Method Statement in relation to the control of noise, dust, bonfires and other sources of complaint and hours of work.

Wiltshire Council Highways – no objections subject to conditions.

Wiltshire Fire & Rescue Service – standard guidance letter regarding fire appliance / firefighting access, water supplies for firefighting and domestic sprinkler protection.

8. PUBLICITY

Three objections have been received on the following grounds:

- a) The proposal is for an ugly building which would be out of character with the Wharf area. The building still looks like a prison from the canal side.

- b) The building is still too high and its scale will dominate the area and neighbouring buildings. The design is very oppressive and no effort has been made to integrate the development into the surrounding area.
- c) The use of the site for sheltered housing will remove a large area which could be used for commercial and tourism uses, thus prejudicing the town's economic future.
- d) The scheme makes inadequate provision for car parking.
- e) The site should be considered as part of The Wharf as a whole; to approve the current scheme will prejudice implementation of the Devizes Wharf Planning Brief.
- f) The development would be harmful to the settings of nearby listed buildings, namely The Pill Box, The Wharf Bridge and Kennet Lock.
- g) It is vital that existing trees are retained to protect the green canal corridor. There may be pressure to remove trees from future residents wanting a view of the canal.
- h) Occupiers of the development may be affected by noise from Wadworths and the public house adjacent. This could have serious implications for an important local employer.
- i) Concern is expressed regarding the proposals to fix shut certain windows and the objector queries whether the proposals will include air conditioning for residents.

The Trust for Devizes has submitted a comprehensive letter of objection which is included at Appendix 2 of this agenda. The Trust objects on the grounds that the proposal does not properly address the concerns it raised on the previous proposal (E/11/0057/FUL). It considers that the current application should be treated as a new application which should be considered in light of the Localism Act 2011, the recently published National Planning Policy Framework and the emerging Wiltshire Core Strategy and Devizes Wharf Planning Brief. Key objections to the original scheme included:

- a) The scale and massing of the buildings is not in sympathy with the conservation area. The architectural design is not satisfactory either in its overall concept or its detail.
- b) The scheme makes inadequate provision for car parking. Local public transport is not reliable or sustainable, and residents will be reliant upon the private car to access medical services.
- c) The proposal constitutes a gross overdevelopment of the site. This is evidenced by the lack of car parking and open space, plus the lack of parking/turning space for larger removal and delivery vehicles and emergency vehicles.
- d) The application conflicts with the Draft Devizes Wharf Planning Brief.
- e) The development makes no provision for renewable energy.

The Trust maintains these objections but makes the following additional comments in relation to the current scheme:

- f) The development blocks a significant potential "gateway" into the town from the canal system to the west that could be developed later. This proposal prevents a suitable development of that canal side enabling greater canal tourist access to the town from the major tourist attraction of Caen Hill Locks. This site ought to be part of the overall neighbourhood plan for the town's development in this area.

- g) The scheme will make it harder to achieve the Council's affordable housing objectives by making no on-site provision.
- h) The development has been marketed nationally and will therefore attract residents from outside Devizes, thereby increasing the burden on the already inadequate local General Practitioner provision.
- i) The additional demands on the drainage and sewerage systems are likely to cause downstream issues and bring forward the need for significant reinforcement of the drainage infrastructure.
- j) The development makes no provision for grey water recycling and the provision of air source heat pumps is tokenist.
- k) The development will take away some of the parking spaces currently available in The Wharf public car park.

9. PLANNING CONSIDERATIONS

9.1 Background

This application has been submitted following the dismissal on appeal of a similar scheme for the site (ref. E/11/0057/FUL). The current proposal seeks to address the Inspector's concerns.

The main differences between the schemes are as follows:

- The number of retirement units on the site has reduced from 39 to 37.
- The number of on-site parking spaces has increased from 13 to 15.
- The eastern block has been reduced in height by a total of 1.77 metres. This has been achieved through a 0.5m reduction in site levels and a 1.27m reduction in the ridge height of the building itself (from 10.95m to 9.68m).
- The gable span of the eastern block is reduced to achieve the ridge height reduction, and this has pulled the building away from the boundary with the public car park.
- The height of the central and western blocks has reduced by 0.5m, achieved through a reduction in site levels.

The applicants are maintaining their offer of planning obligations to the sum of £152,000 which was agreed previously by the Council and accepted by the Inspector. The contributions would be put towards affordable housing (£144,000) and ecology mitigation (£8,000). The former includes the £22,670 contribution which was originally proposed for adult sports and pitches - the Inspector considered that this would not have met the legal tests, so the applicants have allocated the monies to affordable housing instead.

9.2 Previous Refusal Reasons

Members will recall that the previous planning application (E/11/0057/FUL) was refused by the Committee on two grounds:

1. The design of the scheme and its proximity / relationship to the Crown public house and the adjacent brewery's barrel handling yard is likely to result in noise nuisance for future occupants of the development. This would conflict with policy PD1 (B.10) of the Kennet Local Plan 2011 and government policy contained in PPG24: 'Planning and Noise'.

The conflict between land uses may result in the Council having to take enforcement action for statutory nuisance under the Environmental Protection Act 1990; such action would

threaten the future viability of Wadworths brewery and its role as an important local employer and generator of local economic wealth. This would be contrary to the Government's overarching objective for sustainable economic growth as set out in PPS4 'Planning for Sustainable Economic Growth'.

2. The proposed development, by virtue of its design, scale, bulk, height and massing, would fail to preserve or enhance the character or appearance of the conservation area and would harm the setting of the Kennet & Avon Canal. The development fails to make a positive contribution to the character and local distinctiveness of the historic environment, contrary to policy HE7 of PPS5, and fails to take the opportunities available for improving the character and quality of the area contrary to PPS1. The proposal is therefore contrary to policy PD1 of the Kennet Local Plan 2011 and Supplementary Planning Guidance contained in the Devizes Conservation Area Statement and Devizes Town Centre Design Code.

9.3 The Appeal Inspector's Conclusions

The Inspector considered both refusal reasons and concluded that:

"... subject to suitable conditions, the effects from noise would be of concern but would not be so great as to amount to harm or conflict with the aims of Kennet District Local Plan (LP) Policy PD1 (B.10) or PPG24 or PPS4. However, although other aspects of the design would be acceptable, the excessive height of the eastern block roof would appear incongruous, harming the character and appearance of the canal setting, whilst failing to preserve or enhance the character or appearance of the Conservation Area. In this respect only, the proposal would conflict with the aims of LP Policy PD1, the Supplementary Planning Guidance set out in the Devizes Conservation Area Statement and the Devizes Town Centre Design Code as well as PPS1 and Policy HE7 of PPS5."

The Inspector highlighted "significant benefits" from the scheme, including "provision of needed housing for the elderly, an affordable housing contribution, utilisation of a long unused contaminated Brownfield site, economic and environmental benefits as well as potential public paths".

He listened to evidence from third parties at the appeal hearing in relation to their concerns about the inadequacy of car parking and the impact on local infrastructure. In respect of these issues he concluded as follows:

"... despite increasing numbers of elderly women drivers, given the views of the Highways Authority, the sustainable central location and the levels of car ownership amongst occupiers of similar schemes, I was not persuaded that the car parking provision would be inadequate. All other matters raised, including inadequacies in the local infrastructure, have been taken into account but do not, either individually or collectively, outweigh the main conclusions reached in this decision.

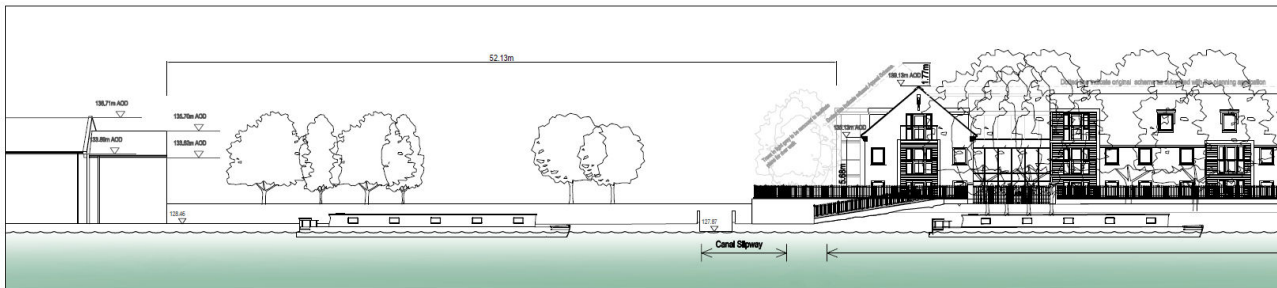
It should be noted that the Inspector's conclusions on the subject of car parking related to a development of 39 residential units with 13 parking spaces. The current proposals provide 15 spaces for a total of 37 units; this is an improvement over the appeal scheme.

