

REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	2 nd November 2011		
Application Number	11/00935/FUL and 11/01021/CAC		
Site Address	109 Gloucester Road, Malmesbury, Wiltshire, SN16 0BT		
Proposal	Demolition of Existing Bungalow and Erection of Residential Development Consisting of Five 2 bedroom Flats, Two 2 Bedroom Dwellings, and One 1 Bedroom Dwelling		
Applicant	Leopold Estates Limited		
Town/Parish Council	Malmesbury		
Electoral Division	Malmesbury	Unitary Member	Councillor Simon Killane
Grid Ref	393096 187717		
Type of application	FULL and Conservation Area Consent to Demolish		
Case Officer	Lydia Lewis	01249 706643	lydia.lewis@wiltshire.gov.uk

Reason for the application being considered by Committee

Councillor Killane has submitted a request for the planning application to be considered by the committee as Malmesbury Town Council Planning Committee and Environment is concerned about this application particularly water, sewerage issues plus traffic safety. Policies C3(i), (iii) and (vii) from the Local Plan are cited to support their opposition.

1. Report Summary

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Main Issues

The main issues in the consideration of this application are the acceptability of:

- The principle of development;
- The design and appearance and impact on the character and appearance of the Conservation Area;
- The impact of the development on the amenity of neighbouring occupiers;
- Parking and highway safety;
- Ecology;
- Flood Risk; and
- Provision of public open space and education contributions.

The application has generated objection from Malmesbury Town Council, Malmesbury & St Paul Without Residents' Association and 18 letters of objection from 12 different properties.

3. Site Description

The site is roughly rectangular in shape and is situated to the east of Gloucester Road and to the west of the River Avon within the Malmesbury Conservation Area. An area to the north east corner of the site is situated within flood zone 3 with the remainder in flood zone 2. The site is

currently occupied by a detached bungalow and is within the defined Settlement Framework Boundary.

4. Relevant Planning History		
Application Number	Proposal	Decision
None.		

5. Proposal

The applicant seeks Conservation Area Consent for the demolition of the existing bungalow and erection of a residential development of 8 dwellings, consisting of five 2 bedroom flats, two 2 bedroom dwellings and one 1 bedroom dwelling within a block ranging in height from single storey to two and a half stories. 11 car parking spaces are proposed.

6. Planning Policy

North Wiltshire Local Plan 2011

C2 – Community Infrastructure
C3 – Development Control Policy
NE7 – Nature Conservation Sites of Local Importance
NE9 – Protection of Species
HE1 – Development in Conservation Areas
HE2 – Demolition in Conservation Areas
H1 – Required Level of Residential Development
H3 – Residential Development Within Framework Boundaries
CF3 – Provision of Open Space

National Planning Policies

Planning Policy Statement 3: Housing
Planning Policy Statement 9: Biodiversity and Geological Conservation
Planning Policy Statement 25: Development and Flood Risk

7. Consultations

Environmental Health – No adverse comments.

Malmesbury & St Paul Without Residents' Association – There is a need in the town for one and two bedroom dwellings and this development will go some way to meeting that need. The revised application appears to address many of the concerns of the owners of the neighbouring property and other residents expressed. The way the developer is trying to strike an acceptable compromise in the best interests of the town is welcomed. However, the Association remains concerned about the potential degradation in the highway safety environment to the front of the development, vehicles parked to the right of the exit could obscure traffic approaching the mini roundabout from the north. If a S106 agreement is appropriate for this permission it is suggested that another controlled crossing from next to the fire station over to the Co-op Supermarket (there is a cut through from the football ground being the Co-op which goes to the school). In addition, although the bulk of the building has unquestionably been reduced, the increased footprint of the development in relation to the size of the plot is a concern.

Taking these issues into account, on balance, the Association wishes to oppose the application. It is requested that the appropriate highway officer is in attendance at the Northern Area Planning Committee to answer questions about highway safety in the immediate vicinity of the development.

Principal Ecologist – No objection in relation to ecology, subject to a suitably worded condition.

Malmesbury Town Council – Oppose, concerned about particularly water and sewerage issues plus traffic safety and cite policies C3i, iii and vii from the Local Plan to support this opposition. Demolition would fail to preserve or enhance the conservation area.

Environment Agency – No objection subject to conditions relating to: surface water drainage; compliance with the flood risk assessment; and contamination.

