

<b>Date of Meeting</b>	23 February 2023
<b>Application Number</b>	PL/2022/09381
<b>Site Address</b>	Newlands, Hyde Lane, Marlborough, SN8 1JN
<b>Proposal</b>	Conversion of two flats into multiple student accommodation
<b>Applicant</b>	Marlborough College
<b>Town/Parish Council</b>	MARLBOROUGH
<b>Electoral Division</b>	Marlborough West
<b>Grid Ref</b>	53.611528, -5.48949
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Meredith Baker

### Reason for the application being considered by Committee

This application has been brought before the Committee at the request of Councillor Jane Davies should the application be recommended for approval, on the basis that the relationship to adjoining properties is a key issue which justifies the call-in.

#### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material consideration, and to consider the recommendation that the application be granted planning permission.

#### 2. Report Summary

The proposal comprises the change the use of a building (known as Newlands) from a Class C3 use residential use to student accommodation in association with Marlborough College (Class C2 use), including the provision of an external staircase on the northern elevation.

It is considered that the change of use comprises sustainable development and that there would be no unacceptable impacts arising from the development. The external staircase would not harm the character and appearance of the area and the change of use to Class C2 would not unacceptably change the character of the site. The proposal would not result in any significant adverse impact on the occupiers of any neighbouring properties despite the likely increase in the number of residents at the property. Traffic generation from the proposal is not considered likely to give rise to any significant harmful highway safety concerns. It is therefore considered that the proposed development accords with the Development Plan and as such, is being recommended for approval subject to conditions.

#### 3. Site Description

The application site comprises an existing two storey building which consists of two residential flats (one at ground floor level and one at first floor level). The building is of red brick and slate construction and is located within the settlement of Marlborough. To the north, east and south lie other residential properties and to the west lie playing fields, beyond Hyde Lane. The



(which would also involve the removal of one window and its replacement with a fire escape door).

During the application process, steps from Hyde Lane to the Public Right of Way footpath (MARL5) and bollards along the Public Right of Way were removed from the scheme following concerns raised by the case officer. Subsequently, amended plans were submitted which reduced the red line of the application to just the existing residential plot of Newlands and not the land across Hyde Lane.

