

REPORT TO THE EASTERN AREA PLANNING COMMITTEE

Date of Meeting	14 th July 2011
Application Number	E/11/0057/FUL
Site Address	Former gasholder site, land adjacent The Wharf, Devizes
Proposal	Redevelopment for 39 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 refused.

2. REPORT SUMMARY

The main issues in this case are:

- a) Policy background & principle of residential development
- b) Density considerations
- c) Design and impact upon the conservation area and setting of the Kennet & Avon Canal
- d) Recreation provision
- e) Affordable housing
- f) Contaminated land
- g) Ecology
- h) Archaeology
- i) Adequacy of car parking
- j) Highways (Access, servicing, footpath link & cycle parking)
- k) Impact upon residential amenity
- l) Renewable energy
- m) Relationship to draft Planning Brief for Devizes Wharf

3. SITE DESCRIPTION

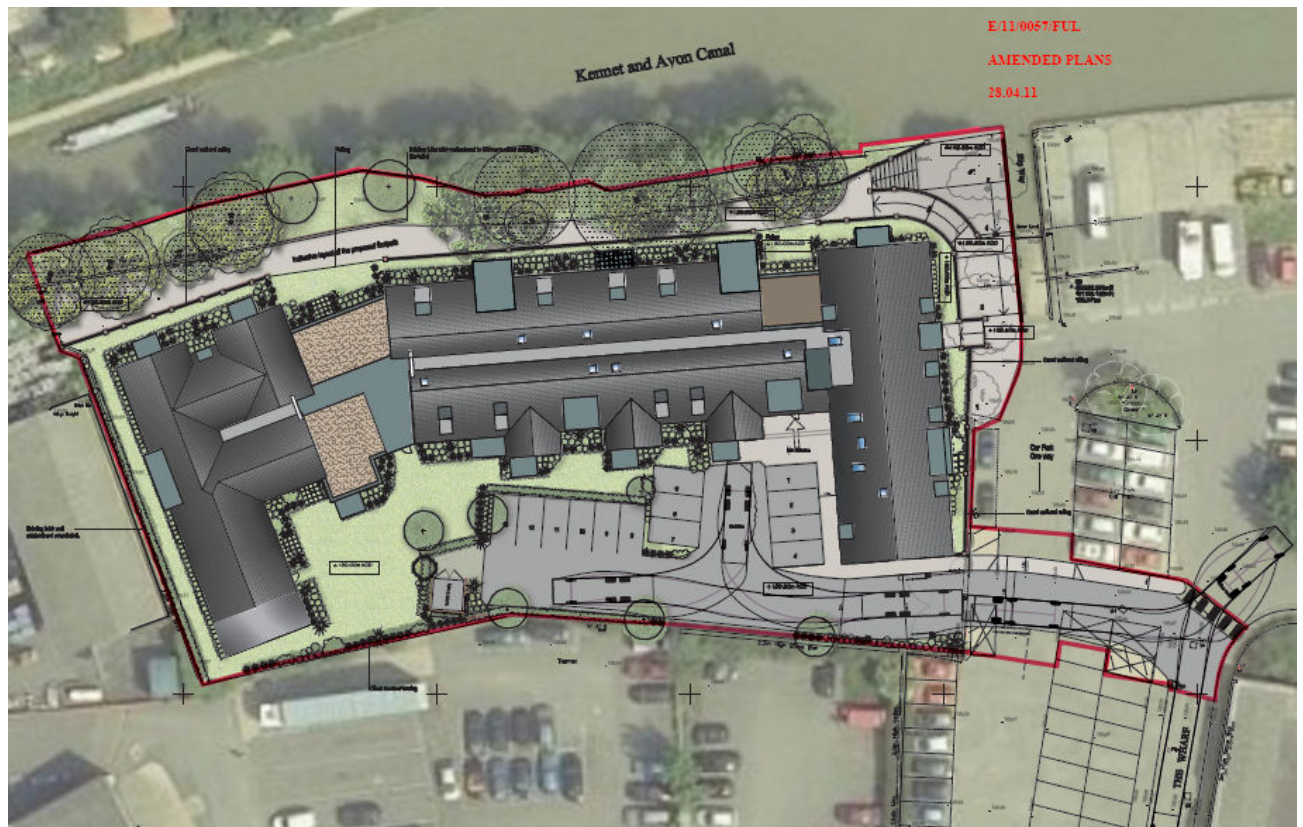
The application relates to the former gasholder site which lies adjacent to Devizes Wharf. The gasworks closed in 1955 but the two former gasholders survived until the 1990s. The site has been derelict since their removal. Covering an area of 0.37 hectares, the site has a frontage onto the Kennet & Avon 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apartments, 24 parking spaces, associated landscaping, external works and creation of canalside walkway - Application withdrawn.

