

## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

<b>Date of Meeting</b>	06 November 2019
<b>Application Number</b>	19/04927/FUL and 19/05290/LBC
<b>Site Address</b>	4 Oxford Street Malmesbury Wilts SN16 9AX
<b>Proposal</b>	Change of use from A3 cafe to single dwellinghouse. Proposed refurbishment & internal alterations to facilitate the change of use.
<b>Applicant</b>	Mr George Cazenove
<b>Town/Parish Council</b>	MALMESBURY
<b>Electoral Division</b>	MALMESBURY – Cllr Gavin Grant
<b>Grid Ref</b>	393345 187211
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Catherine Blow

### Reason for the application being considered by Committee

The application has been called in for consideration at this committee by Cllr Gavin Grant to enable consideration of the principle of the change in use in this location within the Secondary Retail Frontage within Malmesbury.

#### 1. Purpose of Report

The purpose of the report is to consider the above applications in the context of the development plan and all material considerations and the recommendation for APPROVAL of both applications subject to conditions.

#### 2. Report Summary

The main issues in the consideration of this application are as follows:

- Principle of Development
- Impact on the Listed Building & Conservation Area
- Design and Site Layout
- Impact on the locality/amenity
- Highways

There have been objections received from representatives from the Malmesbury Civic Trust, The Malmesbury Town Team and the Malmesbury Residents Association as well

as a local resident. An Objection has also been received from Malmesbury Town Council as well as Cllr Gavin Grant the Ward Member for Malmesbury.

### **3. Site Description**

The site is located along the northern side of Oxford Street which forms a thoroughfare through the northern part of Malmesbury Town Centre enabling movement to the east and west. The site is close to the junction with the High Street and the Primary Shopping Frontage for Malmesbury. The Market Cross is located to the west of the site. This part of Oxford Street has parking restrictions in the form of double yellow lines on either side, with only a shared pedestrian access to the rear located between

The existing property is a Grade II listed building consisting of a modest traditional wooden shop frontage with other areas consisting of a rendered finish with a stone tiled roof. This property is attached to and sub-ordinate to the attached buildings ether side. The attached building to the east of the site is also listed and consists of a stone built property which has recently been converted into residential development.

This site is designated as being within the Secondary Retail Frontage of Malmesbury and within Malmesbury Conservation Area.

### **4. Planning History**

The relevant planning history for this site are:

N/87/01561/LBC – Alterations to the listed building fascia and signage and projecting signs – approved subject to conditions

N/91/02131/ADC Non-illuminated shop sign and projecting sign – Approved

N/00/00799/COU – Change of use from A1 to A3 – Approved subject to conditions

N/01/00440/COU - CHANGE OF USE TO A3 TO TEA GARDEN – Approved subject to conditions

N/01/00464/ADV – Shop sign and hanging sign – Approved subject to conditions

### **5. The Proposal**

The proposed development seeks planning permission for the change of use of the premises from a café (Use Class A3) to single dwelling (Use Class C3). The proposal also seeks refurbishment of the premises to facilitate the proposed use. The changes to the property are largely only internal changes that do not require planning consent but do require listed building consent. These changes are as follows:

- Replacement of ground floor rear doors to folding doors within the existing opening
- Remove modern boxing of the existing staircase at ground floor level
- Removal bathroom/toilet partition at first floor to create one bathroom
- Removed existing partitions and make good the existing partition in bedroom two
- Provide new partitions at first floor to create a wall between bathroom and bedroom as well as a new doorway to bedroom two

The original proposal sought to undertake extensive works to the internal layout of this listed building that included the removal of the existing staircase and create a new staircase on the close to the western elevation. However, after the feedback provided

by the Council's Conservation Officer the works proposed were scaled back to those now proposed.

