

Deadline	10/09/09		
Application Number:	S/2009/1016		
Site Address:	PART OF UPTON FARM LUKE STREET BERWICK ST. JOHN SHAFTESBURY SP7 0HQ		
Proposal:	CHANGE OF USE OF BUILDING AND LAND FROM STORAGE AND B2 INDUSTRIAL TO LIVE/WORK UNIT AND STORAGE AND FORM NEW VEHICULAR AND PEDESTRIAN ACCESS THERETO REVISED APPLICATION		
Applicant/ Agent:	BRIMBLE LEA & PARTNERS		
Parish:	BERWICK ST JOHN		
Grid Reference:	394246 122067		
Type of Application:	FULL		
Conservation Area:		LB Grade:	
Case Officer:	Mrs J Wallace	Contact Number:	01722 434687

### Reason for the application being considered by Committee

The Director of EDPH does not consider it prudent to exercise delegated powers due to the planning history of the site.

### 1. Purpose of Report

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

### 2. Main Issues

The main issues to consider are :

- The current use of the site
- The principle of development
- The impact on highway safety
- Sustainability considerations
- Impact upon amenities
- Protected species
- Public Recreational Open Space. Policy R2
- Other factors

### 3. Site Description

Upton Farm, in Berwick St John, is a complex of agricultural buildings including a grain dryer. The site is currently accessed from the corner of Luke Street adjacent to the grain dryer. The application site covers only part of this complex of buildings, (two stone built traditional barns

and an open fronted storage barn) and the adjacent paddock It site extends to approximately 0.6hectare.

#### 4. Planning History

Application number	Proposal	Decision
S/2005/2290	Change of use of building and land from agricultural to live/work unit and form new vehicular and pedestrian access.	<p>Refused on 29<sup>th</sup> December 2005 for the following reasons:</p> <p>(1) The proposed development, in that it would result in a residential use in close proximity to an (un-associated) agricultural use, would result in a poor level of amenity to the occupiers of the proposed residential use, contrary to policy G2 of the Replacement Salisbury District Local Plan</p> <p>(2) The proposed development, in that it has not been demonstrated that it would not harm the interests of protected species, would be contrary to policy C12 of the Replacement Salisbury District Local Plan</p> <p>(3) The proposed development, in that it involves a new residential dwelling for which a recreational open space contribution has not been submitted, would be contrary to policy R2 of the Replacement Salisbury District Local Plan</p> <p>(4) Notwithstanding the suggested routeing of caravans/boats to and from the site, the local highway network is not considered suitable to accommodate such traffic resulting from the development proposal. In this respect the proposed development would be contrary to policy G2 of the</p>

<p>S/2006/0170</p>	<p>Change of use of building and land from agricultural to live/work unit and form new vehicular and pedestrian access</p>	<p>replacement Salisbury District Local Plan</p> <p>(5) The storage of caravans/boats as proposed would fails to meet the commitments to the Government's sustainable Development Strategy as set out in PPG 13 to reduce the need to travel, influence the rate of traffic growth and reduce the environmental impact of transport overall. In this respect it would be contrary to policy G1 of the Replacement Salisbury District Local Plan</p> <p>(6) Vehicles resulting from the proposed development would leave the site at a point where visibility from and of such vehicles would be restricted, harming the interests of highway safety. In this respect the proposed development would be contrary to policy G2 of the Replacement Salisbury District Local Plan.</p> <p>(7) The proposed development, in that it would use a private means of private drainage facilities in an area where public facilities are available, for which no justification has been provided, would be contrary to the advice in circular 3/99 and policy G5 of the Replacement Salisbury District Local Plan.</p> <p>Refused on 21<sup>st</sup> March 2006 for the following reasons:</p> <p>(1) The proposed development, in that it would result in a residential use in close proximity to an (un-associated) agricultural use,</p>
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<p>S/2009/0392</p>	<p>Change of use of building and land from storage and B2 industrial to live/work unit and storage and form new vehicular and pedestrian access there to</p>	<p>would result in a poor level of amenity to the occupiers of the proposed residential use, contrary to policy G2 of the Replacement Salisbury District Local Plan</p> <p>(2) The local highway network, by reason of its restricted width, poor alignment and sub-standard junctions, is considered unsuitable to serve as a means of access to the proposed development. In this respect, the proposed development would be contrary to policy G2 of the Replacement Salisbury District Local Plan.</p> <p>(3) The storage of caravans/boats as proposed fails to meet the commitments to the Government's sustainable development strategy as set out in PPG3 - to reduce the need to travel, influence the rate of traffic growth and reduce the environmental impact of transport overall. In this respect the development would be contrary to policy G1 of the Replacement Salisbury District Local Plan.</p> <p>(4) In that the proposed development would make inadequate provision for recreational open space, it would be contrary to policy R2 of the Replacement Salisbury District Local Plan.</p> <p>Refused on 11 May 2009 for the following reasons</p> <p>(1)The local highway network in the vicinity of this site by reason of its restricted width, poor alignment and sub-</p>
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		<p>standard junctions, is considered unsuitable to serve as a means of access to the proposed development. The proposed development would therefore conflict with saved policy G2 of the Adopted Salisbury District Local Plan.</p> <p>(2) The storage of caravans/boats as proposed fails to meet the commitments to the Government's sustainable development strategy as set out in PPG13 - to reduce the need to travel, influence the rate of traffic growth and reduce the environmental impact of transport overall. In this respect the development would be contrary to this advice and that in PPS1, and to saved policy G1 of the Adopted Salisbury District Local Plan.</p> <p>(3) The proposed development, in that it involves a new residential dwelling for which a recreational open space contribution has not been submitted, would be contrary to saved policy R2 of the Adopted Salisbury District Local Plan</p>
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## 5. The Proposal