5. THE PROPOSAL

The application proposes the construction of 39 retirement apartments in three linked blocks. The blocks fronting onto The Wharf and canal would be 2½ storey whereas the western block (adjacent the Wadworths barrel yard) would be 3 storey. The buildings would be constructed of brick and natural slate with cedar cladding within metal framed balconies. The scheme would provide for a total of 13 car parking spaces and vehicle turning has been provided within the site. The development would make provision for a section of canalside footpath along the site frontage, the intention being to link The Wharf to Lower Wharf and Bath Road.



Proposed Layout



North Elevation (facing the canal)



East Elevation (facing The Wharf car park)

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 and Supplementary Planning Guidance contained in the document 'Community Benefits from Planning'.

Government policy contained in the following PPS documents is also a material consideration:

- PPS1: 'Delivering Sustainable Development';
- PPS3: 'Housing';
- PPS4: 'Economic Growth';
- PPS5: 'Planning for the Historic Environment';
- PPS9: 'Biodiversity & Geological Conservation';
- PPG13: 'Transport'
- PPS23: 'Planning and Pollution Control'; and
- PPG24: 'Planning and Noise'.

The Draft Planning Brief for Devizes Wharf is also relevant. This was approved by Cabinet for the purposes of consultation on 24th May 2011.

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

7. CONSULTATIONS

Devizes Town Council – strongly objects to the development on the following grounds;

- It's an overdevelopment of the site (too many units)
- There are insufficient car parking spaces
- There is insufficient infrastructure within the town to support more elderly residents - i.e. loss of health services

The Town Council also asked for it to be noted that it felt that the development should be considered as a whole and not 'piecemeal', as currently there was no community feel to cutting up the site into separate developments.

The Town Council was consulted upon the amended plans and continues to object, making the following comment in addition to reiterating the ones above:

- Should there be a fire in one of the canal side flats, external access by the fire service would be very difficult.

British Waterways – no objections subject to suitably worded conditions and informatives, and the completion of a legal agreement to secure compensation for loss of wildlife habitat on-site.

English Heritage – comfortable in principle with the scale and design and is willing to leave further finessing of the proposals to the discretion of the Council's officers.

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

Wessex Water – no objection to the proposal to connect the development to the public foul sewer. Approval from Wiltshire Council and British Waterways should be sought to discharge surface water to the canal.

Wiltshire Council Archaeologist – no objections, subject to a planning condition to secure an archaeological watching brief.

Wiltshire Council Conservation Officer – objects. The proposed development is inappropriate to this sensitive historic location. Whilst the agents have shown themselves willing to try to address the Council's concerns, the problem appears to be that the applicant has very specific operational and financial needs which require a high level of development from this relatively constrained site leaving little scope for fundamental amendment. The resultant development not only fails to achieve the specific aspirations for the enhancement of the area which are set out within the adopted Devizes Town Centre Design Code but also fails to meet the high standards demanded in general of new design by both national and local policy.

Wiltshire Council Contaminated Land Officer – no objections subject to the remedial measures set out on pages 1-2 of submitted document reference H34423/RJH/L03, relating to contamination at the site, being secured by a condition attached to the planning permission.

Wiltshire Council Ecologist – no objections subject to appropriate conditions and the applicant making a financial contribution towards off-site compensation for the loss of wildlife habitat on-site.

Wiltshire Council Environmental Health – recommends a refusal of planning permission on the grounds that the proximity of the Crown public house and Wadworths barrel handling yard are likely to result in noise nuisance for future occupants of the development.

Wiltshire Council Highways – no objections subject to appropriate conditions.

Wiltshire Council Housing – no objections subject to the applicant entering into a legal agreement to secure a £119,000 off-site contribution towards intermediate affordable housing. The legal agreement should make provision for any uplift in anticipated sales values of the open market dwellings upon completion of the development.

Wiltshire Council Landscape Consultant - The proposals represent a significant over-development of the site, and there is insufficient space to carry out the proposed building and create an attractive setting which takes account of the requirement to retain the trees and preserve/enhance the conservation area. The proposal should make provision for the retention of A and B grade trees.

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

Wiltshire Police Architectural Liaison Officer – no objections.