Wessex Water – New water supply and waste water connections will be required from Wessex Water to serve this proposed development. A signed adoption agreement with Wessex Water will be required before the connection can be made. A public combined sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public combined sewer. Building over existing water mains / public sewers will not be permitted without agreement. No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement. Diverting a water main / public sewer will be subject to satisfactory engineering proposals and a legal agreement subject to the provisions of the S185 Water Industry Act 1991.

County Highways – No highway objection subject to a condition relating to the provision of the access, turning area and parking spaces.

Education – The proposed development generates a need for 2 primary places and 1 secondary place. A contribution of £25,196 is required.

Public Open Space – A contribution of £12,400 is required. This would be directed towards Reeds Farm. These facilities have been prone to flooding and there are plans to rework the area to alleviate this.

Affordable Housing – The site does not trigger an affordable housing contribution as it is within the framework boundary of Malmesbury and does not exceed 15 unit threshold.

8. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

1 letter of support has been received in response to the application publicity. This states that the applicant has made considerable efforts to respond positively to the concerns of residents and has made design changes accordingly. The proposal replaces a bungalow of little character with a new building more in keeping with the conservation area. There is a precedent for this type of building at Athelstan Court. The proposal is in accordance with policy C3.

19 letters of objection have been received in response to the application publicity from 13 properties. In summary, the following concerns have been raised:

- There are many unsold houses in Malmesbury;
- There is nowhere for people to work;
- Would bring down house values;
- The exit would be directly onto a roundabout where there is already restricted views;
- Traffic in Malmesbury is already heavy;
- Loss of privacy;
- Loss of light;
- Problems with sewerage;

- Cars exiting the development would block the pavement whilst waiting to proceed and would be a danger to pedestrians;
- The site has flooded in the past;
- Parking is already an issue;
- Detrimental to wildlife;
- The plans allow for parking at Stainsbridge Mill which would not be allowed and restrict the access route;
- Too many dwellings on a relatively small site;
- There is already a lot of pressure on public services such as the schools and the Primary Care Centre;
- Out of keeping with the conservation area;
- Noise, dirt and dust;
- Design of flats is basic and unattractive;
- Raising car park wall height;
- No provision has been made for delivery lorries during the construction phase;
- To allow the development would make a charade of 'Localism';
- The proposal would constitute garden grabbing;
- The majority of the site will be concreted over; and
- The amended plans should have been re advertised by a new notice.

9. Planning Considerations

Principle of Development

Policy H3 of the Local Plan states that proposals for residential development, including residential institutions and applications to renew permissions for residential development, within the Framework Boundaries will be permitted provided that a number of criteria are met including: that priority is given to the re-use of previously developed land and buildings; and the most efficient use of the land is achieved compatible with the site's location, its accessibility and its surroundings.

Planning Policy Statement 3: Housing (PPS3) was amended in June 2010 through a Ministerial Statement to exclude private residential gardens from the definition of previously developed land in Annex B.

The application site would therefore be classified as greenfield land and the priority for development should be previously developed land, in particular vacant and derelict sites and buildings. The Ministerial Statement does not create a policy presumption against development in private residential gardens, but it does, alter the weight to be given to factors to be considered, in particular, development needs to be judged against the prevailing character of an area.

The basic policy set out in PPS3 is unchanged and paragraph 36 states that the Government's policy is to ensure that housing is developed in suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure. This should be achieved by making effective use of land, existing infrastructure and available public and private investment.

The site is situated within the Settlement Framework Boundary, in a sustainable location and would provide a mixture of dwelling types and sizes. The proposed development would represent the more efficient use of land and is considered to be acceptable in principle.

Design and Appearance and Impact on the Character and Appearance of the Conservation Area

Policy C3 of the Local Plan states that new development will be permitted subject to a number of criteria including, inter alia: respect for the local character and distinctiveness of the area with regard to the design, size, scale, density, massing, materials, siting and layout of the proposal.

Policy HE1 of the Local Plan considers that in Conservation Areas, proposals for development will preserve or enhance the character or appearance of the area.

Policy HE2 of the Local Plan considers that development will not be permitted involving the demolition of buildings or structures that make a positive contribution to the character or appearance of a Conservation Area. Development involving the demolition of buildings will only be permitted in conservation areas where:

- i) The proposals would preserve or enhance the character or appearance of the Conservation Area, such as removing unsightly, alien or modern features; and
- ii) The form of any necessary replacement has been approved, and where a contract has been made for the carrying out of the works of redevelopment.