It is clear from the above that the main issue was the height of the roof for the eastern block. The Inspector was satisfied with all other aspects of the design; in fact, he considered that "the proposed building would have a generally low-key contemporary design, using traditional materials, which would respond well to the traditional canalside industrial setting". He went on to consider the scale of the western and central blocks but concluded that they would not appear excessively tall in the context of the large scale brewery complex to the west. He further commented that "the relatively open surroundings would ensure that the relatively limited separation from the boundaries would not appear cramped". These comments confirm that the

Inspector was not concerned regarding overdevelopment, poor design or excessive scale and massing overall. The sole concern was with the height of the eastern block.

9.4 Assessment of Current Proposal

The amendments made to the scheme have resulted in a reduction in the height of the eastern block of 1.77m. This block remains 2½ storey - the inspector accepted that the two and half storey height of the eastern block would not in itself breach the Design Code and he commented that the eaves height would not appear excessive in the setting. The reductions have, in the view of your officers, successfully reduced the impact of the eastern block upon the conservation area and canal setting to the extent that the proposals are now considered acceptable. The reduction in the gable span of the eastern block, combined with its reduction in height, has improved the building's proportions and improved its relationship with The Wharf. The applicants have provided a useful elevation (extract below) which shows the development in context.



A-A Contextual Elevation across the canal looking toward the North Elevation

9.5 Response to Third Party Objection

The Trust for Devides objects on the grounds that the application does not properly address the concerns it raised previously. It believes that the current proposal should be treated as a new application which should be considered in light of the Localism Act 2011, the recently published National Planning Policy Framework and the emerging Wiltshire Core Strategy (which includes the Devides Wharf Planning Brief).

The Trust is perfectly correct in stating that this is a fresh application which should be treated on its own merits. However, the appeal decision is an important material consideration which must be taken into account. It would not be legitimate to introduce new issues or re-introduce old issues which have already been considered by the Inspector, unless there has been a change in circumstances since the appeal decision.

Members should note that the Council would be liable to an award of costs against it at appeal, if the Committee objects to elements of the scheme which the Inspector ruled to be acceptable or if it fails to determine application in a like manner – for example by imposing a spurious additional reason for refusal where circumstances have not materially changed. This would be considered as unreasonable behaviour (government advice in Circular 03/2009 refers).

Since the appeal decision the government has published the National Planning Policy Framework which supersedes the series of PPS and PPG documents. The Council has also consulted upon the Wiltshire Core Strategy which will eventually replace the Kennet Local Plan 2011. These documents are both relevant material considerations, and they need to be taken into account in the decision-making process.

The NPPF is an important material consideration which carries significant weight. The document was available in draft form at the time of the appeal and for this reason the Inspector gave it little weight. Now in its final form, the NPPF introduces a presumption in favour of sustainable

development, placing emphasis on the role of the planning system in supporting economic growth whilst at the same time securing higher social and environmental standards for everyone. The proposal to redevelop this town centre brownfield site accords with the thrust of government policy contained within the NPPF and it is not considered that a refusal of planning permission could be justified on the grounds of a change in national planning policy.

The emerging Wiltshire Core Strategy is a material consideration but the weight given to it will depend upon the stage it has reached in the preparation process and the extent to which unresolved objections to policies exist. The document is slightly more advanced than it was at the time of the appeal in that it has been through a public consultation process; however, it has not yet been subject to an examination in public and therefore the weight given to the Core Strategy is still limited. In any event, it is not considered that policies in the Core Strategy would support a refusal of planning permission for the current proposal.

The Devizes Wharf Planning Brief remains unadopted, and therefore it can be given limited weight. Notwithstanding this, it is not considered that the scheme would conflict with the contents of the brief. The document specifically recognises that The Wharf may not be developed as a whole and therefore it sets out the criteria for incremental development to allow for the current economic conditions and the numerous and varied landholdings within the area. The Inspector has already commented that 2½ storey development on the gasholder site would not conflict with the planning brief.

As regards the Localism Act, this does not in itself provide grounds for refusal of the current scheme. The opportunity exists under the new legislation for Devizes Town Council to lead the preparation of a neighbourhood plan, but the plan needs to be in place (and agreed through a local referendum) before it can be used in the planning process. It is not considered that the Council could legitimately refuse planning permission for the current proposal on the grounds of prematurity. In respect of the Trust's suggestion for the site to be used as a canal gateway, it is worth noting the Inspector's acceptance of the fact that other uses for the site were unlikely to be viable – it must be remembered that this is a contaminated site with abnormal costs associated with it.

It would be possible to address each and every issue raised in the Trust's latest objection. However, the fact is that the appeal inspector has already considered proposals to redevelop this site and has heard oral evidence from the Trust in relation to their objections. The Inspector has rejected the arguments in relation to the lack of car parking, possible alternative uses for the site and the scheme's design, scale & massing. These issues cannot be re-visited, except insofar as they relate to the Inspector's reasons for dismissing the appeal – i.e. the height of the eastern block. This issue should be the focus for the Committee's deliberations.

RECOMMENDATION:

Defer and delegate to officers to GRANT planning permission, subject to the applicant entering into a S106 legal agreement to safeguard land for the canalside public footpath and to secure a contribution of £152,000 towards affordable housing (£144,000) and ecology mitigation (£8,000).

For the following reason:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and would also give rise to significant benefits including provision of needed housing for the elderly, an affordable housing contribution, utilisation of a long unused contaminated Brownfield site, economic and environmental benefits as well as potential public paths. In reaching its decision the local planning authority has had regard to the following:

- a) Policies PD1, HC2, HC5, HC10, HC30, HC34, ED21, AT1, NR3 & NR4 of the Kennet Local Plan 2011;

- b) Devizes Strategic Brief;
- c) Devizes Conservation Area Statement;
- d) Devizes Town Centre Design Code;
- e) Government policy contained in the National Planning Policy Framework (NPPF);
- f) Emerging Wiltshire Core Strategy; and
- g) Draft Devizes Wharf Planning Brief.

Subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON:

To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development shall be constructed in accordance with the finished floor levels (129.66m AOD) shown on Drawing no. A01-1712-103 received on 5th April 2012.

REASON:

In the interests of visual amenity and the character and appearance of the conservation area.

3. Notwithstanding the submitted details, no development shall commence on site until samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON:

In the interests of visual amenity and the character and appearance of the conservation area.

4. No development shall commence on site until details and large scale working drawings of the following have been submitted to and approved in writing by the Local Planning Authority:

- Eaves and verges
- Doors and windows (including details of heads, sills, reveals and finishes)
- Rainwater goods
- Dormers and balconies (including details of materials and samples if requested)
- Glazing for the links (including elevations showing clear / tinted / opaque / blanking sections of glass)
- Wrought iron feature gable ornaments

Development shall be carried out in accordance with the approved details.

REASON:

In the interests of visual amenity and the character and appearance of the conservation area.

5. No development shall commence on site until details of all boundary treatments (including elevational drawings, samples of materials, details of copings and brick bond for walls and details of decorative finishes for fencing / railings) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being first occupied.

REASON:

In the interests of visual amenity and the character and appearance of the conservation area.

6. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON:

To ensure a satisfactory landscaped setting for the development and to enhance foraging opportunities for wildlife.

7. No development shall commence on site until a landscape management plan for the area adjacent to the boundary of the canal (including the land identified for the canalside footpath) has been submitted to and approved in writing by the Local Planning Authority. The plan shall thereafter be implemented in accordance with the approved details.

REASON:

To ensure a satisfactory landscaped setting for the development and to preserve foraging opportunities for wildlife.

8. None of the dwelling units hereby permitted shall be occupied by any person who is less than 60 years of age, except in the case of two persons sharing an apartment, one occupant shall not be less than 60 years of age and the other not less than 55 years of age.

REASON:

The application has been considered on the basis of occupation by elderly persons and the Local Planning Authority wishes to consider any future changes to occupation of the building.