8. PUBLICITY

Three representations of support have been received.

Eight representations of objection have been received. The following concerns are raised:

- a) The scheme makes inadequate provision for car parking.
- b) Noise late at night from the Crown public house and very early in the morning from the brewery cask store makes this site unsuitable for a retirement development.
- c) There are too many flats crammed into too small a space.
- d) The building will be overbearing in its context of a canalside building adjoining an important public space. Low rise buildings, and buildings further back from the water front would be more sympathetic to the area.
- e) The buildings are ugly and not in keeping with the area, and will impact upon important views from the canal and other perspectives.
- f) The profile of the building will negatively affect the canalside environment, casting a shadow over the canal at a location which is being considered for enhancement as a public space.
- g) The land should be used for something useful to the community or at least pleasant to look at and appropriate. This would be a wasted opportunity if the scheme went ahead.
- h) The development should not be permitted at this time, which is critical point in the overall Wharf Area plan; one of the guiding principles is that residential development should not predominate.
- i) What measures will there be for control of dust and noise for local residents? What is the estimated time of build?

Trust for Devizes – objects on the following grounds:

- The proposal is an over-development of the site.
- 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.
- There is inadequate parking.
- The application places undue emphasis on the role of public transport.
- There is inadequate provision for cycle storage.
- The developer makes no provision for renewable energy.

CPRE – Supports the principle of a retirement home development integrated into the overall scheme for the Wharf area, but objects to the current proposals by McCarthy & Stone. The development fails to make a positive contribution to the character and local distinctiveness of the historic environment, contrary to policy HE7 of PPS5. It also fails to achieve the high standard of design required by policy PD1 of the Kennet Local Plan 2011. Particular areas for concern are the scale, height, and massing of development and its relationship to townscape. There is no evidence of an attempt to integrate the development carefully into the revised scheme for the Wharf area. The bulk of the buildings should be reduced and the level of car parking increased. The offer of £127,000 for affordable housing is insufficient and the affordable housing should be included within the scheme.

9. PLANNING CONSIDERATIONS

9.1 Policy background & principle of residential development

The application site lies within an area identified as 'Development Area A' in the Kennet Local Plan 2011. The area comprises The Wharf, Northgate and Devizes Hospital. Policy HC10 of the local plan allocates this area for mixed use developments, including new housing, leisure and recreation, retail and employment.

The policy states that these sites should provide in the region of 150 new houses for Devizes town centre. The policy further states that development should contribute by its design to the quality of the Town Centre Conservation Area.

Policy HC10 further states that to promote good urban design within Development Area A the open space required by policy HC34 may be reduced in consultation with the Council. When deciding whether any such reduction in open space on the site will be allowed, the policy requires the Council to take account of the extent and position of existing open space in the locality to ensure that overall provision for occupiers of the new development is acceptable. A high standard of design in accordance with Policy PD1 remains essential.

Policy ED21 of the local plan sets out a number of criteria for development within The Wharf, Northgate and Devizes Hospital. The policy states that development should:

- a) build upon the scale and pattern of existing development and provide for the retention and refurbishment of existing listed buildings and other good quality buildings in the area;
- b) be for mixed uses, including housing, leisure and recreation, retail and employment;
- c) provide for direct pedestrian links within the site overall, to the main shopping centre and to the Lower Wharf Development Area; and
- d) contribute through its design to the quality of the Devizes Town Centre Conservation Area.

Whilst the application proposal is for a wholly residential development, this is only one part of the overall development area and therefore it is not considered that the proposal would conflict with the requirement in policies HC10 and ED21 for development to be for mixed uses.

9.2 Density considerations

Policy HC5 of the Kennet Local Plan 2011 states that the new density of residential development on large sites should be a minimum of 30 units per hectare, with the exception of sites which have been allocated for a lower net density because of site constraints. The policy states that higher densities will be sought where: (a) the location is close to a concentration of employment, a town centre or a public transport service where higher densities can contribute to a more sustainable pattern of development *or* (b) the development provides housing for special local needs such as small units for single people or dwellings for elderly or disabled people.

Policy HC5 further states that to achieve densities greater than 30 dwellings per hectare in sustainable locations, the amount of open space required on each site may be reduced in consultation with the Local Planning Authority. When deciding whether any such reduction in open space on the site will be allowed, the policy requires the Council to take account of the extent and position of existing open space in the locality, to ensure that overall provision for occupiers of the new development is acceptable.