The existing 1970s bungalow has little architectural merit and does not preserve or enhance the character and appearance of this part of the Malmesbury Conservation Area. As such, no objection is raised to its demolition, subject to a condition requiring a valid construction contract be entered into under which one of the parties is obliged to carry out and itself complete the works of development of the site.

The design of the proposed development has been amended following discussions with officers resulting in summary with: the double gable features to the north and south being removed; the overall scale reduced; the materials altered; and the car parking re-arranged.

The design and appearance of properties within the surrounding area is characterised by a mixture of architectural styles, designs and materials.

The front (west) elevation is two and a half stories with dormer windows in the roof. In terms of scale, the existing property is a bungalow as is the neighbouring property to the north, Foxlea. Foxlea has an approximate height of 5 metres. A new housing development characterised by two and two and a half storey properties sits opposite the site to the west. The design of the proposal takes its cue from the neighbouring property to the south, International House which is also two and a half stories with dormer windows in the roof and has an approximate height of 10.4 metres. The height of the proposed development is below that of "International House" at approximately 8.8 metres.

The north elevation and the western most part of the south elevation are particularly prominent. It was originally proposed that the gable ends would be constructed of render but amended plans have been received showing these finished in natural stone. The overall development would be constructed of render and natural stone under a slate roof with timber painted doors and windows. Planning conditions requiring sample materials and panels are recommended to ensure they are of sufficient quality. A condition requiring details of the roof lights is also recommended.

The number of car parking spaces across the site has been increased from 9 to 11 and the area of hardstanding has been re-arranged. The result being that it protrudes into the site less allowing an area of amenity space adjacent to the river.

The proposed development would preserve the character and appearance of this part of the Malmesbury Conservation Area.

Impact on Amenity of Neighbouring Occupiers

Policy C3 of the Local Plan states that new development will be permitted subject to a number of criteria including amongst other things: avoid creating developments with unacceptable low levels of privacy and amenities and avoid the unacceptable loss of privacy and amenities to adjacent dwellings or other uses to the detriment of existing occupiers development.

Given the orientation of the application site in relation to the neighbouring bungalow Foxlea with the proposed development set to the south, the proposed development would result in a degree of overshadowing of this property. This property has a number of windows in the south side

elevation facing the application site, including a secondary lounge window, secondary dining room window and secondary kitchen / breakfast room windows.

The scheme would be set forward of Foxlea and proposes a two and a half storey element to the front with gable ends. The original proposal also included a gable end where it is adjacent to Foxlea, however, the scheme has been amended and now includes a single storey element reducing its impact on Foxlea, with the scale of the main building significantly reduced with an eaves height of 4 metres and overall ridge height of 8.7 metres that hips away from Foxlea.

Whilst the proposal would result in some overshadowing of Foxlea, on balance, it is considered that any impact could not be regarded as so significant so as to justify a reason to refuse planning permission.

In terms of overlooking, no first floor windows are proposed in the north elevation. 10 roof lights are proposed, 4 serve a hallway, 3 serve a bathroom, 2 serve a mezzanine area and 1 serves a bedroom. The roof light serving the bedroom is situated at the easternmost end of the proposed development and would result in some limited overlooking of the furthest end of the garden of Foxlea. This could not be described as significant.

Parking and Highway Safety

Policy C3 of the Local Plan requires new development to have a satisfactory means of access, turning, car parking and secure cycle storage and not result in a detrimental impact upon highway or pedestrian safety.

In December 2010, new minimum car parking standards were introduced. As part of these standards, a minimum of one car parking space is required for one bedroom properties and two spaces for two bedroom properties. This would equate to a provision of 15 spaces. The number of car parking spaces has been increased from 9 to 11. Although this is below the new minimum requirements, pre-application discussions have taken place on this site since 2008 and under these circumstances it is not considered reasonable to insist on the provision of a further 4 spaces.

Furthermore, in light of the need to encourage the use of more sustainable modes of transport, the site's relatively close proximity to Malmesbury Town Centre and the broad range of services and facilities associated with this which are within easy walking distance, it is considered that the parking provision proposed is acceptable in this location and would not exacerbate parking problems to such an extent as to result in material harm to highway safety or a significant increase in traffic in the locality.

