

REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	20th February 2013		
Application Number	12/03960/FUL & 12/03961/LBC		
Site Address	38 Gloucester Street, Malmesbury, SN16 0AA		
Proposal	Change of Use from Retail and Part Residential to 1 Residential Dwelling Internal and External Alterations in Association with Change of Use to Residential Dwelling		
Applicant	Mr & Mrs Burton		
Town/Parish Council	Malmesbury		
Electoral Division	Malmesbury	Unitary Member	Councillor Killane
Grid Ref	393226 187267		
Type of application	FUL & LBC		
Case Officer	Kate Backhouse	01249 706 684	Kate.backhouse@wiltshire.gov.uk

Reason for the application being considered by Committee

Councillor Killane has called the planning application to be considered by Committee to allow Councillors to have the opportunity to hear neighbour concerns and to assess the impact of the conversion of the retail unit to residential.

1. Purpose of Report

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

2. Report summary

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

- Principle of Development
- Impact on Highways
- Loss of Retail Unit

The application has generated objections from Malmesbury Chamber of Commerce; and 4 letters of objection from the public.

3. Site Description

The site is situated on the Gloucester Road in Malmesbury, which is also located within the Malmesbury conservation area. The property lies opposite Malmesbury Abbey Grounds, with residential properties to the north and a mix of mostly residential and some retail to the south. The site is also within the town centre secondary frontage area. The retail unit is currently vacant and for sale. The property is grade 2 listed and features a retail unit formerly in A1 Use at ground floor level and a 3 bed residential unit split over ground, first and second floor levels.

4. Relevant Planning History		
Application Number	Proposal	Decision
08/02666/LBC	Renewal of Previous Permission (03/01246/LBC) Internal and External Alterations to Form 2 Living Units from Existing Living Accommodation Ancillary to Shop	Permission
08/02665/FUL	Renewal of Previous Permission (03/01247/S73) Internal & External Alterations to Form 2 Living Units from Existing Living Accommodation Ancillary to Shop	Permission
08/00295/COU	Change of Use of Shop and Store to Residential Plus Alterations to Rear Elevation	Withdrawn
08/00306/LBC	Internal and External Alterations Associated with Change of Use from Shop to Residential	Withdrawn
03/01246/LBC	Internal and external alterations to form two living units from existing living accommodation ancillary to shop. renewal of 98.0053.lb	Permission
03/01247/S73	Internal and external alterations to form two living units from existing living accommodation ancillary to shop. renewal of 98.0052.f	Permission

5. Proposal

The applicant seeks permission for the conversion of the existing shop with accommodation into one dwellinghouse with associated internal and external alterations

6. Planning Policy

Adopted North Wiltshire Local Plan 2011

C3 - Development Control Policy

R2- .Town Centre Secondary Frontage Area

H3 – Residential Development within Framework Boundaries

HE1 – Development in Conservation Areas

R6 – Existing Local Shops and Services

HE4 – Development, Demolition or Alterations involving Listed Buildings

7. Consultations

Malmesbury & St Paul Without Residents' Association – In an exception to normal opposition for change of use of retail properties, the Association have supported the application. The current state of the building and sums of monies involved in the restoration preclude it from being an attractive commercial venture.

Malmesbury Town Council – Support the application

Malmesbury Chamber of Commerce – objects to the loss of any retail unit to residential as it will harm the future of trade within the town centre.

English Heritage – No comments

8. Publicity

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

4 letters of letters have been received, in summary the following concerns have been raised:-

- Loss of retail
- Will harm viability and vitality of town
- Will set precedent for future change of use
- Contrary to Malmesbury Conservation Area Plan
- Lack of Consultations
- Has been marketed unrealistically

9 Letters of support have been received, in summary the following points have been raised:-

- The building is in a bad state of repair and needs investment
- The building is grade 2 listed and within a Conservation Area therefore in accordance with the Malmesbury Conservation Area Plan should be preserved and prevented from deteriorating
- Not within the main High Street of Malmesbury where shops should be preserved. Is located within the secondary shopping area.
- The repairs necessary are unviable for a commercial premises
- The building is in a sensitive location opposite the Abbey and should be restored
- The proposed alterations are of a high standard

8. Planning Considerations

Principle of Development

The planning application site lies within the defined framework boundary of Malmesbury and the Malmesbury conservation area thus any development should satisfy the policies outlined in C3, H3 and HE1 of the North Wiltshire Local Plan 2011. Extensive pre-application discussions were entered into, prior to this application being submitted.

Site description

The application site is situated just off the centre of the town. The site is part of a terrace of properties of varying designs. The rear of the building is heavily overgrown and has a terrace before sloping steeply down. The building is situated within the Malmesbury conservation area and has had several alterations and changes of use over the years. At the bottom of the garden lie 3 parking spaces which the proposed development would retain.

The first floor of the building although empty has residential permission with the second floor being completely empty and in a very bad state of repair. The building as a whole has been left to fall into a very poor state. The property leaks at numerous points and extensive works have been undertaken without the benefit of listed building consent which this application seeks to address. At first floor, the level of work required is apparent. There are holes through the walls, the floor is unsafe and the dormer window is held in by what appears to be expanding foam and plastic sheeting. An original beam transverses the room which needs to be retained to preserve the historic fabric of the building which has caused some interested parties to withdraw from the property as this would prevent the top floor being used as a bedroom therefore preventing subdivision of the top floors into separate flats.

Proposed works

Various sympathetic internal and external alterations are proposed in accordance with guidance at pre-application stage from the Councils Conservation Officer. To the rear of the property, the

replacement lean-to extension has a slate tiled roof with the end most part of the gable having glazed side panels to either side of the balcony. As demonstrated in the submitted photographs there are numerous balconies within the terrace of varying designs and the proposed balcony will not cause any additional overlooking especially given the opaque panels to the side.