The proposed development would be built at a density of 105 units per hectare. Whilst this is well above the densities expected for conventional family housing, this is a flatted development and therefore making comparisons is difficult as densities for this type of scheme will always be higher. This is a town centre site and a development for special local needs (i.e. sheltered housing) and therefore policy HC5 would permit higher densities in these circumstances. The existence of public realm at The Wharf and a recreational resource in the form of the Kennet & Avon Canal

means that the requirement for open space can be relaxed in this instance, as was the case for nearby Sudweeks Court (also a McCarthy & Stone development).

The issue is not so much the density *per se* but whether the scale and massing of development is appropriate in this location and whether the scheme displays a high standard of design, as required by policy PD1 of the Kennet Local Plan 2011 (see section 9.3 of report below).

9.3 Design and impact upon the conservation area and the setting of Kennet & Avon Canal

The former gasholder site occupies a sensitive location within the Devizes Conservation Area, directly adjacent to The Wharf and within the setting of the Kennet & Avon Canal. The site is slightly elevated above the level of the adjacent car park and this increases its prominence in views from nearby public vantage points. There are important views of the site from the towpath on the north side of the canal, Dyehouse Lane, the nearby canal bridge on Commercial Road and the Wharf car park.

The application proposes a series of three linked blocks, each providing three storeys of accommodation. The blocks facing the car park and canal (arguably the most important elevations) have been designed at 2½ storey to reduce their scale. The western block backing onto the Wadworths barrel yard would be full three storey. The links between the blocks would be fully glazed, although there would be a need for some accommodation within the links, hence they would not be entirely transparent. Attempts have been made to introduce visual interest and break up the massing of the buildings by the inclusion of balconies and dormers.

The key issues to consider when assessing the design are:

- 1) Whether the proposals would preserve or enhance the character or appearance of the conservation area;
- 2) Whether the proposals would respect the setting of the Kennet & Avon Canal; and
- 3) Whether the proposals demonstrate the high standard of design required by policy PD1 of the Kennet Local Plan 2011.

There is no question that the proposed building(s) are sizeable in terms of their scale and massing. However, the use of three separate blocks has helped to break up the massing and amendments made at the pre-application stage and during the course of the application have further improved the design. One of the main amendments has been a reduction in the ridge height of all three blocks, and the reduction in the eaves height of the eastern block (facing the car park) to bring the upper storey of accommodation fully within the roof space.

Members will note that various objections have been made to the scale and massing of the buildings, not least from the Council's own Conservation Officer. However, it should also be noted that statutory consultee English Heritage (which was also involved in meetings at the pre-application stage) is comfortable in principle with the scale and design and was sufficiently happy with the proposals to leave further finessing to the discretion of the Council's officers.

The Council's Urban Designer has since been advising the case officer and applicant on the design of the scheme and his final comments (made following submission of amended plans) reflect the improvements that have been made to the scheme. There is some residual concern regarding the western block and the applicant's failure to break up the massing by stepping the forward section of the block (facing the canal) down to 2½ storeys. There are also concerns regarding the appearance of the dormers within the balcony framing on the block facing the canal; the Urban

Designer considers that these may appear too massive and out of proportion with the roof. Furthermore, there are unresolved comments about aspects of the detail, some of which can be made the subject of appropriately worded planning conditions to secure additional details. However, the scheme has now reached a stage when the case officer considers the design to be acceptable. As always on development schemes, success will be dependent upon the use of appropriate materials and architectural detailing and these matters can be controlled via condition.

It is acknowledged that assessment of this scheme is made more difficult by the fact that the site has remained undeveloped for the last twenty years and tree / vegetation growth since removal of the gasholders has meant that the site now makes a positive contribution to creating a 'green lung' in the town centre. However, it is important to have regard to the fact that the site was once developed and there is no policy objection in principle to redevelopment.

9.4 Recreation provision

Policy HC34 of the Kennet Local Plan 2011 requires developments of 20+ units to provide recreational open space. This standard comprises three parts: (i) equipped play for younger children; (ii) casual equipped play for older children; and (iii) formal pitch provision for adults. The development generates no requirement for children's play and therefore only the adult element is relevant. This would normally be provided off-site via a commuted sum, and the monies in this instance should be used for any form of recreation suitable for the over 55s. The applicants have also indicated that they would be prepared for the monies to pay for improvements to the public realm on The Wharf where residents of the sheltered housing scheme may choose to spend their leisure time. The relevant figure, calculated in accordance with the Supplementary Planning Guidance document 'Community Benefits from Planning' would be £25,000. This figure has been agreed by the applicant.