In relation to highway safety, County Highways have raised no objection to the application. On this basis, it is not considered that the proposed development would be detrimental to highway safety in accordance with the aims and objectives of policy C3 of the Local Plan.

Ecology

Policy NE9 states that planning permission will not be granted for development which would have an adverse effect on protected species.

The Council's Principal Ecologist has reviewed the application and has advised that although the existing bungalow is located close to the river, the walls and roof are in good condition, offering little potential access for roosting bats, while the roof space is also occupied by living space; as such it is considered that any risk to bats is very low and a bat survey is not required. The site is however adjacent to the River Avon County Wildlife Site; Policy NE7 requires that the wildlife interest at such sites is considered and protected during the planning process. Although the proposed building footprint does not itself come particularly close to the river edge, it is feasible that construction activities could extend to the river edge, it is therefore recommended that a buffer is maintained along the river edge during the construction phase of development to protect it from

potential damage and pollution, and protect sensitive fauna such as water vole from disturbance. A condition to this effect is recommended.

Subject to the imposition of an appropriately worded condition, the proposed development would not have an unacceptable impact on ecology.

Flood Risk

Planning Policy Statement 25: Development and Flood Risk (PPS25) considers that all forms of flooding and their impact on the natural and built environment are material planning considerations.

The whole of the application site is situated within flood zone 2 (medium probability) and a section in the north east corner of the site is situated within flood zone 3 (high probability).

Table D2 of PPS25 classifies buildings used for dwelling houses as 'more vulnerable'.

A Flood Risk Assessment (FRA) has been submitted in support of the application. This concludes that ground levels within the area of the site situated within flood zone 3 are below the Environment Agency's 100 year flood level of 71.46 metres AOD. Therefore, when the 100 year flood occurs, it is possible that this area will become flooded. There are, however, no buildings proposed in this area.

The buildings are situated within flood zone 2, however, in the event of a 1 in 1,000 year flood occupants could evacuate to flood zone 1 land to the south.

The Environment Agency have reviewed the proposals and have raised no objections subject to the imposition of conditions relating to: surface water drainage; compliance with the flood risk assessment; and contamination.

In light of the above, it is not considered that the proposed development would be subject to an unacceptable risk of flooding or materially increase the risk of flooding elsewhere in accordance with PPS25.

Provision of Public Open Space and Education Contributions

Policy CF3 of the Local Plan requires new housing development to make provisions for open space. Where it is not possible to make that provision directly, the Council will accept financial payments to remedy deficiencies in the quantity or quality of that space. The reasoning accompanying the policy emphasises that all residential developments, regardless of scale, have the potential to contribute to an increased need for open space.

The Public Open Space team have confirmed that a contribution of £12,400 is required. This would be directed towards improvement of existing facilities at Reeds Farm. These facilities have been prone to flooding and there are plans to rework the area to alleviate this.

The Council's Education team have confirmed that in areas where there is a very serious pressure for places contributions are sought on all applications coming forward, regardless of their size, and this is the case currently in Malmesbury, particularly at the local primary schools.

The designated area schools are Malmesbury CE and Malmesbury Secondary. Both are full and forecast to remain so. The proposed development generates a need for 2 primary places and 1 secondary place. The current cost multipliers are £12,257 per primary and £18,469 per secondary place. Having currently reviewed and updated the secondary pupils forecast for Malmesbury, and taking the view that the primary places deficit is most pressing, Education have agreed that in this particular case, a contribution of 2 primary places at a total of £25,196 is required.

The applicants have confirmed that they are willing to enter into a Section 106 agreement under the terms outlined above and subject to this, the proposal would be acceptable in this respect.

10. Recommendation

In respect of 11/00935/FUL

Subject to the applicant entering into a legal agreement under S.106 of the Town and Country Planning Act 1990 in respect of the provision of a financial contribution towards public open space and education, as required by policies C2 and CF3 of the adopted North Wiltshire Local Plan 2011, it is recommended that planning permission be GRANTED for the following reason:

The scale and layout of the proposal is considered to be acceptable in the context of the surrounding area and would preserve the character and appearance of this part of the Malmesbury Conservation Area. The proposal is not considered to result in an unacceptable impact upon the residential amenity of surrounding properties. Sufficient car parking and manoeuvring space is provided within the site and the proposed development would not be detrimental to highway safety. The Council's Highway Officer has raised no objection to the proposal.