The application proposes the change of use of two existing stone built barns, to form a unit of residential accommodation, a workshop and office and to change the use of an open-fronted agricultural barn to the storage of touring caravans. Originally the proposal included the storage of boats in the open fronted barn, but this aspect of the proposal has now been withdrawn.

## 6. Planning Policy

The following saved policies are considered relevant to this proposal

C2	Development in the countryside
C4 and C5	Development in the AONB
C12	Protected Species
G1 and G2	General development criteria
R2	Provision of public open space
PPS7	Sustainable development in rural areas
PPS9	Planning and Ecology
PPG13	Transport
PPG24	Planning and noise

## 7. Consultations

### ***Parish Council***

None received, but did not object to previous application for the same proposal. S/2009/0392.

### ***Highways***

Originally recommended no highway objection be raised to the development because even though the number of movements to the proposed caravan storage may be higher than estimated by the Applicant, the overall traffic generated by the caravan storage and the proposed live/work unit is not likely to result in additional unacceptable traffic problems.

Further to this recommendation commented as follows:-

The traffic figures provided by the applicant have been disputed by objectors to the proposed development. Traffic data is difficult to accurately verify but the data supplied by Mr. A. Walby is considered reasonable. However if one accepts Mr. A. Walby's figures, the likely traffic resulting from the development proposed is still considered to be less than existing uses and therefore acceptable in highway safety terms. It is considered that the majority of vehicle movements associated with the development will take place to the north of the site thus avoiding the worst rural lanes in the vicinity.

Even if the existing agricultural uses on the site are displaced within the village, it is the highway authority's view that the additional impact of the new development will not be sufficient to make the proposal objectionable.

It is accepted that caravan storage can take place outside the built up area and the sustainable objection could not be substantiated, particularly since the boat storage element has now been removed.

In the event of the granting of planning permission, now recommend that a condition be imposed in order to ensure that the storage of touring caravans is restricted for that purpose only and that the number of caravans for storage should not exceed 32. A suitable condition restricting the use to prevent repairs and sale of goods should also be imposed.

### ***Environmental Health***

I have some reservations about the suitability of this location for the construction of a dwelling unless it is linked to the existing agricultural use as I consider that the occupants of the

proposed dwelling could be detrimentally affected by noise smell and general disturbance at unsocial hours.

I note that the application includes a noise survey and report to address the potential for the operation of the grain dryer on the site to create noise levels that could constitute a nuisance inside the proposed dwelling. The report concludes that the measured noise level of the grain dryer at the location of the dwelling is within PPG 24 Noise Exposure Category B for both daytime and night time noise and that with the attenuation provided by the orientation and structure of the proposed dwelling there will be a theoretical reduction of the sound level inside the dwelling to an acceptable level.

Whilst this maybe the case although the grain dryer normally only operates for a limited number of weeks per year it is likely to be operating at a time of year when the weather is warm and the occupiers of the proposed dwelling would probably need to open windows for ventilation and possibly wish to spend time outside the house where the noise will be more intrusive.

However the noise survey indicates that the theoretical levels are likely to be reduced to acceptable levels by the proposed design and construction of the live/work unit.

## **8. Publicity**

The application was advertised by site notice/neighbour notification with an expiry date of 13 August 2009.

10 letters/e-mails have been received raising the following points:-

Dispute over ownership of site

The existing use is not storage/B2 industrial use – it is still a farm.

Traffic survey is inadequate, the traffic levels would increase, farm traffic will still exist

Traffic survey was undertaken during school holidays and is not a fair representation

Road is used as a 'rat-run to Sandroyd School

Highway safety concerns, narrow roads, speeding traffic, horses cyclists and pedestrians

Concerns about adequacy of turning area for HGV's using the grain dryer

Even if development is permitted, the grain drier will still be used by the syndicate owners as feed corn is stored in the dryer all year.

Dwelling is too close to grain dryer, will lead to complaints regarding noise and dust

A caravan/boat storage diversification has already been attempted [by an objector] but was unsuccessful

Support removal of scrap heap from site

No objection to proposal, but want scrap vehicles to be removed

Concerned that caravans would be parked in farmyard

## **9. Planning Considerations**

### **9.1 The current use of the site**

The site is known as Upton Farm, but the applicants' claim that the site has a lawful B2 use as a haulage facility rather than an agricultural use, as claimed by one of the objectors to the scheme who occupies the site. As the evidence regarding the use of the farm yard presented with this application is disputed by the occupier of the site, the onus remains with the applicants, through a Certificate of Lawful Existing Use or Development (CLEUD application) to demonstrate that the non-agricultural use of the farmyard is lawful. A class B2 use does not represent a 'fallback' position that justifies development.