9.5 Affordable housing

Policy HC30 of the Kennet Local Plan 2011 states that on unforeseen sites within Devizes involving 25 units or more the Council will seek to negotiate about a 30% 'subsidised' affordable housing contribution and a 20% low cost market housing contribution, subject to evidence of local need and individual site characteristics. The Council subsequently re-aligned the definition of the 'low cost market' element to comply with the Government's definition of 'intermediate' housing contained in PPS3; essentially intermediate housing is shared ownership housing or housing at rents or prices below those of the market.

The Devizes Strategic Brief states that a contribution towards subsidised affordable housing will not be sought from housing schemes which restrict occupancy of the units to people aged 55 or over in recognition of the management problems associated with letting units to people of similar age and mixed tenure within a communal scheme. However, the brief states that low cost market housing should still be negotiated.

It is anticipated that an occupancy restriction would be applied to the proposed retirement units and therefore the development would be exempt from providing the subsidised element of affordable housing. The policy requirement for a low cost market (intermediate) element still applies, although officers have agreed that this could be provided off-site through payment of a commuted sum.

The applicant is offering a figure of £119,000 in lieu of 8 (7.8) intermediate housing units on the site. An Economic Appraisal has been supplied with the application to justify how this figure has been arrived at. Officers have scrutinised this information and are satisfied that the figure is realistic, having regard to the individual site characteristics and abnormal costs associated with decontaminating the site.

9.6 Contaminated land

The site is a former gasworks and is known to be contaminated. Some remediation was carried out in 1997 by the former landowner (British Gas) after the gasholders had been decommissioned. The remediation was carried out voluntarily to mitigate potential 'statutory liabilities' - i.e. to prevent the impact of any pollutants from the site on the canal and any 'off-site receptors'. These works involved the removal of 401 cubic metres of impacted soils. There is, however, a requirement for further work to meet current standards for residential development and the applicants have put forward a set of basic principles for remediation of the site. These works have been agreed by the Council's contaminated land officer, although the Environment Agency has recommended that a condition be imposed to seek further detail. The cost is estimated by the applicant to be up to £250,000 which partly explains why the figure being offered for affordable housing is relatively modest.

9.7 Ecology

The development is likely to result in a range of ecological impacts associated with the loss of the mosaic of scrub, grassland, bare ground and standing water which support wildlife and contribute to the Kennet and Avon Canal wildlife corridor. It will not be possible to fully mitigate / compensate for these losses within the confines of the development site given the constraints of site dimensions, design layout and landscape scheme; it is therefore considered appropriate for the development to provide off-site compensation for these ecological losses. This would be best achieved through a modest planning obligation which would contribute to habitat creation / enhancement projects along the canal in the Devizes area; British Waterways have several such projects planned which could deliver appropriate compensation for the development. The applicants have agreed to pay a sum of £8,000 towards ecology mitigation.

The applicant has also submitted a Biodiversity Strategy which can be made the subject of a planning condition. A sensitive lighting scheme can also be made conditional of any permission granted.

9.8 Archaeology

The Council's archaeologist advises that there is the potential for significant medieval archaeology (i.e. the town defences) to survive beneath even such an intensively re-used site. The Extensive Urban Survey records the line of these defences ("ditch and bank") as passing through at least the southern part of the site. It also cites Cunningham as having, in 1945-47, "*measured the ditch at the gasworks on the northern side at [7.6m x 2.1m]*". On this basis the Council's archaeologist considers that an archaeological watching brief should be required as a condition of any planning permission.

9.9 Adequacy of car parking

The development provides a total of 13 parking spaces for 39 residential units. This is identical to the parking provision agreed by the Council for nearby Sudweeks Court on New Park Street (also a McCarthy & Stone scheme). The location of the gasholder site within the town centre means that residents of the scheme would have easy walking (or cycling / mobility scooter) access to shops and services. The neighbouring public car park and on-street parking would provide convenient parking for staff and visitors.

The lack of car parking has been raised by various objectors who suggest that there is no evidence or any reason to believe that people who are over a certain age wish to give up car use. They argue that for many older people it becomes an increasingly important means of maintaining independence even if their annual mileage is relatively low. Whilst this may be true of the general population (although no evidence or data has been supplied by objectors) the category II sheltered housing schemes operated by McCarthy & Stone appear to display different characteristics.