*Proposed scheme:*



North Elevation



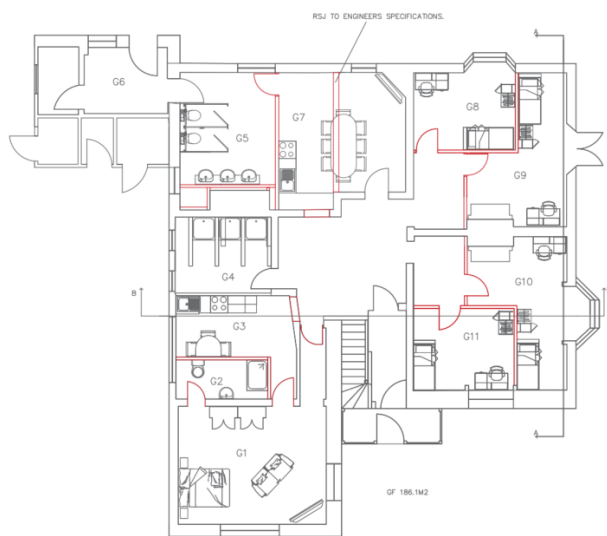
East Elevation



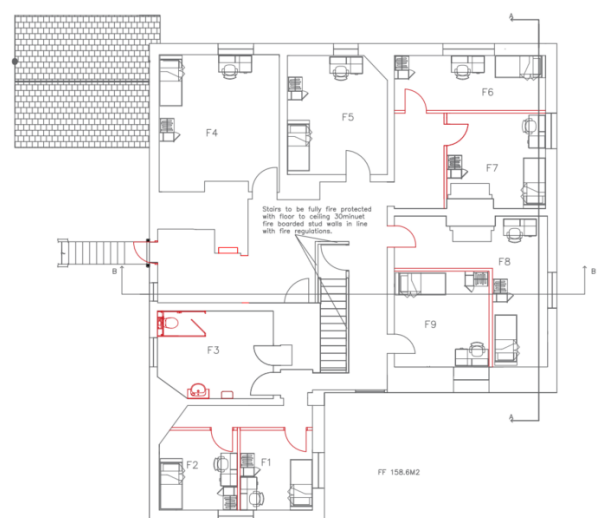
West Elevation



South Elevation



PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR

## **6. Planning Policy**

### National Planning Policy Framework (NPPF)

Section 2 (Achieving sustainable development)  
Section 4 (Decision-making)  
Section 5 (Delivering a sufficient supply of homes)  
Section 7 (Ensuring healthy and safe communities)  
Section 9 (Promoting sustainable transport)  
Section 11 (Making effective use of land)  
Section 12 (Achieving well-designed places)  
Section 15 (Conserving and enhancing the natural environment)

Planning Practice Guidance (PPG)  
National Design Guidance

### Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy  
Core Policy 2: Delivery Strategy  
Core Policy 14: Marlborough Community Area  
Core Policy 45: Meeting Wiltshire's Housing Needs  
Core Policy 50: Biodiversity and Geodiversity  
Core Policy 51: Landscape  
Core Policy 57: Ensuring High-Quality Design and Place-Shaping  
Core Policy 60: Sustainable Transport  
Core Policy 62: Development Impacts on the Transport Network  
Core Policy 64: Demand Management

### Other Documents and Guidance

Waste Storage and Collection: Guidance for Developers  
Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016)  
Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)  
Draft Marlborough Area Neighbourhood Plan 2021-2036 – Referendum Version

## **7. Consultation responses**

Marlborough Town Council: “At the Planning Committee meeting held Monday 9 January 2023 it was resolved that Marlborough Town Council objects to this application on the grounds of noise impact to neighbours; change of use (and would ask the Officer to check for any covenants concerning the use of the building); the change in character/townscape of the proposed steps and lighting to this residential area of special quality; light pollution in a dark area; the lack of any consultation notices posted nearby for neighbours to be alerted to the planning application and lack of consultation letters for near neighbours of the property”

“I have been asked by Marlborough Town Council's Planning Committee to write to express their dissatisfaction at how the Planning application below has been advertised, and the lack of opportunity for proper consultation. There were a number of resident representations at our Planning meeting on this application; all of whom made it clear that they found out about it by chance from a neighbour or by word of mouth. No doubt the combination of the Christmas period (many residents were reportedly away over this period too), and the mail strike will not have helped?...”

Highway Officer: “The information provided by the applicant points to minimal impact on the adjacent highway in terms of vehicle movement, in particular as the intention for the site is for an overspill/event use.

The steps are not to be located on highway but will connect to the PROW Team so they should be happy in regards to their construction.

I note local concerns are raised in regards to the impact of additional pupils on Hyde Lane but pedestrian movements should be contained in the single location and only at specific times throughout the day and the number of pupils is not large, so I am minded conflict is not likely to occur which will lead to a detriment to highway safety. Therefore, based on the information provided I am minded to offer no highway objection.”

## **8. Publicity**

The application has been advertised by letter to local residents and fourteen third party representations have been received raising the following key concerns:

- That the proposal would lead to harmful noise pollution to the area from 12 teenagers, including potential considerable music and noise in the garden in the summer months.
- That ball games could take place which are noisy with considerable risk of damage to the fences of neighbouring properties.
- That the development would adversely affect the value of the neighbouring property.
- Insufficient notification of the planning application has taken place.
- Whether the property is suitable for isolation accommodation or as a boarding house with only one residential tutor on site.
- That if the building were to be used for visitors it would become a hostel.
- That the proposal/site is not appropriate for a residential area.
- That the proposal would set a precedent for the area.
- Excessive light pollution from the bollard lighting along the footpath (NB. this element of the scheme has been removed).
- Additional lighting positioned around the house causing light pollution and nuisance to neighbours.
- Whether any CCTV would result in privacy issues outside the boundary of the site.
- Foul water drainage is old and sized for a reasonable family residing at the property and the change of use may overload the system.
- That there would be harmful highway movements through increased traffic movements, particularly at the end of term, events etc.
- There is a highway safety issue if pupils walk down Hyde Lane which is a busy, single lane track with no adequate passing places or footpaths.
- That there would be an adverse impact on wildlife (and bats) from the change of use including increased noise and light pollution.
- That if granted planning permission, due to the size of the plot, an expansion of the building may be sought.
- The application site is located within an “Area of Special Quality” as designated within the Marlborough Conservation Area whereby there is a distinctive character of substantial houses in larger grounds which has a distinctive character which is worthy of retention.
- There is a restrictive covenant on the property restricting the use of the property.
- There is already an established boarding house, namely Summerfield in Hyde Lane.
- The safeguarding and security concerns highlighted within planning reference PL/2022/05388 (35 bed temporary boarding house in the college grounds) and within the sequential test outlines why other sites are inappropriate including matters similar