However, the use of the site is complicated by the Enforcement Notice which was issued by the Planning Authority against operations on the land. This notice was subsequently amended to exclude this application site. The applicants argue that this implies that the current haulage (B2) use is accepted as lawful by the Planning Authority. However, the Council's Enforcement Officer has advised that the amending of the area covered by the Enforcement Notice to exclude the farmyard was undertaken to centre the impending public inquiry (now cancelled) on land which had been the subject of the complaint rather than on what was or was not, the lawful use of the farmyard. There was never any acceptance by the Planning Authority that the lawful use of the farmyard was for non-agricultural purposes, as no evidence was presented.

In view of the Local Authority's position and in the absence of an application for a CLEUD, the applicants' agent has agreed to the change in the description of the development to exclude the assumption that the existing use of the site is for B2 purposes.

### ***9.2 The principle of development***

The application site is outside of Berwick St John's Housing Policy Boundary and therefore policies that relate to development in the countryside are applicable, particularly in relation to the housing element of the application. As a general rule, new housing outside of Housing Policy Boundaries is contrary to local and national planning policies that seek to protect the countryside.

However, policy C22 does permit new units of accommodation where this is formed through the conversion of existing suitable buildings, and this advice is continued in national guidance as expressed in PPS7. Residential use is considered to be the least acceptable use of existing agricultural buildings as advised by policy C22, but where such residential accommodation is proposed as ancillary to an employment use, this is generally considered acceptable.

Consideration has been given in earlier applications as to whether the proposal would comply with the other requirements of policy C22 (in terms of the necessary work for conversion, extensions etc) and it was considered that in these respects the proposal would be acceptable. In general terms an employment use in converted buildings was considered acceptable in principle.

However, this is the fourth application for the change of use of these buildings and land to a live/work unit and the storage of caravans and most of the above issues have been resolved. The most recent application S/2009/0392 was only refused on highway grounds and therefore, this application must primarily be judged on this issue.

### ***9.3 The impact on highway safety***

The Highway Authority has recommended that the application prior to this, S/2009/0392, be refused on the grounds of the poor nature of the local road network. This was consistent with their previous recommendations for refusal of the earlier applications for the same development and is reflected in objections raised by local residents. Local residents have also raised concerns regarding the numbers of vehicles in the area.

A traffic report provided by the applicants, suggests that the change of use of the barn from the storage of hay to the winter storage of caravans and boats would substantially reduce the amount of traffic movements on the local highway network. The basis of this traffic report was disputed by the current occupier of the site, who considered that the suggested level of traffic associated with the current farm use, especially the storage of hay, was excessive. Alternative



figures of traffic generation were subsequently provided by the objector.

The Highway Authority states that traffic data is difficult to accurately verify, but that the data supplied by the objector appeared reasonable. However if these alternative figures are accepted, then the likely amount of traffic resulting from the proposed development is still less than created by the existing uses and therefore the scheme is acceptable in highway safety terms.

The main reason for the refusal previously related to the poor quality of the local highway network and whilst it would not be possible to limit the route which visitors to the site would use; the Highway Authority considers that the majority of vehicle movements associated with the development will take place to the north of the site thus avoiding the narrow village roads and the worst of the narrow rural lanes in the vicinity.

In relation to the conclusions of the Applicant's traffic survey, the Highway Authority considers that even if the existing agricultural uses on the site are displaced to elsewhere in the village, as the objectors allege would occur, the additional impact of the new development would still not be sufficient to make the proposal objectionable in highway safety grounds.

Thus in conclusion, whilst the professional evidence supplied by the applicants regarding traffic is disputed by the objector, the Highway Authority considers that the overall effect of this proposal would be a substantial reduction in traffic using this site and even if the traffic generated by the agricultural use of Upton Farm is displaced to elsewhere on the local highway network, a reason for refusal based on the unsuitability of the local highway network could not be sustained and on this basis the Highway Authority has withdrawn its objection to the proposal.

#### **9.4 Sustainability considerations**

In relation to sustainability, the Highway Authority recommended refusal of the storage of caravans and boats on previous applications based on the failure of the proposal to meet the government's sustainable development strategy as set out in PPG13, which seeks to reduce the need to travel.

The question of sustainability is finely balanced. On one hand, as a live/work unit, at least one of the employees would be expected to live on site, and it is accepted that the conversion of buildings to employment uses in the countryside can be considered acceptable because of the sustainability benefits of re-using an existing redundant building (rather than erecting a new building). In this case the benefits of re-using a building were accepted, but clearly agricultural (or other re-uses) would bring similar or preferable benefits. A further reason for accepting some rural-based employment uses is the reduction in the length of journeys by those who would otherwise travel from one urban centre to another.

Many redundant barns in comparatively isolated positions, throughout the country, have been converted to the winter storage of caravans, despite the fact that the use can attract users from a wide area in comparison with the more localised traffic movements of an agricultural use.