The applicant has supplied a report from an experienced traffic and transportation consultant who has carried out extensive research on the subject. This showed that the average age of residents entering the accommodation was 75 years and 6 months (subsequent data shows the average age to be higher). The data shows a very clear link between moving into this form of housing and giving up car ownership. There is a very significant peak in residents giving up car ownership within six months before and six months after entry to their sheltered housing apartment.

The data shows that the combined peak parking demand from residents and visitors is 0.36 spaces per apartment, suggesting that the Wharf proposal would need 14 spaces to cater for peak periods. This is only one space more than the 13 spaces being proposed; the adjacent public car park and nearby on-street parking can easily accommodate the overspill at peak times.

It is also worth mentioning the policy adopted by McCarthy & Stone for residents parking. The company has replaced the 'first come first served' basis for the use of parking spaces with a new system of parking permits. The main advantage of this approach is that potential residents will know, in advance of purchasing an apartment, whether or not they will have a parking space. If they cannot acquire a permit they will have three options: (i) to give up car ownership (ii) to make other parking arrangements (such as renting a garage nearby) or (iii) not to purchase the apartment. Whilst this has the effect of artificially suppressing parking demand it nevertheless achieves the desired objective of not placed undue demands upon existing public car parking.

Overall, the strength of evidence presented by the applicant, together with the precedent set by Sudweeks Court, means that a refusal of planning permission on the grounds of lack of parking could not be substantiated at appeal. The Council's Highways Officer is satisfied with the level of parking provision being proposed. Members with long memories may recall that the Council lost an appeal against the applicants in Marlborough where the then highway officer objected on similar parking grounds to those raised by objectors.

9.10 Highways (Access, servicing, footpath link & cycle parking)

The development would be accessed across the Council's public car park over which the applicant has access rights. The plans were amended during the course of the planning application to extend the red line to connect to the public highway. A 1.5m wide footway is now shown to connect the development with the existing pavement in Wharf Street and there is suitable vehicular width (5.5m) to serve the development. This is considered to be an acceptable arrangement.

There is no requirement for a Travel Plan to be submitted in connection with this development. The proposal is in a sustainable location, being within easy walking distance of the town centre. The traffic generation is likely to be very low. The applicant has submitted data, based upon surveys at other similar developments, to show that the development would be likely to generate a maximum of 68 vehicle movements (34 arrivals and 34 departures) per 12 hour day (0700-1900). This is not considered to be significant, particularly in comparison to the number of vehicle movements generated by the public car park adjacent.

The amended plans show a vehicle track which satisfactorily demonstrates that service vehicles (including refuse collection vehicles, fire appliances and delivery vehicles) would be able to turn within the site and exit in forward gear.

The development makes provision for a new canalside footpath along the site frontage. This would form part of a future pedestrian linkage to the Lower Wharf, as referred to in policy ED21 of the Kennet Local Plan 2011. Construction of this footpath could be secured by way of a condition attached to the planning permission and it is anticipated that it would be adopted by the Council, initially as amenity land

and then as public highway once the remaining linkages (principally across the section of canal frontage owned by Wadworths) are secured.

The nature of the development as a sheltered housing scheme means that the site is likely to have a low demand for cycling. However, the applicant's own surveys have shown that similar developments do generate limited demand for cycle parking, with 2% of residents owning bicycles and a further 2.25% interested in taking up cycling if adequate cycle parking were provided. This translates into a requirement for 2 long term cycle spaces (which would need to be under cover and secure so that residents can leave their bicycles overnight). This level of provision can be accommodated in the scheme's mobility scooter store within the building itself. In addition, the applicant acknowledges that there is a need for 3 short stay parking spaces in the form of simple stands to which bicycles can be locked. These can be secured by a condition attached to any planning permission.

9.11 Impact upon residential amenity

The site's relatively isolated location in relation to existing residential properties means that the development would have no adverse impact upon the amenities of local residents. However, there is the potential for future residents of the scheme to be affected by existing sources of noise. There are two particular noise sources of relevance: (i) the Crown public house on New Park Street; and (ii) the adjacent barrel handling yard belonging to Wadworth brewery.

The Council's Environmental Health Service has considered this issue and objects to the planning application on the grounds that the operation of the public house and barrel handling yard are likely to give rise to noise nuisance for the occupants of the development, thereby resulting in complaints. Both of the neighbouring uses operate at anti-social hours and in combination they are likely to cause annoyance and sleep deprivation.

The Environmental Health Service would have a duty to investigate any complaints under the Environmental Protection Act 1990 and where statutory nuisance does exist the Council is duty bound to take enforcement action against the person or business responsible (in this case Wadworths) to require that the nuisance is abated.

