

WAPC 20 October Agenda Supplement to report corrections and updates to published committee report for Item 8a

Date of Meeting	18 October 2017
Application Number	17/03839/FUL and 17/04445/LBC
Site Address	3 High Street, Warminster BA12 9AG

1. Purpose of Supplementary Item.

To address issues raised in new representations received from the Feoffees to the St Lawrence Chapel on 12 October 2017. The matters raised are: Incorrect description of the proposal in the previous reports; 3 bedroom houses imply that families will purchase the units and this is unacceptable in parking requirement terms; the site is not developable using the single pathway access only; archaeology has not been addressed; there are legal questions regarding the use of the access, as there is no right of way.

1.1 Correction to Report

Officers wish to correct and amend the application description for both these cases. The descriptions captured when the opening pages of the published committee papers for applications 17/03839/FUL and 17/04445/LBC are anomalous and require correction. The following clarifies matters:

Planning application **17/03839/FUL** comprises a detailed proposal is for the refurbishment of the existing frontage building to provide 2 shops with 3 flats above and two dwellings to the rear (all of which would be contained within the existing building) plus new residential development comprising 5 dwellings and landscaping to the rear. The original report description section correctly addressed the new dwellings (including the two in the new extension to the rear of the Listed Building), but was incorrect with respect to the refurbishment proposals. The proposal as appraised by officers comprises the provision of three flats above the retail units, with a conversion of the existing rear of the building to provide for two dwellings.

Members are however advised that notwithstanding the published description error, the application proposals were fully and properly assessed on the basis of the submitted plans. Both published reports contain detailed analysis of the proposed development which can be summarised as follows:-

The application for the conversion of the existing building comprises:

- *retaining and repairing the frontage (but reconfiguring the ground floor shop front elevation)*
- *converting the ground floor into two separate shops;*
- *installing a staircase at ground floor in the centre of the building to create a separate hallway and means of entrance to access the 3 residential units on the first and second floor;*
- *converting the first floor to two flats and the second to one flat – all accessed via the central staircase;*
- *converting the existing rear element into two x 2 bed units over 3 floors (ground to second floor level);*

The assessment and conclusion sections of the planning application report should however have referred to 10 dwelling units and not 9.

Listed building consent application reference **17/04445/LBC** relates to the proposed refurbishment of existing frontage building to provide 2 shops with 3 flats above and two dwellings to rear.

1.2 Dwellings and Parking.

Within a late representation, the Feoffees argue that 3 of the houses would have 3 bedrooms and that this would lead to substantive demand for parking spaces where families would purchase the dwellings, and that applications have been refused previously on these grounds. For clarity, officers report that the submitted plans show only one 3-bed dwelling, with bedrooms distributed as follows (with plan unit annotation): H1;H2;H3;H4;H5;H7 = 2 bedrooms; F1;F2 = 1 Bedroom; F3 = 2 Bedrooms and H6 3 Beds. (i.e. 2 x 1 Bedroom units; 7 x 2 bedroom units and 1 x 3 Bedroom unit).

In response to the parking arrangements and concerns raised, the highway officer advises that: *“The proposed mixed use (residential and retail) of the existing building with no car parking provision is acceptable; due to the building being existing with no parking provision, I would have difficulty in justifying a refusal reason on this basis. However, I do have concerns with the proposed housing development to the rear of the existing building being car free; I acknowledge the site is within the town centre with close proximity to amenities and local transport. The development being of 2 bedroom plus, could potentially appeal to families, who would be more likely to require the use of personal transport as opposed to 1 bedroom units that would be marketed for single occupancy or couples that are starting on the property ladder where personal transport may not be such a requirement.”*

As noted in the published report associated to **17/03839/FUL** the proposed development is in the heart of the town. There is also extensive public car parking in the nearby proximity. Due regard should also be made to the Council’s adopted Car Parking Strategy acceptance that reduced residential parking requirements can be considered to include circumstances where there are significant urban design or heritage issues and where any parking overspill can be controlled. Members will also be familiar with the NPPF paragraph 32 policy which states that *“development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”*.