9. Development shall be carried out with an archaeological watching brief during construction works, in accordance with the Written Scheme of Investigation for Archaeological Works (CgMs Ref: WB/11443 Dated: April 2012) received on 20th April 2012.

REASON:

To enable the recording of any matters of archaeological interest.

10. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified;

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors;
- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

REASON

To ensure protection of groundwater.

11. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

REASON

The site is known to be contaminated and without adequate investigation, risk assessment and remediation it may present an unacceptable risk to controlled waters.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

REASON

No site investigation can identify all contamination and any unexpected contamination that is identified will need to properly addressed in order to avoid unacceptable risks to controlled waters.

13. No piling or any other foundation designs using penetrative methods shall be used without the express written consent of the Local Planning Authority. Consent will only be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

REASON

The site is known to be contaminated and piling may present an unacceptable risk to controlled waters.

14. There shall be no infiltration of surface water drainage into the ground other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

REASON

Infiltration of surface water may mobilise contaminants resulting in an unacceptable risk to controlled waters.

15. No part of the development hereby permitted shall be occupied until the surface water drainage system has been constructed in accordance with the details shown on drawing no. 50442-01 Rev E and contained within the submitted Foul and Surface Water Drainage Strategy (April 2012). All surface water arising from the car parking and vehicle turning areas shall pass through an oil interceptor before being discharged into the canal.

REASON:

To ensure satisfactory surface water drainage and to prevent pollution of the canal and controlled waters.

16. No development shall commence on site until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable. The Construction Environmental Management Plan shall include measures:
- a) To prevent damage to the waterway infrastructure from parked and moving vehicles within close proximity to the canal;
 - b) To prevent pollution of the waterway during the construction phase (including the result of further investigations of the existing drainage on site to ensure that no direct pathways exist leading to the canal which could result in pollution and subsequent loss of water quality;
 - c) To prevent disruption to the use of the adjacent public car park during construction; and
 - d) To avoid negative impacts upon protected species.

REASON

To prevent pollution of the water environment, harm to protected species and disruption to the adjacent public car park and waterway.

17. No part of the development hereby approved shall be first occupied until the parking area (15 spaces) and turning space shown on the approved layout plan (A01-1712-02) has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

REASON:

To ensure that adequate provision is made for parking within the site in the interests of highway safety.

18. Before any part of the development hereby permitted is first occupied the new pedestrian access / footway across the public car park (shown between the site entrance and The Wharf on drawing no. A01-1712-102) shall be constructed and the associated alterations to the car park carried out, in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

REASON:

In the interests of pedestrian safety.

19. The development hereby permitted shall not be occupied until three cycle stands have been provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a manufacturer's specification for the stands and a plan showing their location. The stands shall be retained for use by the residents of the development at all times thereafter.

REASON:

To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

20. The ground floor room shown on drawing no. A01-1712-03 as a 'Mobility Scooter Cycle Store' shall be retained for use by residents of the development as a secure store for bicycles and mobility scooters. Facility shall be provided within the room to lock bicycles to a secure part of the building's fabric or a secure bracket / stand provided for the purpose.

REASON:

To ensure that satisfactory facilities are provided for secure covered cycle parking and to encourage travel by means other than the private car.

21. Development shall be carried out strictly in accordance with the submitted Habitat Management and Biodiversity Strategy (ref. E0911101051 vs3) received on 5th April 2012.

REASON:

To compensate for the loss of wildlife habitat on the site.

22. No external lighting shall be erected on the site unless details of that lighting (including a plan showing the locations for individual lights, the type of light appliance, the height and position of fitting, illumination levels and light spillage and details of foundations for any lighting poles/bollards) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON:

To avoid disturbance / harm to bats and in the interests of the amenities of the area.

23. No development shall commence on site until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

REASON

In the interests of sustainable development and prudent use of natural resources.

24. The buildings hereby permitted shall be designed and constructed to achieve a minimum 10% reduction in CO₂ emissions from energy use by users of the development, when compared against Part L of the Building Regulations (2010). No dwelling shall be occupied until a certificate of compliance has been issued to the Local Planning Authority from the relevant building control body (Local Authority Building Control, NHBC or other Approved Inspector).

REASON:

In the interests of reducing CO₂ emissions.

25. No part of the development hereby permitted shall be occupied until a scheme of acoustic mitigation for occupants of the development (which shall achieve 35dB L_{AMAX} internal noise levels) has been implemented in accordance with the submitted details. The scheme shall include:

- a) Fixing shut of windows on the western elevation (as identified on drawing nos. A01-1712-103 & A01-1712-104).
- b) The use of automatic vents for the corridors on the west elevation (as identified on drawing nos. A01-1712-103 & A01-1712-104), the vents to default into the shut position.

- c) The installation of acoustic screens for the balconies closest to Wadworth's yard (as identified on drawing nos. A01-1712-103 & A01-1712-104), in accordance with details to be first agreed in writing by the Local Planning Authority.
- d) Trickle ventilation and glazing to the specification detailed in the AAD letter of the 22nd March 2012 ref. 11296 / ADN002 / JS.
- e) Acoustic wall / fencing along the western and southern site boundaries which shall be continuous and imperforate to a height shown on the approved plans, to a minimum of 10kg per m², and in accordance with details to be first agreed in writing by the Local Planning Authority.

26. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

- (a) Application Form, Design & Access Statement, Foul and Surface Water Drainage Strategy, Habitat Management and Biodiversity Strategy (Ref: E091110151 vs3), Acoustic Design Note (Ref: 11296 / ADN002 / JS Dated 22nd March 2012), Drainage Layout (Drawing nos. 50442-01 Rev E), Topographical Survey (Drawing no. 20/03 209197 Rev A), Tree Constraints Plan (Drawing no. 6871/01), Site Location Plan (Drawing no. A01-1712-101), Site Layout Plan (Drawing no. A01-1712-102) and Elevations/Floorplans (Drawing nos. A01-1712-103, A01-1712-104, A01-1712-105, A01-1712-106, A01-1712-107, A01-1712-108 & A01-1712-110) received on 5th April 2012.
- (b) Written Scheme of Investigation for Archaeological Works (CgMs Ref: WB/11443 Dated April 2012) and Draft S106 Planning Obligation received on 20th April 2012.

Appendices: None

Background Documents Used in the Preparation of this Report: The application file and documents listed in Section 6 of the officer report above.

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Appeal Decision

Hearing held on 25 and 26 October 2011

Site visit made on 26 October 2011

by David Saul BSc DMS MSc CEnv FRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 November 2011

Appeal Ref: APP/Y3940/A/11/2156113

Former Gasholder Site, Land adjacent the Wharf, Devizes

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by McCarthy & Stone Retirement Lifestyles Ltd against Wiltshire Council.
 - The application Ref E/11/0057/FUL, is dated 17 December 2010.
 - The development proposed is redevelopment to form 39 Retirement Apartments for older people including communal facilities, car parking and associated landscaping.
-

Decision

1. The appeal is dismissed and planning permission for redevelopment to form 39 Retirement Apartments for older people including communal facilities, car parking and associated landscaping is refused.

Procedural matters

2. Notwithstanding the Council's earlier concerns over procedure, it was agreed at the Hearing that the appeal should address the failure to give notice of a decision. Also, a S106 obligation was provided in a multiple counterpart format which is inconsistent with Planning Inspectorate advice¹. It was suggested at the Hearing that this inconstancy might be overcome by reformatting the obligations into a single document but, having dismissed the appeal, it is not necessary to pursue this suggestion.
3. Whilst account has been taken of the Draft National Planning Policy Framework, this document is still in draft form and subject to change so that little weight can be attached to its policies which are yet to be finalised. Also, the Draft Supplementary Planning Document, Devizes Wharf Planning Brief has not been adopted and so can be attributed little weight. In addition, the limited postal address reflects the absence of any post code for the site.

Main Issues

4. The two main issues are (i) whether or not the proposal would fail to preserve or enhance the character or appearance of the Conservation Area (CA) as well as the effect on the character and appearance of the setting of the canal, having particular regard to matters of design, scale, bulk, height and massing

¹ The Planning Inspectorate Good Practice Advice Note 16 - Submitting Planning Obligations

(ii) the effect on future residential occupiers of noise emanating from neighbouring commercial premises.