Enforcement action could lead to a range of consequences for the business concerned including restrictions on their operation, the carrying out of works requiring expenditure and potentially legal proceedings against them. This could jeopardise the future viability of the business.

It is worth noting that the business could use the statutory defence of "best practicable means" available under the Environmental Protection Act 1990 which, in some circumstances, can allow a business to continue operating in a way that is causing a statutory nuisance for people living nearby. However, this would not resolve the noise nuisance for those affected.

The Environmental Health Service is therefore concerned that, in addition to the potential consequences for Wadworths resulting from action under the Environmental Protection Act, there is also no guarantee that the Council will be able to resolve the noise nuisance if it does occur.

As such, the scheme would be contrary to policy PD1 of the Kennet Local Plan 2011 which requires all proposals to adequately address a range of factors, one of which is the impact upon residential amenity, including that caused by reason of noise or disturbance. The proposals would also conflict with government policy contained in PPS24: 'Planning and Noise'.

The applicant has submitted amended plans in an attempt to address the concerns of the Environmental Health Service. The amendments include the sealing of some windows facing the brewery, the addition of acoustic screens to the sides of the north

facing balconies nearest the brewery and changes to the balcony design for southern facing units to incorporate the balcony area into the living room space with a Juliet balcony arrangement.

The Environmental Health Service acknowledges that these amendments are an improvement on the previously submitted plans and accepts that it would offer a degree of additional protection for occupants of the development. However, it considers that the amendments do not address some of the most serious concerns with respect to the development. The proposals leave opening windows facing onto the sources of noise adjacent to the site. Of particular concern is the likelihood that, particularly in warm weather conditions, residents will wish to open their windows and will therefore be adversely affected by noise from the brewery and/or public house. The applicants have indicated that they would not be prepared to accept a solution whereby windows are sealed shut.

9.12 Renewable energy

On 20th September 2007 the former Kennet District Council adopted an interim development control policy on renewable energy in new developments. The policy stated that:

“Larger-scale developments will be expected to provide, as a minimum, sufficient on-site renewable energy to reduce CO2 emissions from energy use by users of the buildings constructed on site by 10%. Developers will be expected to demonstrate that they have explored all renewable energy options, and designed their developments to incorporate any renewable energy requirements.”

The interim development control policy is still applicable until such time as the Wiltshire Core Strategy is adopted. The original intention of the policy was to facilitate the incorporation of various on-site renewable energy measures into new developments, e.g. solar thermal, photovoltaics, wind turbines, ground source heat pumps and air source heat pumps.

The applicant in this instance has produced calculations to demonstrate that the 10% reduction in CO2 emissions can be achieved by upgrading the fabric of the building, over and above the requirements of Part L of the Building Regulations (2010). The applicant's argument is that the Council's objectives can be achieved without having to resort to on-site renewables. Certainly the proposed approach is more durable than on-site renewables (which, being mechanical and/or electrical devices, will have their own reliability issues).

The applicant's proposal would comply with Core Policy 26 of the Council's consultation draft Wiltshire Core Strategy which requires developers to incorporate design measures to reduce energy demand. The emerging policy does not insist on the use of on-site renewable energy, but instead promotes sustainable design principles and specified levels under Code for Sustainable Homes.

It is considered that the Council's objectives could be met by imposing a planning condition to secure the build standard upon which the applicant's calculations were based. A refusal of planning permission could not be substantiated on the grounds of lack of renewable energy provision.

9.13 Relationship to draft Planning Brief for Devizes Wharf

On 24 May 2011 the Council's Cabinet approved a draft Planning Brief for Devizes Wharf for the purposes of consultation. The consultation period is due to take place over the period 13 June to 5 August 2011 to coincide with the consultation period for the emerging Wiltshire Core Strategy.

The purpose of the Planning Brief is to help promote local ambitions for leisure and tourism based regeneration and growth at Devizes Wharf which has the potential to add to the vitality and viability of Devizes town centre.

The Planning Brief interprets existing Kennet Local Plan policies (ED21 and HC10) for the area and seeks to bring about incremental development that will complement and enhance the area and not diminish future opportunities. The ambition is to create a distinctive 'canal quarter' in Devizes that appears as a cohesive and coherent whole.

The focus of the Planning Brief is a series of objectives to protect and enhance the area supported by a statement of design principles that need to be adhered to when considering any planning applications on the site to deliver those objectives.