to this application such as overlooking by private properties and remote from the College Campus.

It is noted that concern has been raised over the Council's process for notifying neighbouring properties of the planning application. It is confirmed that the immediately adjacent properties were notified by post. It was raised that there should have been a site notice displayed by members of the public and the Parish Council however it is confirmed that due to the nature of the application and the red line siting (such as not being within a Conservation Area) there is no statutory requirement for the erection of a site notice for this type of application given that notice was served to the adjoining owner/occupiers. Wiltshire Council has taken the necessary publicity in relation to this application as they have followed the prescribed procedure contained within Article 15 of the Development Management Procedure Order (as amended).

## **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.

### Principle of Development

There are no planning policies relating specifically to the principle of change of use from Class C3 (Dwellinghouse) to Class C2 (Residential Institutions) contained within the Wiltshire Core Strategy. The development would however support and help sustain the education establishment of Marlborough College. Under the Core Strategy (notable Core Policy 2) it is outlined that within the limits of development (within which this application site is located i.e. the limits of development of the Market Town of Marlborough) there is a presumption in favour of sustainable development.

In this regard, it is considered that the proposal would be sustainable development. There would be a loss of two residential units for the open market, which is deemed to be undesirable in terms of social sustainability, however there is a social and economic benefit to supporting and enhancing the education service of Marlborough College. The building would still house people in a sustainable location (whereby it is close to services and facilities) and would have no negative impacts upon environmental sustainability due to the change of use of the existing building.

It is therefore considered that the principle of the change of use is acceptable subject to compliance with other material considerations, as assessed below.

### Design and Visual Impact

The only external change proposed is the provision of an external fire escape staircase together with the change of one window on the northern elevation to a door to serve it. It is considered by virtue of size, design and siting, that the staircase would not cause harm to the character and appearance of the area. The staircase is functional in its design and is not overly prominent. Although views from the public realm would be possible over the boundary treatment, the staircase would be set back from Hyde Lane and would be seen in the context of the existing buildings. It would therefore not be harmful in visual terms.

Regarding the change of use itself, it is not considered that there would be any harmful visual impact. It is noted that concerns have been raised that the change of use would be out of keeping as it would be a commercial use in a residential area. Although it is not disputed there

would be some change of character from the existing residential flats, it is still a form of accommodation and residential use. The use as a boarding house would not be so out of keeping within a residential area to justify the refusal of planning permission. In any event, there are examples of similar arrangements for boarding houses, including within Marlborough itself, such as Summerfield to the south along Hyde Lane.

It is noted that several comments have been raised that the application site sits within the "Area of Special Quality" as designated by the Marlborough Conservation Area. However, the application site is not within this designation as it is not within the Conservation Area which lies to the south of Back Lane (circa 250m away). As such, this guidance cannot be afforded any weight in the consideration of the application. Furthermore, the intervening distance (with the application site also screened by intervening buildings) is such there would be no harmful impact on the setting of the Conservation Area.

The application site is, however, washed over by the North Wessex Downs Area of Outstanding Natural Beauty (AONB). However, given the limited works which are contained within the built-up part of Marlborough, no harm would be caused to the special qualities of the AONB. It is therefore considered that the proposed development is acceptable in terms of design and visual impact.

#### Residential Amenity

Core Policy 57 criterion vii) outlines that there needs to have regard to the compatibility of adjoining buildings and uses, including the levels of amenity of existing occupants.

- Amenity of future occupants

The proposed development would have appropriate daylight into each habitable room. It is noted that the rooms labelled 'F1' and 'F2' at the first-floor level would be sharing one window and thus there would be limited light to bedroom 'F2'. Although this is noted, given that some light would be provided by the part of the window provided there is no objection in this regard. It is therefore considered that the amenities of the future occupants are acceptable.