Reasons

5. The appeal site lies on the edge of the town centre immediately abutting an industrial scale brewery complex, a canal and a large public car park containing an attractive canal-side warehouse used as a theatre. The Crown Pub is situated alongside the car park entrance. The site itself is a former gasworks storage facility which has remained disused since the 1950s, despite limited clearance and decontamination some twenty years ago. The adopted Devizes Town Centre Design Code (2007) recognises that the site is an underused asset which needs redevelopment. Furthermore, the Devizes CA statement also identifies the development opportunity whilst recognising that the theatre building is a key element of the canal and wharf area of the CA.

Character and appearance

6. The eastern elevation of the proposed eastern block would be close to and directly facing the car park so as to appear particularly prominent when viewed from the public car park as well as from the theatre area, the canal and some associated public walks. In contrast to the industrial scale setting to the west, nearby buildings to the east have a relatively domestic scale characterised by the limited height of the theatre building as well as housing and other modest scale canal-side structures. I accept that the two and half storey height of the eastern block would not in itself breach the Design Code and nor would the eaves height appear excessive in the setting. However, the roof structure itself would be strikingly tall with a high ridgeline and tall, bulky, roof form. Furthermore, the relatively elevated position would increase the apparent height of the roof especially in relation to the smaller theatre building. Therefore, despite the separation from the theatre, the roof of the prominent elevated eastern elevation would appear incongruously tall against the adjoining modest scale setting, particularly when compared to the theatre.
7. The apparent length of the long southern and northern elevations would be successfully broken up by the insertion of balcony structures and glazed sections with breaks in the ridgeline. Indeed, the clear variation in materials and roof lines would ensure that the visual breaks were not significantly diminished by the relatively heavy weight structures, obstructions or lack of complete transparency through the buildings. Nor would the western or central blocks appear excessively tall in the context of the large scale brewery complex to the west. In addition, there would only be limited public views of the relatively featureless western elevations.
8. The proposed building would have a generally low-key contemporary design, using traditional materials, which would respond well to the traditional canal-side industrial setting. The structures would beneficially create a sense of enclosure improving the current poorly defined edges to the open car park area. The stark form, height, as well as positioning of the projecting balcony structures and high level linking corridors would add interest and contribute to the industrial flavour of the design. Also, the complexity of the main roof structure would not be particularly apparent to public view. In addition, the relatively open surroundings would ensure that the relatively limited separation from the boundaries would not appear cramped.

9. For the reasons set out above, the canal wharf feel of the proposed building would generally respond well to the setting and the size would successfully match the industrial scale of the brewery to the west. However, the roof height of the eastern element would be out of keeping with the scale of the adjoining canal-side setting to the east. I accept that the roof height has already been lowered compared with earlier proposals and neither English Heritage nor Council officers objected to the current scheme. Nevertheless, in my assessment, the currently proposed tall prominent roof of the eastern block would harm the character and appearance of this important setting in the CA.

Noise

10. Notwithstanding the Council's concerns over the noise surveys, it has clearly been shown that the level, timing and type of noise emanating from night club activity at the Crown as well as the operational activity at the brewery (particularly the movement of barrels) have the potential to cause nuisance to future occupiers. Both sources of noise are owned by the brewery which is a major local employer and makes an important contribution to the local economy. The Council are concerned that if the scheme were to go ahead then the business could be undermined by enforcement action to limit noise. Furthermore, the Ministerial Statement, Planning for Growth, attaches significant weight to the need to secure economic growth and employment whilst PPS4² sets out the Government's overarching objective of sustainable economic development.
11. However, the proposed design had clearly addressed noise from the brewery, as required by PPG24³, with corridors separating apartments from the main noise source and limited openings in the most exposed external elevations. Furthermore the layout and ventilation had enabled the permanent closure of windows facing the brewery without harm to the living conditions of future occupiers. Indeed, as suggested, the lounge windows closest to the brewery within the north elevation of apartments Nos 22 and 36 could also be sealed shut without harm. Also, acoustic glazing and associated ventilation systems could be fitted throughout the building whilst acoustic screens could shield those balconies sited close to the loading bays. In addition, acoustic fences could be fitted to the length of both boundaries against the brewery. Furthermore, I see no reason to question the suggested requirement that the external fabric of the building could be so protected against noise as to achieve an internal L_{MAX} of 35dB within all units at any time. All of these measures could be achieved by the imposition of suitable conditions, such as those submitted following discussion between the parties at the Hearing, thereby ensuring that the risk of nuisance from the main operation of the brewery would be limited to an acceptable level.
12. Whilst acoustic protection could also largely address the noise emanating from the Crown, this would only be fully effective when windows were closed and it would not be viable to permanently seal the large number of windows exposed to noise from this source. There would therefore be some risk that future occupiers might leave windows open and thereby suffer from noise which might lead to enforcement action against the Crown. However, the night club noise is far from continuous, only occurring on certain nights when there would be some realistic prospect that residents might respond by closing windows.

² Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth

³ Planning Policy Guidance 24 (PPG24): Planning and Noise

13. Given the existing housing nearby and the clear potential for further residential development identified within the Design Guide, the issue of noise from the Crown is unlikely to be confined to occupiers of the current scheme. Indeed, any residential proposal at or near the site would need to address and overcome noise. The appeal proposal has included very significant measures to address these concerns and it is not clear to me what further measures could be taken without, in my view, unacceptably prejudicing the living conditions of future occupiers by the extensive sealing of habitable windows.
14. Also, enforcement action could lead to mitigation measures and limitations on activity which might carry some cost but there was little compelling evidence that such measures would strike at the viability of the clearly successful night club. Furthermore, notwithstanding the brewery use of catering and rooms at the Crown, the noisy night club activity does not appear to be central to the main brewery business. Indeed, the Crown is one of many pubs owned by the brewery and despite the financial returns from the night club it was not clear that any action to restrict noise from the night club would place the main brewery business at risk.
15. For the above reasons, subject to condition, the proposed design would adequately address the risk of noise from the Brewery operations and, although I have some concerns over risks arising from night-club noise at the Crown, such risks would not be so great as to justify refusal.

Overall conclusion in respect of main issues

16. In conclusion, subject to suitable conditions, the effects from noise would be of concern but would not be so great as to amount to harm or conflict with the aims of Kennet District Local Plan (LP) Policy PD1 (B.10) or PPG24 or PPS4. However, although other aspects of the design would be acceptable, the excessive height of the eastern block roof would appear incongruous, harming the character and appearance of the canal setting, whilst failing to preserve or enhance the character or appearance of the CA. In this respect only, the proposal would conflict with the aims of LP Policy PD1, the Supplementary Planning Guidance set out in the Devizes CA Statement and the Devizes Town Centre Design Code as well as PPS1 and Policy HE7 of PPS5.
17. Significant benefits from the scheme would include provision of needed housing for the elderly, an affordable housing contribution, utilisation of a long unused contaminated Brownfield site, economic and environmental benefits as well as potential public paths. Nevertheless, Government policy makes it clear that design which is inappropriate in its context should not be accepted and, given the sensitivity of the site within the CA, on balance the appeal should be dismissed. In reaching this conclusion, I accept the evidence that other alternative uses for the site are unlikely to be viable but I am not convinced that it had been shown that the viability of the retirement flat use would be dependent on the inclusion of the harmfully tall roof for the eastern block.

S106 obligation

18. Having dismissed the appeal there is no need for me to address the content of the S106 undertaking in great detail. Nevertheless, the obligation to provide acoustic glazing to a certain minimum specified standard would not conflict with any higher standards imposed by condition. Also, the obligation would usefully go some way to protect the potential for a pedestrian canal side route.

Furthermore, the Council provided appropriate, specific, evidence to justify the contributions sought in respect of affordable housing as well as wildlife enhancement and demonstrated that these elements would satisfy the legal tests set out in the CIL⁴ Regulations.

19. The SPG⁵ states that contributions for adult sports and pitches should reflect the age and recreational needs of new residents aged over 55. However, the anticipated age profile and levels of dependency envisaged amongst future occupiers of these flats would be likely to limit their use of a recreational facility located some distance away. Also there was little compelling evidence that improvements to the public realm would amount to the type of adult recreational facilities envisaged by the SPG. I could not therefore be certain that contributions for the recreational facility would be directly related to the development or that works to the public realm would be necessary to make the development acceptable in planning terms. It has not therefore been shown that the contribution towards recreational facilities would satisfy the legal tests and so only limited weight should be given to this element of the obligation.