In this case, the applicant's have withdrawn the storage of boats from the proposal; the barn is now proposed to be used solely for the storage of caravans. The applicants accepted that boats are not necessarily designed for road transportation and are not necessarily towed by private motor cars. Also as the site is distant from the sea or a major body of water, their storage in this location would not be sustainable. In relation to caravan storage, it is accepted

that the sustainability arguments are more balanced and even though this is a comparatively remote location, caravan storage can take place outside the built up area and frequently takes place in former agricultural buildings and therefore it is considered that the previous sustainability objection has now been largely overcome, as it would be difficult to justify a refusal of this proposal on the sustainability grounds as expressed by PPG13. However, in order to control this aspect of the proposal, the Highway Authority would recommend a condition on any permission to ensure that the barn is used solely for the storage of touring caravans and for no other purpose and that the number of caravans stored should not exceed the number of 32 as proposed by the applicant. In order to further limit the amount of possible comings and goings to the site, a suitable condition prevent repairs and sale of goods should also be imposed.

### **9.5 Impact upon amenities**

Concerns have been raised by a third party regarding the impact of the noise and disturbance generated by the existing grain drier on the living conditions of the proposed dwelling. With the previous application earlier this year, the applicants submitted a professional noise assessment, based on a single set of measurements, Based on this and some changes to the scheme, it was accepted that the reason for refusal based on noise was overcome.

However, the grain dryer is not in the applicants' ownership and will continue to operate from its current position and, a third party now disputes the results of the noise assessment. As the assessment was based on only one set of figures, obtained in September 2008, it is alleged that the investigation was based on inadequate data.

The Council's Environmental Health Officer whilst still expressing concern regarding the creation of an unrelated dwelling within a farming environment, concludes that in the light of the noise assessment by a professional expert, that it was theoretically possible for the identified noise levels to be reduced to acceptable levels and therefore his reservations would be difficult to sustain. In conclusion it is accepted that in the light of the professional evidence regarding noise, a reason for refusal based on noise and disturbance would be difficult to justify and sustain.

### **9.6 Protected species**

Permission was refused in 2005 on grounds that inadequate information had been provided in relation to the potential impact on protected species, from the alterations to a possible habitat. In response, an ecological assessment was submitted with the application in 2006, and with no evidence of bats or barn owls, it was sufficient to demonstrate that this concern had been overcome.

This survey was undertaken in 2006 and no further survey has been submitted in support of this application. The survey found that available openings or physical facilities for bats or barn owls made it unlikely that the buildings would be used as a habitat, and in light of this, despite the length of time since the survey was undertaken, it is not considered that a further survey is required prior to the determination of this application as the physical aspects of the buildings have not significantly changed. Therefore, even though the design and layout of the building are thought to have little potential for roosting bats or barn owls; in view of the time which has elapsed since the original survey and even though the applicant must comply with the relevant law regarding any protected species which are identified during any works to the building; it is considered appropriate to condition any approval so that a repeat survey is completed prior to the commencement of any works.

### **9.7 Public Recreational Open Space**

A contribution for recreational facilities would be required for the new live work unit as stated in the above policy. The applicant has indicated his willingness to enter into a S106 Agreement and therefore this overcomes the third reason for refusal.

### **9.8 Other Matters**

Third party responses have highlighted that there are issues associated with this application relating to a family dispute which fall outside the consideration of this application.

## **10. Conclusion**

This is the fourth application received since 2005 for this development on this site and the only reasons for refusal which remained prior to this application related to the inadequacy of the local road network and sustainability considerations in relation to PPG13. As the Highway Authority has withdrawn its objections on these grounds, the Environmental Health officer has not maintained his objection with regard to noise and disturbance from the grain dryer and the objection on the grounds of Local Plan policy R2 has been overcome, the proposal has now overcome all the reasons for refusal. It is therefore considered that as the proposal would not adversely affect the highway network or residential amenity, if suitably conditioned, it would be in accordance with the policies of the Salisbury District Local Plan.

## **Recommendation**

Following completion of S106 undertaking in respect of Policy R2, APPROVE for the following reason:

This is the fourth application received since 2005 for this development on this site and the only reasons for refusal which remained prior to this application related to the inadequacy of the local road network and sustainability considerations in relation to PPG13. As the Highway Authority has withdrawn its objections on these grounds, the Environmental Health officer has not maintained his objection with regard to noise and disturbance from the grain dryer and the objection on the grounds of Local Plan policy R2 has been overcome, the proposal has now overcome all the reasons for refusal. It is therefore considered that as the proposal would not adversely affect the highway network or residential amenity, if suitably conditioned, it would be in accordance with the policies of the Salisbury District Local Plan.

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) Other than those windows and openings shown on drawings ref.nos. 9395-4 Rev A and 9395-5 there shall be no other windows, doors or other openings inserted in the two buildings

identified in those drawings, hereby permitted to be used as a live/work unit.

REASON To ensure adequate protection from noise and disturbance of the occupants of the premises.

POLICY G2 General criteria for development

(3) No development approved by this permission shall commence until a scheme of water efficiency measures has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

REASON In the interests of sustainable development. Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development" promotes the prudent use of natural resources. It is necessary to minimise the local demand for water to protect future supplies.