- Residential Amenity

Firstly, consideration has been given to the external alterations proposed under this application. The proposed change of a window to a door and external fire escape staircase would not give rise to any unacceptable impacts in terms of overbearing effect, loss of outlook, overshadowing or loss of light to the occupiers of neighbouring properties as a result of its siting away from any shared boundaries.

It is noted that the staircase and door would allow views to neighbouring properties to the north, in particular oblique views towards the neighbouring property of Fenelon and direct views towards Trenant. Although this is noted, the staircase is for fire escape purposes only and would be a place for travelling as opposed to social congregation. The views from the development in any event are not considered to be to an unacceptable level as they would, in the main, be similar to views already afforded from the existing first floor windows on this northern elevation. Finally, it is noted that oblique views would only be afforded to the front elevation of Fenelon as opposed to any private rear amenity space and the direct views to Trenant would be long distanced in nature with an intervening distance in excess of 27 metres to the boundary of this neighbouring property. As such, it is not considered that the proposed staircase or first floor door would give rise to significant overlooking or loss of privacy and is therefore considered acceptable in this regard.

Secondly, consideration has been afforded to noise pollution, which has been raised as a significant concern by third parties. Whilst it is acknowledged that a boarding house may potentially cause some additional noise, it is still a form of residential use and is not considered a situation that would warrant the refusal of planning permission. The existing residential flats could have noisy occupants, such as when using the garden in summer months and it is not considered that the use of a boarding house would give rise to such an unacceptable noise situation above what could already occur on site. It is further noted that boarding housing within residential areas is not unusual and as mentioned previously, there is an example of this namely Summerfield, which is further south along Hyde Lane. It is therefore considered that the potential for noise pollution is not such that it would warrant the refusal of planning permission.

Concerns have also been raised regarding light pollution resulting from the change of use. Whilst the scheme has been amended to remove the bollards around the highway junction and the Public Right of Way, concerns remain that light pollution around the building itself may result in adverse impacts on the occupiers of neighbouring properties. In this regard, it is acknowledged that some additional lighting around the building may result in additional impacts if not sensitively designed (such as being orientated downwards). As such, it is considered reasonable and necessary to impose a condition that any external lighting details must be submitted to and approved by the Local Planning Authority to ensure that there would be no unacceptable impact upon neighbour amenity (as currently no information has been submitted in this regard). With this condition imposed, it is considered that the Local Planning Authority can control the potential for harmful light pollution and therefore the proposal is deemed acceptable in terms of residential amenity impacts.

### Highways

As outlined within the covering letter accompanying the application, a college service vehicle will make routine deliveries to the house as well as a refuse vehicle accessing the site. It is not proposed that the students will have vehicles on site. As such, given this arrangement (and noting for example the site is deemed accessible by foot to services and facilities in Marlborough (including the College) – in particular by using Public Right of Way footpath (MARL5), there is no objection in this regard.

It is acknowledged that there will inevitably be some larger traffic movements at times, such as when pupils are moving in and out of the residence, however this would not be on a regular basis and is not considered to give rise to significant highway safety concerns or traffic generation. Regarding day-to-day use, it is noted that there may be comings and goings, such as workers (cleaners, deliveries, medical staff if used for isolation purposes) however these comings and goings are not considered to lead to such traffic generation as to warrant the refusal of planning permission. It is noted in particular that there are comings and goings of vehicles at present which are comparable (coming and going from work, deliveries etc. from both flats). As such, there is no objection raised in this regard as the traffic generation from the development would not be so significant as to justify refusing the application. The Highway Officer also raised no objection to potential traffic generation as a result of the change of use.

It is noted that following the removal of the staircase into this PRow from Hyde Lane from the scheme, there will be a need for pupils to walk down Hyde Lane until the first access point which is opposite the junction of Cardigan Road (circa 100 metres). It is considered that this arrangement is not ideal noting in particular Hyde Lane is a single lane vehicular track with no pavements, however given the limited distance, which is straight in nature and is the same arrangement for occupants for the existing residential flats, this arrangement is not considered to give rise to such unacceptable highway safety concerns as to justify refusal of planning permission. It is therefore considered that the proposal is acceptable in terms of highway safety.