Other matters

20. Having dismissed the appeal on other grounds there is no need to address the legitimacy of a water efficiency condition. Also, despite increasing numbers of elderly women drivers, given the views of the Highways Authority, the sustainable central location and the levels of car ownership amongst occupiers of similar schemes, I was not persuaded that the car parking provision would be inadequate. All other matters raised, including inadequacies in the local infrastructure, have been taken into account but do not, either individually or collectively, outweigh the main conclusions reached in this decision.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

David Saul

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr D Manley QC	Instructed by McCarthy & Stone Retirement Lifestyles Ltd
Mr M Shellum BA Hons Dip TP MRTPI	Principal Planning Associate, Planning Bureau Ltd
Mr A Ward BA Hons Dip Arch Dip UD DipTP RIBA	Director, NEW Master Planning Ltd
Mr P Davies Dip Arch Hons RIBA	South West Regional Design Director, Planning Bureau Ltd
Mr J Sim MIOA	Associate, AAD

⁴ The Community Infrastructure Levy Regulations 2010

⁵ Supplementary Planning Guidance (SPG) Devises Strategic Development Brief 2004

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Parker BSc Hons Dip TP MRTPI	Area Team Leader, Wiltshire Council
Cllr N Carter CEnv MIEMA	Ward Member
Ms H Gardside BA Hons MSc IHBC	Principal Conservation Officer
Mr G Tomsett BSc Hons CEHP	Team Manager, East Protection Team
Ms Helen Pinchen BSc Hons CIEH	Environmental Health Officer

INTERESTED PERSONS:

Mr E Clarke BEng Hons MIOA	Technical Director, Alan Saunders Associates, acting for Wadworth & Co Brewery
Mr B Yorston	Head Brewer, Wadworth & Co Brewery
Cllr P Evans	Member, Devizes Town Council
Mr T Sedgewick	Trustee, Trust for Devizes
Mr J Lynch (at site visit only)	Manager, The Crown, Wadworth & Co Brewery

DOCUMENTS

- 1 Alan Saunders Associates' statement
- 2 S106 obligation
- 3 S106 obligation (counterpart)
- 4 Mr Sedgewick's statement
- 5 Multiple e-mails regarding S106 ecological contribution
- 6 Second bundle of e-mails
- 7 SPG - Community benefits from planning
- 8 Draft noise condition
- 9 Committee minutes
- 10 Set of draft conditions

The Trust for Devizes
Fairfield House
Potterne Road
Devizes
SN10 5DE
14th May 2012

Rob Parker
Senior Planning Officer
Wiltshire Council (East) rob.parker@wiltshire.gov.uk

Dear Mr Parker

**Re; E/2012/04443/FUL
Gas Holder Site – Land Adjacent to The Wharf, Devizes.**

Thank you for your letter dated 13th April 2012 concerning the above application concerning the development in Devizes inviting comments from The Trust for Devizes.

Current Planning Situation.

Despite the previous applications concerning this site being rejected and subsequently overruled at appeal, this new application comes forward with minimal change and does not properly address the concerns raised previously.

The Council has an obligation to ensure that it is treated as a new application, therefore should be fully reviewing and balancing the advantages and disadvantages of the impact of the proposal. In doing that, evidence both for and against the proposal should be fully and proportionately researched, considered and reported in a balanced manner.

In addition, since the previous application was considered and rejected the law and regulations on planning matters have changed significantly. The Localism Act 2011 and the National Policy Planning Framework, published as a Regulation taking effect immediately in March 2012, are now relevant considerations. Furthermore, the Wiltshire Council's Core Strategy, which includes the Wharf Development Brief, has been accepted in principle by Wiltshire Council, has completed its public consultation stage and should now be given a suitable degree of weight in relation to the requirements of localism and sustainability.

Original Objections

The key points of objection to the previous application are still valid and are reviewed here, with some updating.

The scale and massing of the buildings is not in sympathy with this conservation area. The architectural design is not satisfactory either in its overall concept or its

detail. The original concept was to reflect nearby commercial buildings and the Wharf environment. However the sheer size of the structures results in unsightly buildings. In breaking up the shapes to improve appearances, the original design concept has been lost and the structures no longer reflect the local vernacular, so we have an unsympathetic over-development. Roof lines are too high. Despite the reduction in roof height at the eastern elevation, the buildings would dominate the Wharf area.

The submitted views from the Wharf area and from the opposite side of the canal are misleading. The scale of the development is illustrated in a misleading way using trees to mask its true appearance.

Parking is well below that recommended by Wiltshire Council for this type of accommodation. There is inadequate parking for residents' cars, visiting warden cars, deliveries, medical services, maintenance services and all other visitors.

Mobility provided by personal transport is essential for a long and healthy life, so parking for all the residents is vital. There is no evidence or any reason to believe that people who are over a certain age wish to give up car use. Indeed, for many older people it becomes an increasingly important means of maintaining independence even if their annual mileage is relatively low. The similar McCarthy and Stone development in New Park Street, Devizes, has a low ratio of parking to occupants and has to have a rationing scheme for parking places, which illustrates that there is a need for more generous parking provision. An appropriate comparison for parking spaces is the Croft, an existing Devizes residential development for older people. There is a parking space for every accommodation unit there, plus visitors' spaces, and they are always fully utilised.

Much has been made by the developer of local public transport links, but these are not reliable or sustainable. For example, some key local bus services are subsidised and have recently been reduced because the subsidies have had to be reduced. Trains are not accessible from Devizes without bus services or costly taxi journeys. The fact that Devizes has quite limited bus services and no train service does mean that access to a car and parking is an important factor in retaining a sustainable and reasonable quality of life. The developer's so-called Green Travel Plan gives the impression that public transport services are much better than they are. It is either a very poor piece of research or a deliberate attempt to mislead. The suggestion that most of the residents should have their shopping delivered and have medical services come to them to avoid travelling is an unwarranted presumption.

Medical facilities are lacking in Devizes and transport is essential to reach other towns. That generally requires personal access to cars because bus services are not only comparatively slow but may not operate at convenient times and are often unreliable. Major hospitals offering treatment at all hours are over 20 miles away. It can be anticipated that older people living in a retirement complex will be needing access to these distant facilities more frequently as they become older.

There must be more room for larger removal and delivery vehicles and emergency

vehicles. In addition, even after the original construction, there will be various maintenance and service vehicles that will need to be parked close to the building. The amended site layout plan (drawing A01-1712-02A) now shows a proposal to encroach upon the external public car parking area to provide manoeuvring space for larger vehicles. Such an encroachment on external areas is not acceptable. That need has arisen because the vehicle space within the site is totally inadequate not only for the residents' parking but also for the needs of construction, for visitors, for deliveries and probably for emergency purposes such as fire-fighting.

The reason why the vehicle space is so inadequate is that the developer is seeking to build the maximum number of accommodation units to make it commercially viable. The requirement to grossly overdevelop the site to make it commercially viable is a good argument for concluding that the site is not suitable for the proposed development. It is not an argument for claiming that the site needs to be so intensively developed in order to make it viable.

Another important consideration is whether the proposal would meet the criteria currently in the Wharf Development Brief. We request that you take this study into account in conjunction with the draft Wharf Area Development Brief in determining the current application. The Wharf Area Development Brief appears to provide many common sense reasons why the proposal is quite unacceptable and some of them might even provide sound planning reasons.

Developers only consider the short term. The community is frequently left to cope with the long term consequences and costs of planning decisions that are based on narrow, one-off considerations without an adequate overall strategic plan. Devizes has suffered significantly from very poor piece-meal planning decisions focussed on housing developments in recent decades and we seek to see planning standards raised for the future in the interests of community sustainability.

A study by DEFRA puts strong emphasis on the value of green, open spaces as a major health factor and even goes so far as to attribute financial values which can be considered by planners in relation to proposals. McCarthy & Stone wish to almost completely fill the available space with accommodation blocks and provide a bare minimum of open space. That would not only have an adverse effect on the people who would be expected to live there but also on the community at large. It is a very good location for retaining some health-giving open, green space. It would be fundamentally wrong to permit a developer to build over the site to the extent proposed. If the development would not be financially viable on a significantly smaller scale, it is a reason for deciding that it is an inappropriate development for that site, not an argument for ignoring the criticisms of the proposal.