POLICY Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development

(4) The barn shall be used for the storage of a maximum of 32 touring caravans and for no other purpose.

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

POLICY-G2 General criteria for development.

(5) There shall be no outside storage of caravans.

REASON In the interests of amenity.

POLICY C2, C4 and C5 Development in the Area of Outstanding Natural Beauty

(6) No materials, goods, plant, machinery, equipment, products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored outside any building on the site .

REASON: In the interests of the appearance of the site and the amenities of the area.

POLICY C2, C4 and C5 Development in the countryside

(7) There shall be no sales of caravans, parts accessories or spares from the site.

REASON: In the interests of the appearance of the site and the amenities of the area.

POLICY C2, C4 and C5 Development in the countryside

(8) The building identified on drawing 9395-5, shown be used as an office/workshop and the building identified on drawing 9395-4 Rev A shown to be used as the associated living unit, hereby approved as a mixed residential business use, shall be a single planning unit and no changes shall be made to the extent of the floor space of either use without the consent of the Local Planning Authority upon submission of a planning application.

REASON To enable the Local Planning Authority to exercise control over the use of the premises in the interests of regulating any alternative kinds of activities/operations which could have adverse effects upon the amenities of the locality or nearby dwellings, and ensure the compatibility of the enterprise with the associated residential use such that the single planning unit remains a mixed residential / business use.

POLICY C2, C4 and C5 Development in the countryside

(9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building or outbuilding forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

POLICY-G2 General criteria for development

(10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no buildings or structures, or gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site on the approved plans.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

POLICY-G2 General criteria for development

INFORMATIVE 1

DOCUMENT/PLANS SUBMITTED WITH THE APPLICATION

This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Drawing ref.no. 9395-7 received on 13 July 2009

Drawing ref.no. 9395-6 Rev C received on 13 July 2009

Drawing ref.no. 9395-5 received on 13 July 2009

Drawing ref.no. 9395-4 Rev A received on 13 July 2009

Drawing ref.no. 9395-3 received on 13 July 2009

Drawing ref.no. 9395-2 received on 13 July 2009

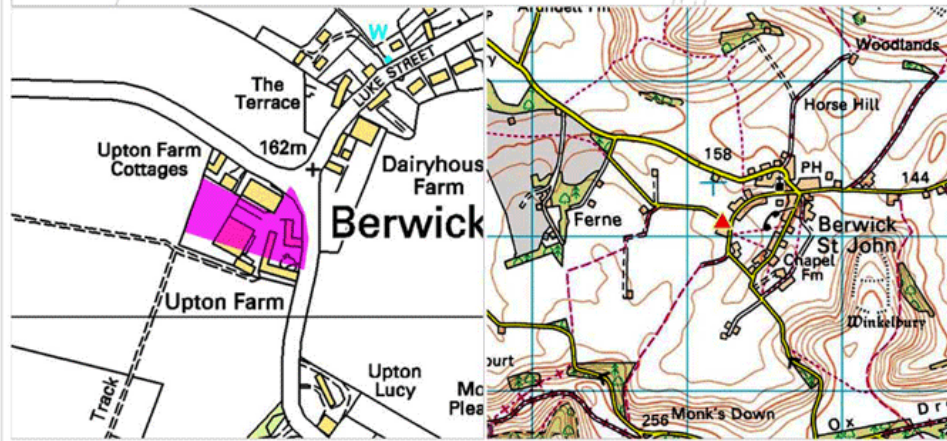
Appendices:

NONE.

Background Documents Used in the Preparation of this Report:	Drawing ref.no. 9395-7 received on 13 July 2009 Drawing ref.no. 9395-6 Rev C received on 13 July 2009 Drawing ref.no. 9395-5 received on 13 July 2009 Drawing ref.no. 9395-4 Rev A received on 13 July 2009 Drawing ref.no. 9395-3 received on 13 July 2009 Drawing ref.no. 9395-2 received on 13 July 2009

CHANGE OF USE OF BUILDING AND LAND FROM STORAGE AND B2 INDUSTRIAL TO LIVE/WORK UNIT AND STORAGE AND FORM NEW VEHICULAR AND

S/2009/1016



**Wiltshire Council**  
Where everybody matters

**BERWICK ST. JOHN, SP7 0HQ**

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Deadline	29/04/09		
Application Number:	S/2009/0307		
Site Address:	CROSS KEYS FOVANT SALISBURY SP3 5JH		
Proposal:	SINGLE STOREY REAR EXTENSION AND INTERNAL ALTERATIONS AND CHANGE OF USE FROM DWELLING TO PUBLIC HOUSE AND DWELLING HOUSE		
Applicant/ Agent:	MRS PAULINE STORY		
Parish:	FOVANT		
Grid Reference:	400670 128515		
Type of Application:	FULL		
Conservation Area:		LB Grade:	II
Case Officer:	Mr A Bidwell	Contact Number:	01722 434381

### Reason for the application being considered by committee.

Councillor Deane requested that the application be considered by committee for reasons of local concern, should the recommendation not require Cross Keys Cottage to be tied to the Public House.