Clearly the Planning Brief will have direct relevance to the current planning application. However, the weight to be given to the Planning Brief as a material consideration cannot be significant on the basis that the document has not been adopted and is only published in draft for the purposes of consultation (and the results of the consultation exercise will not be known until August). Notwithstanding this, the draft Planning Brief tacitly acknowledges the current planning application and it is considered that the scheme could be implemented without compromising the brief's objectives.

Objectors have suggested that planning permission should be refused in order that the area can be developed comprehensively. This course of action is not recommended by your officers for two reasons:

- 1) The draft Planning Brief specifically recognises that the area 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.
- 2) There is no requirement in Development Plan policy that the former gasholder site should be developed in conjunction with the remainder of the development area.

9.14 Other issues

The vast majority of issues raised by objectors are addressed under the above headings. The only additional issue is raised by Devizes Town Council which considers that there is insufficient infrastructure within the town to support more elderly residents (reference is made to the loss of health services). This is a rather spurious argument as Devizes has a brand new NHS Treatment Centre on Marshall Road and Devizes is identified in the Kennet Local Plan 2011 as a settlement capable of accommodating new housing development (as evidenced by the number of other housing schemes which have been built in the town over recent years). The argument that elderly residents have special medical needs which cannot be catered for in Devizes, and which would therefore warrant a moratorium for sheltered housing schemes, would not withstand challenge in an appeal scenario as there are no planning policies to support this position.

10. CONCLUSION

This planning application presents an opportunity to redevelop the former gasholder site which has been disused and derelict for over 55 years. There can be no policy objection to the principle of redeveloping the site for residential purposes and the scheme does not prejudice the Kennet Local Plan's objective of securing a mix of uses for The Wharf, Northgate and Devizes Hospital. Likewise, the development would not prejudice the Council's aspirations for the Wharf as expressed through the recently published Planning Brief (which can only be given limited weight due to its consultation draft status). There is no policy objection to high density development in

this sustainable town centre location and it is considered that the standards of recreation / amenity space can be relaxed in this case.

Whilst the development of 2½ & 3 storey housing will represent a significant change to the site's appearance, this is inevitable given that the site has been free of structures for some considerable length of time. The proposed architectural solution breaks up the massing effectively by splitting the development into three separate blocks and the use of high quality materials, balconies, dormers and glazed links will further lift the design and add visual interest. Overall, it is considered that the scheme would successfully preserve the character and appearance of the conservation area and the setting of the Kennet & Avon Canal. The requirement for a high standard of design under policy PD1 of the Kennet Local Plan would be met.

The proposals would generate various planning benefits including £119,000 towards intermediate affordable housing, £25,000 towards adult recreation (or public realm enhancements on Devizes Wharf) and a canalside footpath which will ultimately provide for a link to the Lower Wharf. The development will also provide a contribution of £8,000 to offset the loss of wildlife habitat and fund habitat creation / enhancement projects along the canal.

The gasholder site is known to be contaminated and the clean-up costs may be significant (the applicant has budgeted for £250,000). It is highly unlikely that a tourism, leisure or community use could fund this. Notwithstanding the community's concerns regarding overdevelopment, it is worth bearing in mind that the proposed level of development may actually be required in order to make the scheme financially viable. The McCarthy & Stone scheme may also act as a catalyst for the development of other parcels of land on Devizes Wharf.

Concerns regarding the lack of car parking are overstated and the applicant has presented evidence to demonstrate that the number of spaces is adequate. The parking provision is identical to that approved for the nearby Sudweeks Court scheme. It is not considered that a refusal of planning permission on the grounds of lack of parking could be substantiated on appeal.

Where the proposals do fail, however, is in their relationship to, and compatibility with neighbouring land uses. The proximity of the Crown public house and Wadworths barrel handling yard is likely to result in noise nuisance for future occupants of the development and this would give rise to complaints which the Council would have a duty to investigate. The resultant enforcement action may have implications for the viability of the brewery or, if Wadworths successfully uses the statutory defence of "best practicable means" available under the Environmental Protection Act 1990, the noise nuisance will remain unresolved to the detriment of future occupiers of the development. The applicant's failure to have proper regard to the scheme's impact upon residential amenity would conflict with policy PD1 of the Kennet Local Plan 2011 and government policy contained in PPG24: 'Planning and Noise'.

Accordingly, having regard to the Development Plan and all other material considerations, the officer recommendation is for a refusal of planning permission.

RECOMMENDATION:

Refuse planning permission for the following reason:

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'.

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.