There is currently considerable interest in renewable sources of energy but no provision has been made by the developer for the benefit of future residents. For example, the extensive south-oriented roofs lend themselves to relatively inconspicuous solar energy collection and the canal would be an ideal heat source for a heat pump. The building is apparently to be dependent on electrical heating. No consideration has been given to sustainable energy supplies from solar panels,

woodchip-fired boilers or ground-source heat pumps for example [see note below on the current proposal for heat pumps]. The only reason for that is to save on initial capital costs and the scheme may not be commercially viable designed for sustainability. If the proposal is not commercially viable if it were to be designed for sustainability, that is a sound reason for rejecting it.

Further Considerations for the Current Planning Application.

1. The reasons the Trust and other parties objected to the previous submission are still valid, have not been properly addressed and need to be reconsidered.
2. The development is within a designated conservation area (a heritage asset) and within the requirements of PPS5 HE7.2 (recently engrossed within the National Planning Policy Framework) requires development within these areas to preserve and protect the landscape and townscape aspects as well as any historic building or facility.
3. The development blocks a significant potential “gateway”¹ into the town from the canal system to the west that could be developed later. This proposal prevents a suitable development of that canal side enabling greater canal tourist access to the town from the major tourist attraction of Caen Hill Locks. This site ought to be part of the overall neighbourhood plan for the town’s development this area. Creating an integrated quay/mooring/marina would facilitate canal traffic to be encouraged into the town via a plaza to Wharf Street and Snuff Street thus bringing life to the retail properties on this “gateway” into the town. A footpath alone would not achieve this. The proposal essentially further isolates the canal access and canal traffic from the town.
4. The original rejection of this proposal clearly states its non-compliance with PPS5 section HE7 as it fails to make a positive contribution to the character and local distinctiveness of the historic environment. It also contravenes policy PD1 of the 2011 Local Plan regarding this development.
5. As a retirement complex, it is exempt from having to provide any element of affordable properties whilst taking 38 units of housing out of the proposed allocation, thus making the achievement of affordable homes even more difficult for Devizes area.
6. This proposed development has been advertised intensively on a national scale so that it will command a unit dwelling price that would not be within most local residents’ ability. It would bring in new people to the town, all over the age of 55, increasing the burden on the already inadequate local General Practitioner provision.

¹ The requirement of a “gateway” is seen to be much more than a minimal footpath.

7. The additional demands on the drainage and sewerage systems are likely to cause downstream issues and bring forward the need for significant reinforcement of the drainage infrastructure. The cost implications of that may not be a planning issue but the spatial planning concerns should be. The provision of additional pumping at the site resolves only the movement flow demand not the capacity demand.
8. The sustainability of the proposal is in question. No provision is evident for the retention and use of rainwater or personal washing water which can be used for toilet flushing for example. There is a token provision of air source heat pumps indicated in the application drawings to counter previous criticism. It should be noted that air source heat pumps are not the technically and environmentally optimum choice but have a lower capital cost. It is unfortunately a standard developer's ploy to indicate such sustainable systems on submitted plans but not install them in order to save construction costs. The suspicion is that heat pumps will not be installed unless planning conditions require they must be operational *before* the building is occupied and that *no other* forms of electrical space heating are installed.
9. The development will take away some of the parking spaces currently available in the Wharf public car park (estimated at between 6 & 12) and provide only 15 spaces for residents and visitors. With 37 apartments (15 x 1 bed, 22 x 2 bed) gives a population of 59 persons with an assumed car population² at 70%: requires a total 26 spaces.

The Wiltshire Council policy² figure of 70% for such developments is considered a low assumption for retirement homes for people over 55 years old these days. Independence and mobility are high on their needs. The independence conferred by car ownership actually increases with age as people become less able to walk, cycle or cope with the problems of public transport. The McCarthy and Stone approach to car ownership and car parking is outmoded, as stated above.

10. Whilst all the previous application data is available through the planning portal, for anyone reviewing this application it looks as if there is just a minor issue of roof height. This is very misleading as we have stated above.
11. The Documents available show that the planning officer in making the original recommendation to the Planning Committee only presented information that supported approval of the application and did not provide a balanced assessment of the original proposal's contradictions. The original refusal letter clearly states that height was NOT the only reason for rejection as there are very compelling arguments

² Wiltshire Council policy for development of this nature. Based on other similar retirement homes such as McCarthy Stone, Calne, and the waiting list for parking at the New Park Street development in Devizes, 70% provision is low.

against this proposal. Some other potential reasons for refusal were not stated by the appeal inspector for various reasons, including that the Wiltshire core Strategy was still in a draft form and the Localism Act and the NPPF Regulations were not then in force. That situation has now changed and all these matters need to be given due weight.

12. The original logged responses and comments on this proposal have been ignored by the applicant who has not addressed the major part of the issues raised. If the planning officer reviewing this application was to adopt the same approach it could be interpreted as an issue of lack of due diligence by the planning department, which would be unacceptable.
13. At appeal, the planning department did not provide any evidence that it had reassessed or reviewed the original recommendation and analysis of the application nor carried out any audit to confirm that the planning officer's presentation had taken account of all the information or comments made. It is hoped that such an omission will not recur.

Conclusions

The re-submitted documents seek to address only the height of the building as being the reason for rejection. If this argument were accepted it could have the unfortunate result of the planning officer failing to properly review the application as suggested above.

This submission is a new application in full so must comply with the prevailing legislation and the policies and codes of practice of the local planning authority.

The NPPF implies local views are very much part of the process of planning and we trust that the Council will take due note, register and properly consider all the objections to this application on this occasion.

Yours sincerely,

Ted East
Chairman
Trust for Devizes

**MCCARTHY AND STONE –
APPLICATION FOR RESIDENTIAL DWELLINGS FOR THE ELDERLY,
WHARF STREET, DEVIZES:
APPLICATION No. E/2012/0443/FUL
MEMBER BRIEFING BY THE DIVISIONAL MEMBER**

Colleagues will recall that the application from McCarthy and Stone to build accommodation for over-55s on the Wharf was previously refused. The particular grounds related to inadequate car parking, the threat of complaints about noise nuisance from adjacent businesses once the premises were occupied and to the general massing of the building. At a subsequent appeal, the Inspector agreed with the applicant that the noise issue could be addressed through sympathetic design but rejected the application on the grounds, particularly, of the overbearing nature of the east wing. The car parking problem was not thought to be an issue by the inspector either, although the current plans offer a slight improvement

If you have visited the site, you will be aware that the applicant has now invested a significant amount of effort in investigating the site to confirm the suitability of the ground for an east wing designed to have a lower profile, less overbearing towards the Wharf Theatre building. I believe that the new design has reduced the number of units by one.

The issue of the suitability of the location for such a development has been exercised frequently and the appropriateness of the building on the fringes of the conservation area tested at an appeal hearing. Opinion on these issues in the town is, however, still strongly divided.

I would wish you to listen carefully to any community views which bring any new and vital reason for turning the application down and also to the officer's technical comments which, I understand, will support a recommendation to approve the application.

Should you chose to support such a recommendation, I would be grateful if you would ensure that a condition supporting access to the Lower Wharf, and a route to the Assize Courts is agreed. The applicant was a contributor to the planning brief developed for the Wharf in the last twelve months and is aware of the importance of this provision.

Finally, I have asked that this application, perhaps normally to be decided under delegated officer responsibility, be heard by the committee in order that, given its controversial characteristics, the planning officer may explain in public and in detail the reasons why he is making his recommendation and that community views can, at this stage, still be heard. I hope that you will support this ambition for absolute transparency in determining a still controversial application.

Nigel Carter, Division Member
Devizes North

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REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Date of Meeting	7 th June 2012
Application Number	E/2012/0362/FUL
Site Address	1 Church Street, Little Bedwyn, Marlborough, Wiltshire SN8 3JQ
Proposal	Erection of new dwelling; demolition of existing office (resubmission of E/2011/1569/FUL).
Applicant	The Hon Mr Spencer Canning
Town/Parish Council	LITTLE BEDWYN
Grid Ref	429038 166096
Type of application	Full Planning
Case Officer	Peter Horton

Reason for the application being considered by Committee

The application has been called to committee by the Division Member, Cllr. Wheeler.