## **6. Planning Policy**

### **National Planning Policy Framework February 2019 (NPPF)**

Paragraph 2, 8, 9, 10 and 11

Section 7 – Ensuring the vitality of town centres – paragraphs 85,

Section 8 - Promoting Healthy Communities

Section 9 – Promoting sustainable transport – paragraphs 103, 105, 106, 109, 110

Section 12 – Achieving well-designed places – paragraph 124, 127

Section 16 - Conserving and Enhancing the Historic Environment – paragraph 185, 189, 192

### **Wiltshire Core Strategy (Adopted January 2015)**

CP1 - Settlement Strategy

CP2 - Delivery Strategy

CP3 - Infrastructure requirements

CP13 - Spatial Strategy for the Malmesbury Community Area

CP45 - Meeting Wiltshire's Housing Needs

CP57 - Ensuring High Quality Design and Place Shaping

CP58 - Ensuring the conservation of the historic environment

CP60 - Sustainable Transport

CP61 - Transport and Development

CP62 - Development Impacts on the Transport Network

### **North Wiltshire Local Plan (Saved Policies) 2011**

R2 Town centre secondary frontage areas

### **Malmesbury Neighbourhood Plan (Adopted February 2015)**

Policy 4 – Housing

Policy 13 – Design and Heritage

Volume II Design

Tasks 8.1, 8.3, 8.16, 8.22, 8.24

## **7. Summary of consultation responses**

Malmesbury Town Council:

The Town Council object for the following reasons;

- The loss of the A3 space would have an impact on the vitality and viability of the Town Centre. Unlike the change of use to dwelling at 6 Oxford Street, which was supported by the Town Council in November 2015, there are no mitigating factors of (a) the demonstrated failure of and absence of business activity, (b) dilapidation of an important town centre building and (c) concern that proposals for remedial development would not come forward.
- No evidence is presented that 4 Oxford Street is not viable as an A3 business. The Town Council considers that continued A3 use would offer employment opportunities in the town centre and contribute to the town centre's offering to residents and visitors, particularly given the premises' proximity to the Abbey and Market Cross Ancient Monuments.
- The application is also silent on the provision of WC's minimum residential parking standards for a three-bedroom property. Parking shortages in and around the High Street have now reached such a critical point that MTC are pressing both the Police

and WC Parking Services to take further action to stem the amount of unlawful and dangerous parking that is taking place. It cannot be sensible to allow this unacceptable situation to deteriorate further by further indulgencies.

Council Conservation Officer:

The original consultation response raised concerns regarding the extent of the works proposed to the internal historic fabric of the building. However, the Officer has been re-consulted on the revised scheme and no objections are raised in relation to heritage matters, subject to conditions controlling the detailed matters of design.

Historic England:

No comments offered.

Council Highways Team:

No objections subject to conditions. In accord with NPPF paragraphs 103, 108 and 109 the likely impact of the proposal would not be considered severe and that it would be difficult to find substantive evidence that wider highway safety would be impaired by the proposal. CP 64 allows for reduction of parking standards where overspill parking can be controlled. As Oxford Street is protected with no waiting at any time there is sufficient parking control and adequate off-street parking within a short walk of the proposal site this is a site in my opinion that can be considered acceptable for reduction of parking standards, given that there are public transport options available from Cross Hayes. However, there is a requirement to provide for bike storage/parking should this be required by condition attached to any consent granted.

## **8. Representations**

The application has been advertised by neighbour letter, a site notice posted close to the application site and an advertisement in the local press. Four responses have been received from a resident, the Malmesbury Civic Trust Representative, The Malmesbury Town Team and the Malmesbury Residents Association, raising the following issues:

- This café/restaurant was, until its recent closure, a well-used and liked venue for Malmesbury residents and visitors alike.
- There is no evidence that it is no longer viable as such and its loss would impact badly on the town's facilities.
- There is a lack of cafes in Malmesbury and the loss of this facility would further limit choice
- No effective marketing has taken place to retain the restaurant use in these premises in a location where other restaurants thrive;
- The loss of the restaurant would affect the vitality of the town centre
- Visitors to the town would have less choice of refreshments in the town centre
- Lack of parking on site could result in stopping within the highway and the potential impact upon the narrow one-way street would affect the flow of traffic close to the junction with the High Street and a pedestrian crossing nearby

## **9. Planning Considerations**

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015), the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (adopted June 2006) and the Malmesbury Neighbourhood Plan – Made in February 2015.

Sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities in determining planning applications affecting a Listed Building or Conservation Area to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

### Principle of Development

Core Policy 1 of the WCS sets out the Settlement Strategy and identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. The policy classifies Malmesbury as a Market Town. Market Towns are defined as settlements that have the ability to support sustainable patterns of living in Wiltshire through their current levels of facilities, services and employment opportunities. They have the potential for significant development to increase jobs and homes in each town in order to help sustain and enhance their services and better levels of self-containment and viable sustainable communities. Core Policy 2 sets out that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Market Towns. The proposal is considered to comply with these relevant policies of the WCS in respect to it being for residential development within the defined settlement boundaries. Core Policy 13 reinforced the development strategy within Core Policies 1 and 2.

The proposal would provide an additional two-bedroom dwelling which, according to Policy 4 and 5 in the Malmesbury Neighbourhood Plan identifies the demand for housing within the Malmesbury Housing Market Area and according the table 2.1.1 and 2.1.2 there is a need for the provision of 81 new two-bedroom homes within the Malmesbury Area. Therefore, the proposal would add to the supply of two-bedroom dwellings in a sustainable town centre location in accordance with Policy 5 and 6 of the Malmesbury Neighbourhood Plan.

The site is located within the Malmesbury town centre secondary frontage area, meaning that saved policy R2 of the NWLP is of particular relevance to this proposal. The policy sets out that proposals for shops, financial and professional services, food premises, leisure facilities and night clubs (Use Class A, D1 and D2) will be permitted within the defined town centre secondary frontage areas of Chippenham, Calne, Wootton Bassett, Corsham, Malmesbury and Cricklade, subject to all the following criteria:

- i) They do not individually or cumulatively undermine the vitality or viability of the town centre.
- ii) The proposal is consistent with the scale and function of the town centre.
- iii) Consideration is given to ensuring that proposals do not eliminate separate access arrangements to the upper floors, which could be used for residential, community or employment uses.

Policy R2 does not however seek to control the conversion of retail units into residential. The development is therefore not considered to be contrary to policy R2 of the NWLP.

It is noted that concerns have been raised by local residents as well as local groups as to the loss of the restaurant in this location; however, the conversion is not considered to be contrary to Policy R2. There is reference to the loss of this restaurant affecting the vitality and viability of the town centre. However, there are several premises offering refreshments in the vicinity, including The Birdcage and La Campagna on the south side of Oxford Street as well as The Summer Café and Hobbs House Bakery in the High Street and The Whole Hogg in Market Cross. It is not considered that the loss of a modest restaurant in this location could be considered to affect the vitality of the retail and leisure function of the town centre, particularly that the restaurant/café offer within the primary frontage and other premises nearby could retain this function.

In addition, due to the age of the saved policy, it is necessary to give consideration to other material considerations such as the guidance within the NPPF in relation to town centres and the well evidenced change in retail patterns and their impacts to town centres nationally. The NPPF, at paragraph 85, requires decisions to support the role that town centres play and advises a positive approach to their growth, management and adaption. It advises policies to define the extent of the town centre and primary shopping area and make it clear the range of uses permitted. It also states that residential development can play an important role in ensuring the vitality of centres and encourages residential development on appropriate sites. In this instance both the North Wiltshire Local Plan 2011 and the Malmesbury Neighbourhood Plan has defined the town centre boundary as well as both primary and secondary primary frontages within Malmesbury in accordance with this advice.