This item was deferred from the meeting of 29 October 2009 for a site visit.

The original report is reproduced below with amendments **in bold to incorporate late correspondence, to clarify the points raised and to correct the site history.**

### 1. Purpose of Report

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

Following completion of a S106 Unilateral Undertaking / agreement in respect of the following matters:

- (i) Recreational contributions in regard to Cross Keys Cottage as required under saved policy R2 of the adopted Salisbury District Local Plan.

### 2. Main Issues

1. Principle of development
2. Likely impact of the proposal on viability and other local facilities.
3. Impact on the amenity of neighbouring properties / should the property be tied?
4. Enforcement issues

5. Design/Character and appearance of the conservation Area / Impact on the Listed building

6. Highway Safety

### 3. Site Description

The site is located on a bend of the A30 main road opposite the Pembroke Arms Public House. The site is within the Conservation Area and the Housing Policy Boundary of Fovant. The property itself formerly The Cross Keys Public House is a grade II Listed building. **On the submitted plans, part of the building subject of this application is called “Cross Keys Cottage”, with the other part called “The Cross Keys”. The part of the building shown as Cross Keys Cottage on the submitted plan is currently occupied as a separate unauthorised dwelling from “The Cross Keys”.**

### 4. Planning History

Application number	Proposal	Decision
<b>93/1179</b>	<b>Change of use of right hand side of hotel to house</b>	<b>R 17.1.94</b>
95/35	Change of use of right hand side of hotel to house	Approved with conditions 23 <sup>rd</sup> May 1995
98/0540	Six bedroom unit of accommodation	Approved with conditions 15 <sup>th</sup> June 1998
98/1440	Six bedroom motel unit	Approved with conditions 18 <sup>th</sup> Feb 1999
99/2047	Change of use of public house to dwelling	Approved with conditions 19 <sup>th</sup> April 2000
00/0001	Listed building change of use of house including internal staircase and one new door opening removal of urinals and removal of one toilet	Approved with conditions 7 <sup>th</sup> feb 2000
02/2196	Erect residential unit with associated access drive and parking	Approved with conditions 16 <sup>th</sup> Sept 2003
04/0484	Listed building, to move pedestrian access from main A30, 2 metres to the right in the wall by blocking existing access with stones from the wall and creating new wooden gateway, improving safety	Approved with conditions in 14 <sup>th</sup> April 2004
04/1704	Three bedroom bungalow	Withdrawn 27 <sup>th</sup> September 2004
06/2306	Single rear extension and internal alterations to form conversion of	

06/2353	dwelling to public house Single storey rear extension and internal alterations	Withdrawn 9 <sup>th</sup> January 2007  Withdrawn 9 <sup>th</sup> January 2007
] 07/0634	Listed building, Single storey rear extension Internal alterations	Approved with conditions 17 <sup>th</sup> July 2007
07/0633	Single story rear extension, internal alterations, change of use to public house	Withdrawn 28 <sup>th</sup> February 2008

### ***Summary of Planning History***

**S/93/1179 was originally recommended for refusal for 3 reasons, overlooking, noise and disturbance from the public house to the occupiers of the dwelling and highway reasons.**

**Members did not concur with that recommendation and deferred the application to establish whether WCC (as highway authority) could stop up, or make one way the northern end of Brook Street.**

**When the advice from WCC was negative, the application was then refused on highway grounds alone.**

**S/95/35 for essentially the same proposal- was submitted once the highway issues appeared able to be addressed and was approved subject to Grampian conditions in respect of highway and parking issues.**

The two 1998 applications as set out above cannot be implemented by reason of a Section 106 Agreement dated 19/04/2000 in relation to 99/2047. This agreement affectively revoked these approvals for the units of accommodation in favour of the change of use of the pub to residential. As such the accommodation units are not now material in considering this application.

Another later Section 106 Agreement dated 29/08/03 in relation to 02/2196 as above, also carried over the revocation of the 1998 applications whilst also ensuring the provision of pedestrian and vehicular access to and from the A30 to the proposed development via the existing access, and to ensure that the access is permitted to continue as a right / covenant should the development become separated from the remainder of the Cross Keys site.

**Condition 6 of 99/2047, stated;**

***“The residential accommodation hereby permitted shall be ancillary to the building currently known as the Cross Keys Hotel forming a single unit of residential accommodation, unless otherwise agreed by the Local Planning Authority upon submission of a planning application in that behalf”.***

This proposal now under consideration will also provide a clarification as to what elements of the above approval have not been carried out in accordance with the approved plans.

Following a site meeting the details recorded as not complying with the approved plans have

been included in this application and are clearly illustrated on the plans. Notably the unit of accommodation **has been subdivided by the blocking of the openings in the wall** – so **“Cross Keys Cottage” (residential)** is not accessible from the rest of the building labelled as **“The Cross Keys” on the submitted plans** (the proposed new public house area).