## Ecology

It has been raised by local residents that wildlife may be impacted from the proposal and in particular it has been noted that bats may use the site which need to be protected. In this regard there are no works to the roof of the existing building which may for example house bats, and thus it is considered sufficient that an informative is imposed reminding the applicant that protected species (which include bats) are protected and in the event the proposal could potentially affect a protected species the applicant should seek the advice of a suitably qualified and experienced ecologist. With this informative proposed, as well as noting the external lighting condition being recommended (which would also benefit ecology such as bats using the area), the proposal is considered acceptable in terms of ecology impacts.

## S106 contributions/CIL

The property will be CIL liable charged at the standard council rate.

## Other matters

It is noted that additional comments have been made by the public that have not been referenced in the above sections so they will be commented upon here. Firstly, concern was raised that the provision of a boarding house would affect the value of neighbouring properties. This is not a material planning matter that can be assessed in planning applications and thus no comment is made in this regard.

Concern was also raised that if the building was used for visitors, then it would be a hostel use rather than a boarding house. In this regard, if the visitors are related to the residential institution of Marlborough College there would be no further change of use (from Class C2).

It was also raised that if ball games take place on site there is a considerable risk of damaging fences of adjoining properties. This is not a material planning matter, and the proposal is not seeking under this application to erect any fencing. It is reminded that ball games could occur as it currently stands as a residential plot.

Regarding CCTV (whereby some concern has been raised over potential loss of privacy), no details have been submitted for assessment however it is noted that permitted development is possible for CCTV provisions such as under Schedule 2, Part 2, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). If the CCTV does not accord with the permitted development criteria and conditions, then separate planning permission would be required to be submitted to the Local Planning Authority.

Foul water drainage has been raised as a concern as there is potential for the change of use to overload the system due to the likely increased numbers of people at the property. As they are using the current main sewers system, there is no objection in planning terms to the proposal. The applicant would need to ensure however that the system is capable, and it is recommended that the applicant discusses the potential increase with the sewage and water provider.

It is noted that one comment has been made regarding the live application for a temporary boarding house within the college grounds (planning reference PL/2022/05388) which is subject to a sequential test which uses arguments such as sites being overlooked and being remote from the college campus as reasons to discount other sites for a boarding house. In this regard it must be noted that this planning application has not been determined, and a request has been made (at the time of writing this report) that the sequential test (due to the

temporary boarding house being sited in a flood zone) is amended to reflect Newlands, which was not mentioned. A sequential test must be passed to allow the development to be accepted by the Local Planning Authority. Furthermore, regarding the arguments made for alternative sites in the sequential test, the individual circumstances are different, and for example in this instance, given the size of the plot it cannot be stated there is unacceptable overlooking by private properties. As such the temporary boarding house application is not considered to carry any material weight in the consideration of the application.

Finally, it has been mentioned that there is a restrictive covenant on the property, including a restriction that not more than one private dwelling house should occur onsite, and nothing should be done on the land which shall be or become a nuisance or annoyance to the Vendor or neighbouring properties. In this regard, it must be noted that covenants are separate to planning permission and therefore are not a material consideration when assessing planning applications. The applicant will need to discuss the matter with the covenant owners to overcome any restrictions, and this does not prevent planning permission from being approved.

### Conclusion

It is considered that the change of use of the building from Class C3 (dwellinghouse) to Class C2 (residential institution) to allow student accommodation, comprises sustainable development and there would be no unacceptable impacts generated from the development. The development is considered to accord with the Development Plan and is therefore being recommended for approval subject to conditions.

### **RECOMMENDATION:**

That planning permission be GRANTED 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:

Location Plan - Drawing No. MC/NL/LP2 dated 29/09/2022 and received 25/01/2023

Site Plan - Drawing No. MC/NL/SP3 dated 20/10/22 and received 25/01/2023

Proposed Plan + Section Through - Drawing No. MC/NL/002 dated 28/09/22

Elevations - Drawing No. MC/NL/001 dated 14/10/22

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

3. No external lighting shall be installed on-site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication "The Reduction of Obtrusive Light" Guidance Note 01/21 (reference GN01/21), have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

Informative:

1. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.