The Malmesbury Neighbourhood Plan also contains policies to steer development within the Malmesbury Community Area. Chapter 3 of the Neighbourhood Plan sets out the issues for the town centre with section 3.2 detailing the issues for ensuring a prosperous town centre. The Malmesbury Neighbourhood Plan also identifies objectives and tasks in paragraph 3.2.3 which seek to develop the High Street to enable sustained economic, social and leisure growth, improve accessibility and promote tourism and local business. The tasks within the plan also set out the need to maintain the presence of primary retail frontages and encourage retail development. However, none of the tasks specifically preclude the use of premises within the secondary frontage for residential purposes. Although there is a chapter that relates to town centre issues, that section does not contain any policies to direct changes of use within the secondary frontage.

#### Impact on the Listed Building & Conservation Area

In respect to the Listed Building Consent the relevant legislation is Sections 16(2), 66 and 72 of the Town and Country Planning (Listed buildings and conservation areas) Act 1990. In paragraph 192 of the NPPF there is guidance on how to determine applications relating to heritage assets. It advises local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

In addition, paragraph 193 advises that when considering the impacts great weight should be given to the asset's conservation.

The proposed development would result in physical changes to the Grade II listed building as well as a building within the Malmesbury Conservation Area. The revised proposals only propose modest changes to the property which are limited to sympathetic internal changes to more contemporary structures as well as only modest changes to the external appearance to the rear of the site, in the replacement of a full length window casement. The proposed changes would conserve the significance of designated heritage asset. The proposal changes would not be located on the public side of the conservation area and does not propose any changes to the existing shopfront. Therefore, it is not considered the proposed works would have any significant impacts upon the setting or character of the Conservation Area.

The proposed development would conserve the significance, character, appearance and setting of the designated heritage assets and which would accord with the requirements of Core Policies CP57 and 58 as well as the guidance within the NPPF and Town and Country Planning (Listed buildings and conservation areas) Act 1990.

#### Design and Site Layout

As detailed already, the proposed development involved limited intervention to the existing property. There would be limited external works to the property. The proposed dwelling would be modest in size and would include the provision of private amenity space which is considered provide the future occupier with an acceptable level of amenity and adequate space for refuse and cycle storage. The adjacent attached property at 6 Oxford Street is in residential use and 2 Oxford Street used as a travel agent. These adjoining uses would allow for quiet enjoyment of the amenity space without significant disturbance. The design and layout would accord with the relevant requirements of Core Policy 57 in the Wiltshire Core Strategy and Policy 13 in the Malmesbury Neighbourhood Plan.

#### Impact on the locality/amenity

The adjacent attached property at 6 Oxford Street is in residential use and 2 Oxford Street used as a travel agent. These adjoining uses would allow for quiet enjoyment of the amenity space without significant disturbance. There is no likely significant impacts upon the amenity or outlook of either adjacent or future occupiers of the application site arising from the proposed development.

## Highways

The proposed development does not have a vehicular access to allow for parking on the site. However, it does have pedestrian access to the western side through a shared covered walkway allowing access to the rear of the site independently to the proposed dwelling. There is no objection to the proposed development from the Council's Highways Team who have assessed the likely travel movements associated with the lawful previous use as well as the proposed travel movements as well as the parking controls on street. It is often the case that residential units within the town centre are not provided with parking. The site is in a town centre location, where services and facilities can be accessed on foot or via other means of transport are available and this is supported by the guidance within the NPPF as well as Core Policy 64 of the Wiltshire Core Strategy that seeks to reduce the need to travel and prioritise pedestrian and cycle movements and should not be prevented unless there would be a severed unacceptable impact upon the highway network. The highways officer does require the provision of secure cycle storage within the site to encourage use of sustainable modes of transport. It is considered that this could be controlled by suitably worded condition attached to any consent granted. If the site was not listed there would be no need for details to be provided, however as it is there is a need to agreed the siting and design prior to the installation of any cycle storage to ensure this preserves the heritage asset.