Impact on Highways

Highways Officers confirmed at pre-application stage that there were no objections due to the town centre location of the property and that any purchaser would be aware of the situation when purchasing the property. The building does in fact benefit from 3 parking spaces which historically have been used in connection with the residential accommodation which will continue.

Public Open Space

Given that the number of bedrooms will not alter due to the constraints of the listed building, no public open space payment is required.

Loss of retail unit

The secondary shopping area within which the building is sited does not specifically protect existing retail uses as Policy R1 (Town Centre Primary Frontage Areas) does. Policy R2's purpose is to allow for some retail or town centre uses in those areas which will not adversely affect the viability of the town centre (the area defined by Policy R1). The proposal is therefore considered against R6 – Existing Local Shops and Services.

The agent has provided robust evidence that the marketing of the premises has been pursued over a two year period from September 2010 at a reasonable price however this has proved unsuccessful.

As noted in the supporting statement within R6 11.15, the Council acknowledges that it would be unreasonable to resist a change of use where local patronage is such that a business is no longer viable. It is clear that the business is no longer viable and every reasonable attempt to market the premises has been made in accordance with R6 (i). As an Authority we would normally require premises to be marketed at a realistic rate unsuccessfully for a period of a year to demonstrate that the business was not viable. In this instance the property has been marketed for over 2 years which is in excess of the Councils normal requirements.

It is acknowledged that the preservation of the viability and vitality of the Town Centre is of importance however planning policy allows for changes of use when it has been demonstrated that the existing use is no longer viable. Consideration is given to whether permission would set a precedent for future changes of use following representations received, however every planning application is considered on its own merits and in this instance the applicant has gone beyond what the Council would expect in terms of marketing. Additionally, the extremely poor state of the building means that it is imperative that works are undertaken swiftly to preserve the historic fabric and also the character and appearance of the conservation area. The Malmesbury Conservation Area Plan, in accord with the North Wiltshire Local Plan refers both to the need to ensure the vitality and viability of the Town Centre, but also the need to preserve and protect listed buildings and conserve and enhance the Conservation Area. As noted above the premises have been marketed for an extensive period of time unsuccessfully during which time the building has unfortunately fallen into a very poor state of repair. The proposed works are of a high quality and will restore the building to a high standard. The loss of any retail unit is regrettable however in this instance the extensive marketing in connection with the necessity of securing the future of the building would make it unreasonable to refuse the application and will achieve objectives for preservation of the heritage asset in accord with the NPPF and NWLP.

Other matters

Comments have been received that a nearby resident failed to be consulted when others situated further away had.

The applications were advertised by press ad, site notices and neighbour letters. Neighbour letters were issued in accordance with the Councils adopted policy on neighbour consultation. (Available on request).

The application is therefore recommended for approval subject to conditions.

9. Recommendation

12/03960/FUL

Planning Permission be **GRANTED** for the following reason:

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the environmental conditions of the area. The proposed conversion 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 property has been marketed for a period of over 24 months without success and therefore the change of use is considered to be acceptable in this instance and is in accord with policies C3, H3, R6, R2 and HE1 of the North Wiltshire Local Plan 2011.

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 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.

Plans;

Existing elevations and sections
Site location plan
Existing floor plan
Associated photographs
Property marketing
Proposed elevations and sections
Heritage asset statement
Design and access statement
Proposed floor plans

Date stamped 28.11.12

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

12/03961/LBC

Listed Building Consent be **GRANTED** for the following reason:

The proposed development by reason of its scale, design and siting is considered to be an acceptable addition to the property and the proposed alterations would not unduly affect the fabric or setting of the listed building. The proposed development is in keeping with the character and appearance of the area and would secure the future of the building and this will achieve objectives for preservation of the heritage asset in accordance with the National Planning Policy Framework and the North Wiltshire Local Plan 2011. The proposals are thus considered to comply with section 12 of the National Planning Policy Framework (2012) and with S.16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Subject to the following conditions:

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

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be 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.

Plans

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Design and access statement
Proposed floor plans

Date stamped 28.11.12

REASON: To ensure that the works are implemented as approved and in the interests of the listed building.

3. Notwithstanding the approved drawings, no works shall commence until details of the following have been submitted to and approved in writing by the Local Planning Authority
- (i) Large scale details of all external joinery including metal-framed glazing (1:5 elevation, 1:2 section) including vertical and horizontal cross-sections through openings to show the positions of joinery within openings, depth of reveal, heads, sills and lintels;
 - (ii) Large scale details (1:5 elevations, 1:2 sections) of new dormer construction, including window;
 - (iii) Large scale details of proposed balcony structure (1:10 elevations 1:5 sections);

- (iv) Large scale details of all internal joinery, including staircases (1:5 elevation, 1:2 section);
- (v) Full details of proposed rooflights, which shall be set in plane with the roof covering;
- (vi) Large scale details of new fireplace to living room;
- (vii) Full details of external flues, background and mechanical ventilation, soil/vent pipes and their exits to the open air;
- (viii) Full details of proposed meter and alarm boxes;
- (ix) Large scale details of proposed eaves and verges (1:5 section);
- (x) Full details of proposed internal service routes;
- (xi) Full details of external decoration to render, joinery and metalwork; and
- (xii) Full details and samples of external materials.

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

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

4. No development shall commence on site until details and samples of the materials to be used for the external walls, including timber cladding which shall be feather-edged boarding, and 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 preserving the character and appearance of the listed building and its setting.

5. Notwithstanding the submitted details (3799/51E) the new window to the west elevation of the first floor snug shall be a timber, double-hung sash window to match those on the first floor front elevation.

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