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

REASON: In the interests of visual amenity and the character and appearance of the area.

POLICIES: C3 and HE1 of the North Wiltshire Local Plan 2011.

3. No development shall commence on site until details of the external stonework, including type, coursing and bedding of the natural stone, type of pointing and mortar mix, have been submitted to and approved in writing by the Local Planning Authority. The external stonework shall be constructed in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

POLICIES: C3 and HE1 of the North Wiltshire Local Plan 2011.

4. No development shall commence on site until a sample panel of the render to be used on the external walls not less than 1 metre square, has been made available on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: In the interests of visual amenity and the character and appearance of the area.

POLICIES: C3 and HE1 of the North Wiltshire Local Plan 2011.

5. Prior to commencement of development hedges fencing shall be erected a minimum of 5 metres from the top of the river bank in order to establish a buffer zone which shall be maintained throughout the construction phase of development. There shall be no construction activities within

the buffer zone including access, machinery, storage, excavation, construction, compounds or fires.

REASON: In the interests of the ecology of the site and the natural environment in accordance with policy NE9 of the North Wiltshire Local Plan 2011.

6. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works including sustainable drainage principles has been submitted to, and approved in writing by the Local Planning Authority. The submitted details shall clarify the intended future ownership and maintenance provision for all drainage works serving the site. The approved drainage works shall be completed in accordance with the details and timetable agreed.

REASON: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal in accordance with PPS25.

7. The development shall be carried out in strict accordance with the submitted Flood Risk Assessment (prepared by Environ UK and dated February 2011) and the following flood resilience measures detailed therein:

- a) Finished floor level to be set no lower than 72.06 metres AOD;
- b) No external air vents or electric points to be installed lower than 72.06 AOD;
- c) All service entry points to be appropriately sealed.

REASON: To reduce the risk and impact of any flooding on the development and its users in accordance with PPS25.

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

REASON: To prevent the pollution of controlled waters in accordance with PPS23.

9. No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety in accordance with policy C3 of the North Wiltshire Local Plan 2011.

10. The rooflights hereby approved shall be of the 'conservation' type with a single vertical glazing bar and mounted flush with the roof slope.

REASON: In the interests of visual amenity and the character and appearance of the area.

POLICIES: C3 and HE1 of the North Wiltshire Local Plan 2011.

11. The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below. No variation from the approved plans should be made without the prior approval of the local planning authority. Amendments may require the submission of a further application.

- 3275/45 – Site location plan
- 3275/40 Rev M – Proposed floor plans and elevations
- 3275/44 Rev S – Proposed site plan
- 3275/42 Rev F – Proposed street elevation

- 3275/43 Rev C – Existing topographical survey

REASON: To ensure that the development is implemented as approved.

Informatives

1. Maximum allowable surface water discharge should not include climate change. The maximum discharge rate should be the 1 in 100 year rainfall event, however when calculating the required attenuation for the same return period, 30% increase should be applied for climate change. This is likely to increase attenuation required on site, however the Environment Agency are satisfied that this can be achieved under condition 6. These details should be submitted as part of the information required to discharge condition 6.
2. The applicant is encouraged to sign up to the Environment Agency's free Floodline Warnings Direct service, who can be contacted on 0845 988 1188 or via the Environment Agency's website.
3. It is understood from the submitted FRA and accompanying site plans that there will be no ground-raising or built development within land designated as Flood Zone 3 (i.e. below 71.46 metres AOD). If this is not the case or this changes, the Environment Agency would need to be re-consulted because such works may impact on flood conveyance and storage.

In respect of 10/01021/CAC

Conservation Area be GRANTED for the following reason:

The character and appearance of the conservation area would be preserved, in accordance with Section 72 (1), as amended, of the Planning (Listed Buildings and Conservation Areas) Act 1990, policy HE2 of the North Wiltshire Local Plan 2011 and the guidance contained within Planning Policy Statement 5: Planning for the Historic Environment.