The Feoffees also raise concern about the lack of garden space to unit H7 on the plan. In this regard, the landscaped garden area in front of units H5, H6 and H7 would be private space shared by these houses. The lack of a ground floor toilet required by building regulations in unit H2 is also raised. The agent advises on this aspect that the size, level changes and listed status of the building are considerations which would be discussed with Building Control to address the Regulations separately. The lack of a ground floor toilet is not a planning consideration. Set out below is the proposed accommodation schedule and floor area provided by the agent:-

Accommodation Schedule: Issue 04
(based on plans 1364/P/05 P2, 06 P3 and 07 P2)

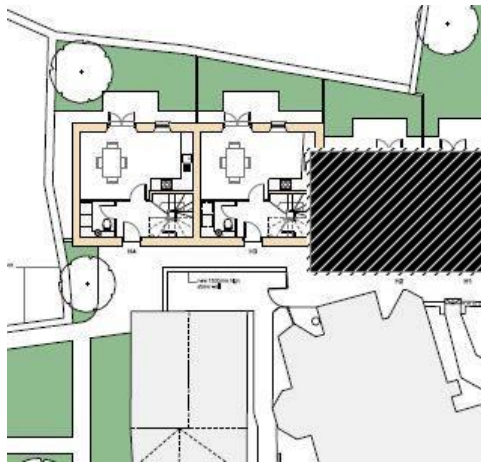
ref	gross internal floor area		
	m2	ft2	
S1	47	505	shop shell with WC (ground floor)
S2	33	355	shop shell with WC (ground floor)
F1	40	430	one bed flat (first floor)
F2	43	465	one bed flat (first floor)
F3	60	645	two bed flat (second floor)
H1	77	830	two bed house (three storey)
H2	77	830	two bed house (three storey)
H3	82	890	two bed house (three storey)
H4	82	890	two bed house (three storey)
H5	74	800	two bed house (two storey)
H6	81	870	three bed/two bath house (two storey)
H7	74	800	two bed house (two storey)

note: areas within roofspaces measured to 900mm height

1.3 Ability to Develop the Site

Members will recall the discussion on this aspect at the previous meeting. It is accepted that the path would be the only external access within the red-line application site area. As members heard at the last meeting, the applicant's agent reports that there would be a contingency plan for the construction phases if no other access arrangements are possible to the rear of the site which could include bringing materials and equipment in through the front of the existing building. Should the committee be minded to support the application, officers continue to recommend a planning condition to secure a Construction Development Plan from the applicant/developer to address this issue.

The Feoffees raise concern about whether excavation for footings and foundations would be too close to the Chapel and Curfew Cottage and potentially damage those buildings. It should be noted that much of the building adjacent to the Chapel is in existence, as indicated by the hatched area below:-



Officers report that the new residential buildings to be constructed at the rear of the site would be set back an appropriate distance from the Chapel and Curfew Cottage. It is also pertinent to record that the responsibility would lie with the developers to ensure that appropriate safeguarding measures are put in place (as applies in all circumstances) to avoid damage to adjacent property during any construction work phase. This aspect is furthermore addressed in the proposed amendment to the recommended construction management plan condition.

1.4 Archaeology

Concerns are raised about the possible presence of archaeological remains on the site with the need for investigation or at the least a watching brief when the site is excavated. This issue was discussed during the previous meeting. The Council's archaeologist was contacted prior to the earlier meeting and the published committee report papers include a planning condition requiring a watching brief, with a pre-commencement requirement for agreement to be reached with officers and the archaeologist on the scope of investigation required.

1.5 The Feoffees again raise the question of the legal status of the pathway.

This issue was also previously discussed at the last committee meeting. In terms of the planning application, the red-line boundary has been correctly indicated to include the path which is under the ownership of the Chapel and the necessary notice was duly served. Matters of private treaty fall outside of the realm of planning control and are not material planning considerations and, importantly, any permission would not confer or take away any existing rights. The Feoffees are concerned with wider questions around historic right of way claims. As part of the application process this was raised with the highways team who confirmed that there is no Right of Way currently on record. Again however, legal questions surrounding the path history and private agreements fall outside the ambit of planning consideration.