1. Purpose of Report

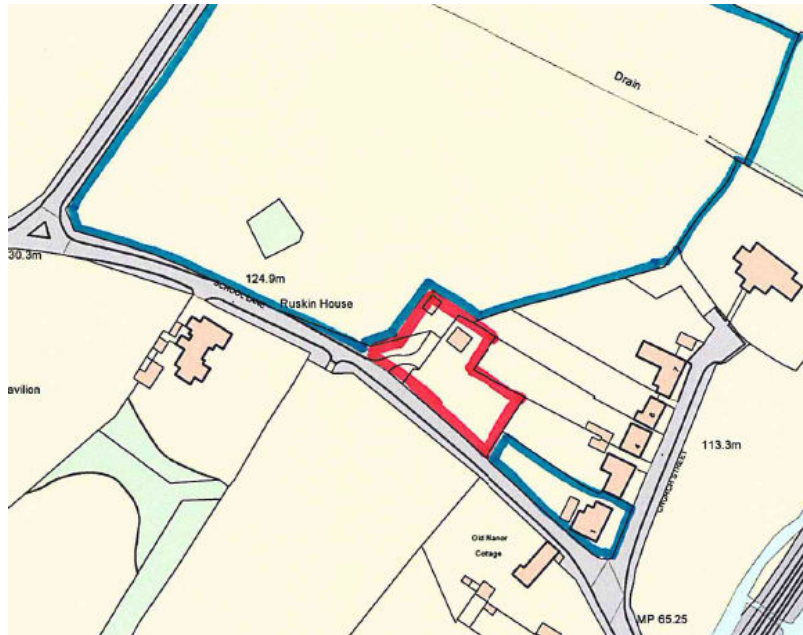
To consider the recommendation that the application be refused on the grounds that the site lies in the countryside beyond the built-up limits of the village and that the proposed development would have an adverse impact on both the character and appearance of the conservation area and of the wider landscape.

2. Report Summary

The main issues to consider are: (a) whether the principle of residential development on the site is acceptable, and; (b) whether the proposal would have an adverse impact on the character and appearance of Little Bedwyn Conservation Area and whether the proposal would be detrimental to the scenic quality of this part of the AONB.

3. Site Description

The application site is located approximately 200m to the north of the centre of Little Bedwyn, on the northern side of School Lane. This unclassified road links the village with the C201 Great Bedwyn to Froxfield road. The site occupies land which is raised above the level of School Lane by approximately 2m. The site comprises part of the rear garden of No. 1 Church Street, to its south east: not the original historic part of its garden, but additional garden that was created at some time in the past. The site is occupied by a former double garage with steeply pitched roof, converted to an office in recent years, plus a substantial parking area to the front of it. However, the greater part of the site is maintained as garden. Open fields border the site on the north west and north east. To the south east, the rear gardens of a number of dwellings on Church Street stretch uphill to meet the site, and to the south west (across School Lane) an open paddock separates the former School House building and the Old Vicarage from the village. The site is served by an inclining, gravelled access at its north western edge.



4. Planning History

Planning permission was refused for a bungalow on the site in 1987 (K/10237 refers).

Planning permission was given for the garage on the site in 1988 (K/11903 refers).

Planning permission was refused twice in 1991 for the conversion of the garage to a dwelling (K/17003 & K/17657 refer). The latter proposal was dismissed on appeal in 1992.

In 1996 the Kennet Local Plan Inspector found against a proposal to incorporate the site within the Little Bedwyn Village Policy Area. He found “no clear evidence to support the assertion that the site has always been regarded as part of the village”, and “no clear case for changing the Village Policy Area which, rightly in my view, follows a line immediately to the rear of the properties in Church Street”.

Planning permission was refused for a detached bungalow on the site in 2000 (K/39909 refers). The proposal was dismissed on appeal in 2001.

At some stage the garage was converted to an office.

Planning permission was granted in 2008 for the demolition of some untidy sheds and the erection of a new tack room and two bay storage unit (K/58098/F refers).

Planning permission was refused for the erection of a dwelling on the site in January 2012 (E/2011/1569/FUL refers). The existing office was to have been demolished.

5. The Proposal

The application proposes the demolition of the existing office building and the erection of a four bedroomed detached dwelling. It would be constructed of brick, timber boarding and plain clay tiles. It would have a ridge height of 7.0m. Some of the accommodation would be provided in a basement.

7. Consultations

Parish Council: No comments received at the time of preparing this report.

Highway Authority: No objection as an existing access would be used.

County Archaeologist: No comment, as the recent archaeological evaluation found no features of any archaeological significance.

County Ecologist: No objection, as the site is of low ecological interest.

The Council's Landscape Consultant: Recommends refusal. The site is in an elevated location and is widely visible. The proposal will extend the residential development of the village into the countryside and will have a detrimental impact on the landscape and visual qualities of the area.

Conservation Officer: Whilst noting that the size and design of the proposed dwelling has been modified since the last application, and that the design is not particularly objectionable per se, she maintains an "in principle" objection to development away from the main body of the village in an area which previous appeal decisions have identified as being part of the countryside. The proposed dwelling would be out of context with the existing historic buildings in the area and would have an adverse impact on the established character and appearance of the conservation area.

8. Publicity

Letters of support have been received from five local households.

An objection has been received from one local resident. She comments as follows: "Little Bedwyn has had considerable infilling in recent years, and there are no facilities to sustain further development. This application has the potential of opening the door to further inappropriate and damaging development in the village. I thought we were in an AONB and a conservation area. Surely these areas should be preserved"?

9. Planning Considerations

The Principle of Residential Development on the site:

Proposals for residential development on the site have twice been dismissed on appeal, in 1992 and 2001. The 1992 appeal inspector found that the site "stands well above the older cottages in the valley bottom and in my opinion appears as part of the surrounding countryside rather than as part of the village". He also found the site to be on "high land, up to 3m above School Lane, above and outside the valley setting of the village".

The 2001 inspector found that "the site is above the cottages and houses in the valley bottom and the site appears to be part of the surrounding countryside and not the village". He stated that "the proposal would not fall within any of the categories of development that might be permitted in the countryside, as set out in either the development plan or Government advice". The proposal would "lead to the creation of ribbon development along School Lane".

Since these appeal decisions, the current Kennet Local Plan has been produced, but in policy terms this changes little as policy HC26 maintains the previous strong presumption against new residential development in the countryside. The applicant is not making a case that the dwelling is required for the essential needs of agriculture or other employment essential to the countryside, and hence the application stands to be refused.

National planning policy is set out in the new NPPF. Its paragraph 55 states that new isolated homes in the countryside should be avoided unless there are special circumstances. The proposal does not meet any of the list of potential special circumstances.

Impact on the character and setting of Little Bedwyn Conservation Area and on the scenic quality of the North Wessex Downs AONB

The site is in an elevated location above the centre of the village and the existing office building is visible from the lanes emanating from the crossroads just north of the site and from the surrounding open countryside. There are also views from the south west when approaching the village from the Great Bedwyn direction.

Although the proposed dwelling would have a ridge height of 0.27m lower than the existing office building, it is an altogether larger building and would have a much more detrimental landscape impact. It would have an adverse impact on the character and appearance of the landscape of this part of the AONB and also on the character and appearance of the conservation area. It would be out of context with the existing historic buildings in the area and would have an adverse impact on the established character and appearance of the conservation area.

The above concerns were echoed by the previous appeal decisions. The 1992 inspector found that “further development on this land would cause unacceptable visual harm to the setting of the village and the Conservation Area”. The 2001 inspector found that even a bungalow on the site “would be perceived as an incursion into the natural beauty of this part of the AONB. It would harm the attractive landscape setting of the valley side above the village”. It would also “disrupt the present built boundary of the Conservation Area by extending it further up the valley side”.

10. Conclusion

The application site lies in the countryside, where new residential development is unacceptable in principle. The site lies in an elevated position above the centre of the village and would have a significant adverse impact on the character and appearance of the landscape of this part of the AONB and also on the character and appearance of the conservation area. The application stands to be refused.

RECOMMENDATION

That the application be REFUSED for the following reasons:

1. The site lies beyond the built-up limits of the village and within the countryside, as acknowledged by two previous appeal decisions when permission was similarly refused for residential development on this site. The proposal does not meet any of the criteria set out in policy HC26 of the Kennet Local Plan 2011 that deals with development in this location and would lead to the creation of an unacceptable ribbon development along School Lane. The proposal is also contrary to national planning policy set out in the National Planning Policy Framework.
2. The site is located within the Little Bedwyn Conservation Area and within the North Wessex Downs Area of Outstanding Natural Beauty. National and local planning policy seeks to preserve and enhance the character and appearance of the landscape in this location. This proposal would result in the replacement of the existing building with a much larger and bulkier development that because of the conspicuous nature of the site on the hillside, would have a significant adverse impact on the appearance of the landscape and the Conservation Area and would be unacceptably prominent in views from both close to the site and from public roads and rights of way in the vicinity. This would conflict with policies NR6 and PD1 of the Kennet Local Plan and with the Council's statutory duties to preserve the character and appearance of the Conservation Area and to conserve and enhance the natural beauty of the landscape within the AONB.