Subject to the following conditions:

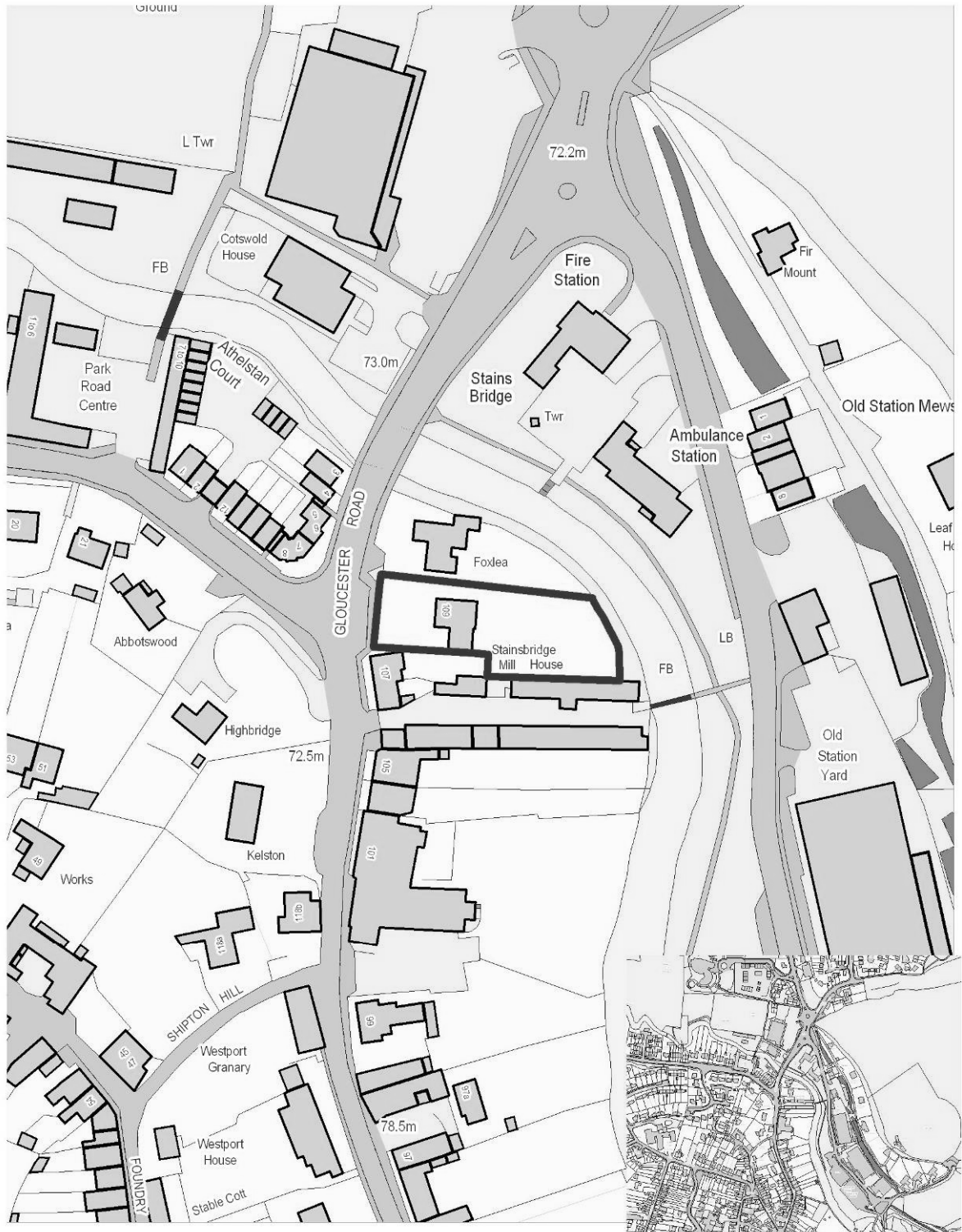
1. The works for which conservation area consent is hereby granted shall be begun within three years from the date of this consent.

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. No works for the demolition of the building or any part thereof shall commence until a valid construction contract has been entered into under which one of the parties is obliged to carry out and itself complete the works of development of the site for which planning permission has been granted under application reference N/11/00935/FUL or such other amendment approved by the Local Planning Authority; and; evidence of the construction contract has first been submitted to and approved by the Local Planning Authority.

REASON: In the interests of the visual amenity of the locality, which is within a designated Conservation Area.

POLICY: HE2 of the North Wiltshire Local Plan 2011.



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