**S/2007/0633 was resolved to be granted by WAC 21.06.07 subject to a S106 agreement to tie the public house and Cross Keys Cottage. Minute 17 of that meeting states:**

*“Members considered that the proposal would have a significant and detrimental impact on the adjoining property and would only be acceptable if that property was tied to the use of the pub and not let or sold off separately”.*

**This agreement was not completed and the application was withdrawn by the applicant on 28.02.2008. The current application under consideration is essentially a resubmission of the withdrawn application.**

**S/2007/634 is the ‘associated’ LBC to s/2007/633 granted by WAC at the same meeting. This authorises the ‘works’ necessary to facilitate the planning application now under consideration. These works include the proposed extension and the solid blocking of the openings in the dividing wall between Cross Keys Cottage and the remainder of the building .This LBC remains extant until 17/07/2010.**

## **5. The Proposal**

This proposal is for a single storey rear extension and internal alterations to enable the conversion of the building from residential to a Public House and dwelling. **This application is partially retrospective, in that the part of the building labelled as “Cross Keys Cottage” on the application plans is currently occupied as a separate residential dwelling from the other part of the building labelled as “The Cross Keys”.**

**This application therefore not only relates to the change of use to a public house and a proposed rear extension to that part of the building labelled as “The Cross Keys”, but also to “regularise” the creation of a separate residential dwellings on the site (the building labelled as Cross Keys Cottage), adjacent to a proposed public house.**

**(It should be noted that an application for listed building consent for the erection of the rear extension and internal alterations as shown on the current application has already been approved in 2007)**

## **6. Planning Policy**

The following policies are considered relevant to this proposal

- G1 Sustainable development
- G2 Criteria for development
- D3 Extensions
- CN3 Character and setting of listed buildings
- CN4 Change of use of listed buildings
- CN8 development in conservation areas

## 7. Consultations

### **Parish Council**

Support the proposal subject to conditions as follows:

- Section 106 agreement should ensure that Cross Keys Cottage remains in one ownership.
- Proposed ground floor alterations are not contentious
- Support the construction of the extension
- Disabled access to first floor function room will not be possible
- Recycling facilities currently on car park are should not be displaced to land to the south.
- There being at least one pub in the village is of great importance.

The full comments are appended to this report.

### **Highways**

*Observations are the same as the previous application S/2007/0633.*

Previous comments:

Whilst I would not wish to raise a highway objection to the proposal I recommend that, in the interest of highway safety, the existing sub-standard vehicular access situated immediately to the east of Cross Keys be stopped up for vehicular use.

### **Environmental Health**

***I understand that the application site currently has permission for residential use and the application seeks change of use as well as a rear extension to include a kitchen. If planning permission is granted, the public house could have regulated entertainment with a significant risk of causing noise nuisance to the adjoining residential use. Further to this there is a significant risk of nuisance being caused to the adjoining residential use regarding odour from the kitchen and noise from any extraction equipment/ ducting. Having said this, I am not in principle against the application though if you are minded to grant planning permission I would recommend that Cross Keys Cottage be ancillary to the proposed public house and **not** sold or rented as a separate entity in its self.***

I would recommend standard condition to control hours of work and protect the nearby residence from noise and nuisance from construction and demolition work.

#### **Further comments**

**Application for change of use and extension at the Cross Keys Fovant.**

**Further to our conversation regarding Ed's comments on this planning application. I am in broad agreement with his conclusions as there is significant risk of detriment to amenity of any potential residents of the new dwelling. Modern pubs tend to market themselves with music events, both live and recorded. The Licensing legislation takes stance of presumption in favour of 24 hour opening unless noncompliance with the licensing objectives can be clearly demonstrated. Modern music systems have a high**

wattage output and hence there can have a significant impact on any attached residential accommodation. There are also other sources of disturbance that we receive complaints about including noise from ventilation systems, noise from customers using exterior smoking areas until the early hours and noise generated by customers leaving premises during the early hours.

I note that the Pembroke Arms opposite was given permission for a granny annex which was then sold as a separate property. We treat applications on a case by case basis. Having examined the plans for this application, which neither of us were involved with, I can see that the officer concluded the impact of the pub on the new dwelling was likely to be significantly less because of the internal lay out which places a bathroom and lobby on the adjoining wall between the pub dwelling and there does not appear to be a shared wall(s) with the bar area where entertainment and loud noise would potentially be most prevalent.

The application under consideration indicates and an existing door between the proposed bar and dwelling will be filled with stud work. This totally unacceptable from an acoustic perspective. The wall is a substantial solid construction and any infill would have to be equally robust.

I note windows of the proposed cottage overlooking the cellar are to be filled. I view this as essential.

The impact of noise and odour from the kitchen would also have to be addressed. If this application were to go against Ed's recommendation (and only in this situation), I would suggest the conditions ( 11 & 12 below) as an absolute minimum fall back position.

The applicant should be under no illusion that if statutory nuisance were to be shown to exist this department would be required by law to take action. The premise that because someone lives next to a pub they should accept unwarranted levels of disturbance is invalid.

#### ***Wessex Water***

*No objection has been raised and standard advice has been given regarding the need to agree connection to Wessex Water infrastructure, water Supply and surface water disposal.*

#### ***Wiltshire Council Archaeology***

Nothing of archaeological interest is likely to be affected by the proposal and I therefore no comments to make.