Appendices: None

Background Documents Used in the Preparation of this Report: None

REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Date of Meeting	7 th June 2012
Application Number	E/2012/0465/FUL
Site Address	Barn at Dursden Lane, Pewsey, Wiltshire SN9 5JN
Proposal	Conversion of existing agricultural building to dwelling
Applicant	Mr & Mrs P Stevens
Town/Parish Council	PEWSEY
Grid Ref	417007 160998
Type of application	Full Planning
Case Officer	Peter Horton

Reason for the application being considered by Committee

The application has been called to committee by the Division Member, Cllr. Kunkler.

1. Purpose of Report

To consider the recommendation that the application be refused on the grounds that: (a) the site lies in the open countryside where long standing local and national planning policies prohibit new residential development unless to satisfy a proven agricultural need; (b) Noise and vibration from high velocity trains using the adjoining Paddington main line railway line would be detrimental to the health and living conditions of occupiers of the proposed dwelling, and; (c) Dursden Lane is unsuitable to safely and conveniently cater for the additional traffic movements which would be generated by the proposed dwelling.

2. Report Summary

The main issues to consider are: (a) whether the principle of residential development on the site is acceptable; (b) whether noise and vibration from the adjacent railway line would be detrimental to the health and living conditions of the occupants of the proposed dwelling, and; (c) whether traffic generated by the proposal would be detrimental to highway safety.

3. Site Description

Dursden Lane is located to the north of the B3087 Pewsey to Burbage Road. It is the first turning left beyond the eastern outskirts of Pewsey when heading towards Burbage. It is a narrow, winding lane serving 10 properties. The application site is situated 530 metres along the lane on the right, just before the bridge over the Pewsey to Paddington main line railway line. The site is occupied by a utilitarian modern farm building set within a small yard and having its own access. The building is constructed of blockwork and vertical metal sheeting in between steel supports and has a corrugated roof.



5. The Proposal

The proposal is to convert the existing agricultural building to a 3 bedroomed dwelling with fair faced blockwork, vertical timber boarding on the upper portion of the end gables and with a slate roof.



6. Planning Policy

Kennet Local Plan 2011: Policies HC26, NR6 and PD1
National Planning Policy Framework (NPPF)

7. Consultations

Parish Council: Strongly supports the application.

Network Rail: No objection in principle. However comments that the design and siting of buildings adjacent to railways should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway. Requires the construction of a 1.8m trespass proof fence plus various other informatives.

Highway Authority: Recommends refusal for the following reason: "The unclassified road Dursden Lane is unsuitable by reason of its narrow, winding alignment, its lack of pedestrian facilities, and its very restricted visibility at its junction with the B3087 class II road to safely and conveniently cater for the additional traffic movements which would be generated by a new dwelling."

Social Services: The applicants have been valued foster carers since 1996 and currently look after a child with complex health needs and physical disabilities. Their present home has limitation in enabling them to do this, both in terms of internal layout and ambulances being able to manoeuvre their steep drive. The proposed new dwelling would be far more suitable.

Public Protection: The northern end of the building, where one of the proposed bedrooms is to be positioned, is only 15m away from the main Pewsey to Paddington railway line. Without compelling evidence that vibration and noise is not going to be an issue, then the application should be refused.

There is a small risk of residual contamination from the previous use, hence if the application is recommended for approval, the imposition of a suitable condition is required.

8. Publicity

No representations have been received from local residents.

9. Planning Considerations

The application proposes a new dwelling in the open countryside, well outside the Limits of Development (LOD) of Pewsey. Long standing national and local planning policies have established that there should be no new residential development in the countryside unless required to satisfy an essential agricultural or other rural need.

The above principle is set out in local plan policy HC26, which only permits the conversion of existing buildings in the countryside to dwellings if either the proposal is to provide holiday accommodation or the conversion is of a listed building badly in need of restoration. Neither of these scenarios relate to the current proposal, which is to convert a utilitarian modern farm building to an unrestricted open market dwelling.

National policy promotes an equally restrictive approach. The NPPF paragraph 55 states that "local planning authorities should avoid new isolated homes in the countryside unless there are certain special circumstances". The current proposal satisfies none of these circumstances.

No essential agricultural or other rural employment case has been made by the applicants. Their

sole justification is that the proposed dwelling would provide a more suitable home in which they could pursue their employment as foster carers of needy children. They currently live elsewhere in Dursden Lane, at a property located 260m from the application site, but this property has certain shortcomings with regard to fostering children, particularly in terms of layout, levels and the steep access drive. The proposed dwelling would provide a much better environment for fostering the often challenging children in their care.

Whilst noting the support of the parish council and of Social Services for the application, the applicants' particular circumstances are considered to be inadequate justification to allow an exception to the long standing policy presumption against new residential development in the countryside. If the application is allowed, it would set an unfortunate precedent to convert other utilitarian farm buildings to dwellings that could be repeated in numerous other instances. If the applicants' current property is less than ideal to pursue fostering, they should seek to move to alternative existing accommodation in the Pewsey area.

If allowed, the proposed isolated dwelling would persist into the future, long after the applicants' current circumstances have ceased to exist.

The property to be converted is devoid of any existing character and the proposed conversion works would produce a dwelling of extremely undistinguished design which would not enhance the scenic quality of the AONB. It is also questionable whether the building can genuinely be converted, or whether it would need substantial remodelling. The submitted plans are insufficiently detailed to provide a definitive answer.

The proposed dwelling is located within 20m of the Pewsey to Paddington railway line, with certain trains being likely to pass at extremely high velocities. NPPF paragraph 123 states that planning decisions should aim to "avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development". Noise and vibration assessments have not been submitted with the application. In the absence of any evidence to the contrary, it is considered that noise and vibration from the railway line would be detrimental to the living conditions of the occupants of the dwelling.

Dursden Lane is extremely narrow and winding and lacks pedestrian facilities. Furthermore, there is extremely restricted visibility at its junction with the B3087. The highway authority considers that the additional traffic to be generated by the proposed development could not be safely and conveniently catered for given the deficiencies in the lane. They therefore consider that the application should be refused on highway safety grounds.

10. Conclusion

The proposal is contrary to long standing national and local planning policies which restrict new residential development in the countryside unless to meet an essential agricultural or other rural need. Whilst noting the applicants' personal circumstances, these are not considered to warrant an exception to policy being made. The building proposed to be converted is of extremely utilitarian design, and if the proposal were to be permitted, it would set an unfortunate precedent which could be repeated in innumerable other instances throughout the county.

Given the site's extreme proximity to the Paddington main line railway line, noise and vibration resulting from passing high velocity trains would be extremely detrimental to the health and living conditions of occupants of the proposed dwelling. Furthermore, deficiencies in Dursden Lane are such that the proposed development would be detrimental to highway safety.

RECOMMENDATION

That the application be REFUSED for the following reasons:

1. The site lies in the countryside as defined in the Kennet Local Plan, well outside the nearest settlement of Pewsey. In the countryside residential development is strictly controlled and limited to that required in connection with the essential needs of agriculture or forestry or other employment essential to the countryside. The proposed dwelling does not accord with these exceptions and as such the development is contrary to Policy HC26 of the Kennet Local Plan and to central government planning policy set out in the National Planning Policy Framework.
2. The proposed dwelling is situated less than 20m from the Paddington main line railway line. At such close proximity, noise and vibration from passing high speed trains would be extremely detrimental to the health and living conditions of the occupants of the dwelling, contrary to policy PD1 of the Kennet Local Plan and to central government planning policy set out in the National Planning Policy Framework.
3. The unclassified road Dursden Lane is unsuitable by reason of its narrow, winding alignment, its lack of pedestrian facilities, and its very restricted visibility at its junction with the B3087 class II road to safely and conveniently cater for the additional traffic movements which would be generated by a new dwelling. The proposal is therefore contrary to policy PD1 of the Kennet Local Plan.

Appendices: None

Background Documents Used in the Preparation of this Report: None

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