The comments from the nearby resident regarding the partial obstruction associated with the future occupier stopping within the highway to drop off shopping/children are noted. However this is just as likely to take place from deliveries associated with the previous and surrounding businesses in Oxford Street. The matter has been carefully considered but due to the modest scale of the development proposed and the previous uses it is not considered that an objection on the basis of highway safety could be sustained in this instance.

## **10. Conclusion (The Planning Balance)**

Overall it is considered that the development complies with Core Policy 1, 2, 13 of the Wiltshire Core Strategy, saved Policy R2 of the North Wiltshire Local Plan as well as the relevant policies in the Malmesbury Neighbourhood Plan and provisions of the framework.

In accordance with paragraph 192 of the NPPF and Sections 16(2) and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention has been paid to the desirability of sustaining and enhancing the significance of the heritage asset. In addition, great weight has been given to conversation of the asset in accordance with paragraph 193. The proposed works, subject to conditions controlling



certain elements of the detailed proposals, is considered to conserve the heritage asset sustain its positive contribution to local character and distinctiveness.

The proposed development would conserve the Grade II listed building, and would have no impact upon the character, appearance and setting of the Malmesbury Conservation Area. The design and appearance of the proposal is also considered acceptable with no material impacts upon the amenity or outlook of nearby resident and would accord with core Policies 57 and 58.

In accord with NPPF paragraphs 103, 108 and 109 the likely impact of the proposal would not be severe and so it is not considered there is reasonable evidence to demonstrate that highway safety would be impaired by the proposal. The parking provision in this location would accord with the aims of Core Policy 64.

## **RECOMMENDATION**

That Planning Permission is APPROVED 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 hereby permitted shall be carried out in accordance with the following approved plans: 33772-3 received on 21<sup>st</sup> May 2019 and 1925/1 Rev F received on 8<sup>th</sup> October 2019.

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 No part of the development shall be occupied, until details of secure covered cycle parking and any enclosure for refused storage together with a timetable for their provision, have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and timetable and shall be retained for use 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 and to protect the character, appearance and setting of the listed building and Conservation Area.

- 4 **INFORMATIVE TO APPLICANT:**

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in

question.

5 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

6 INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

7 INFORMATIVE TO APPLICANT:

The applicant is reminded of the need to obtain separate listed building consent for certain works in addition to this. This decision should be read in conjunction with listed building consent 19/05290/LBC.

8 INFORMATIVE TO APPLICANT:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website [www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).

That Listed Building consent be APPROVED subject to the following conditions:

- 1 The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and

Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: 33772-3 received on 21st May 2019 and 1925/1 Rev F received on 8th October 2019.

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding the approved drawings, no works shall commence until details of the following have been submitted to and approved in writing by the Local Planning Authority:
- Large scale details for all new or replacement external doors, gates, shutters and windows shown on elevations at a scale of no less than 1:10 (doors, gates and shutters), 1:5 (windows) and horizontal and vertical sections including setbacks and reveals at a scale of no less than 1:5 (doors, gates & shutters), 1:2 (windows);
  - Large scale details for all new or replacement internal doors, stairs, skirtings and partitions shown on elevations at a scale of no less than 1:10 (doors), 1:5 (stairs), 1:2 (skirtings) and horizontal and vertical sections including setbacks and reveals at a scale of no less than 1:5 (doors & stairs), 1:2 (partitions and skirtings);
  - Full details of any new flues, vents, meter boxes or mechanical extracts, including service routes and exit points;

The works shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of preserving the character and appearance of the listed building and its setting.

- 4 Within 3 month(s) of the completion of the approved works being carried out, all adjoining surfaces which have been disturbed by the works (including brickwork, plaster and floor tiles) shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

- 5 INFORMATIVE TO APPLICANT:

The applicant is reminded of the need to obtain separate planning permission for certain works in addition to this listed building consent. This decision should be read alongside planning consent 19/04927/FUL.

- 6 INFORMATIVE TO APPLICANT:

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

- 7 INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.