### **8. Publicity**

The application was advertised by site notice/press notice /neighbour notification  
Expiry date 24/04/09

Third party comments:

6 letters of objection have been received.

Summary of key points raised

- Road is dangerous and proposal would make it worse particularly at access
- Transportation survey confirms that the road is dangerous

- Cross Keys should remain a single entity
- Government guidance states that rural sites should not be overdeveloped
- Noise would be generated spoiling the quiet location
- Fumes from kitchen would be a problem
- Increased traffic would cause safety issue
- Second pub in the village in current economic climate
- Property should not be divided off
- Proposal would have financial consequences for the existing public house
- In present climate public houses are closing at an alarming rate
- Two pubs would result in neither surviving
- One pub is enough for Fovant

Two letters of support have been received.

Summary of key points

- This is an excellent idea
- Cross Keys has been much missed
- It would be very convenient to walk to the Cross Keys
- Applicant is willing and able to provide needed service

## **9. Planning Considerations**

### ***9.1 Principle of development***

This site is situated within the housing policy boundary, or development limits of Fovant where the principle of development for purposes such as this is acceptable. Any planning application within such areas will be assessed on its own merit and details whilst taking into account other relevant planning policy and guidance.

### ***9.2 Likely impact of the proposal on viability and other local facilities***

The planning history above confirms that the Cross Keys has closed as a business in the past following approval of the current residential use in 1999. The 1999 approval represented the removal / loss of a village facility. The principal consideration therefore was whether the loss detracted from the range of facilities available to Fovant. At the time the village was served by 2 public houses, the Cross Keys and the Pembroke Arms located immediately to the north of the Cross Keys at the A30 / High Street junction. Both establishments had restaurants and beer gardens. The Pembroke Arms offers accommodation. Given their proximity to each other, it was not possible to argue that they served a strategic purpose or identifiably different communities within the village. The use of either establishment was a matter of preference rather than location. Whilst the loss of the Cross Keys did remove choice, the village never the less retained a licensed pub and therefore access to this service was, and still is available. At the time as now, these material considerations were weighty and it would have been unreasonable from a planning point of view to have rejected the proposal. As such it is reasonable to conclude that the applicants had no overriding requirement to demonstrate that the pub was unviable at the time.

However, as with the previous application S/2007/0633, neighbour comments have been received asking that the applicants should now demonstrate that the pub business in the form proposed would be viable thus promoting the proposed change of use. It is clear however, that

policy PS3 of the SDLP is intended for use when a business is proposing closure and where a local facility or service will be lost to the local community following a statutory change of use. Again the 1999 application resulting in the loss of the pub was agreed on the basis that such facilities were still provided over the road thus serving the community. As such the proposal was not contrary to policy.

There is not a clear policy framework either nationally or in the local plan seeking to limit service provision in village communities. In fact the opposite is the case and policy would prescribe that additional community facilities should be encouraged where appropriate. As such it is considered that no material weight can be attributed to the comments relating to viability from a town and country planning standpoint. Therefore, it is considered to be unreasonable to resist this proposal for such reasons particularly in terms of refusing this proposal and any subsequent defence of the decision. It is not the purpose of the planning system to limit competition.

The consideration is therefore to what extent is this proposal appropriate with regard to other material planning considerations.

The applicants state that "the main criterion for the planning application is to change the use to Public House to include the reversion of the Cross keys to its original barn and stable form with ancillary accommodation including the extension as granted in the listed building permission of 17<sup>th</sup> July 2007".

In the previous application it was stated that "The Pembroke Arms opposite has recently applied for a wide ranging liquor and entertainment licence, running from 8 am to the following 3 am, which is likely to appeal to a young clientele. Therefore there is still a genuine need for a traditional public house to serve the older local population and the applicants have received numerous enquiries as to when The Cross Keys will reopen as the pub that it always was. It is worth bearing in mind that the licence only ceased in April 2006, and with the possible increase in activity and noise, which will be generated from the Pembroke Arms, the applicants consider that the continuation of the Cross Keys as a dwelling is unsuitable as it will also be subject to disturbance and noise".

Although the above are comments of the applicants and have not been repeated in this application, they are nevertheless valid from a planning standpoint in so far as local plan policy encourages a variety of community uses intended to serve the wider community. However, the issue of demand for the "traditional" type of pub, and whether any enquiries have subsequently been made giving support for this application is again not a planning matter but is a matter for market forces and local economic factors to decide. Nothing in this application suggests that this proposal would result in an unviable business or, that it would adversely affect any existing business. As such, the proposal cannot be considered contrary to a principle policy in this case, Policy G2 (ii) which sets out criteria against which developments should be considered whilst stressing the importance of avoidance of placing undue burden on existing and proposed services and facilities, (amongst other things). In this case there is no clear evidence that an undue burden would be placed on these things as a result if this proposal.

### ***9.3 Impact on the amenity of neighbouring properties / should the property be tied?***

As the planning history shows, an approval was granted for the change of use of the right hand section of the original pub / hotel to a separate residence in 1995. **For both applications the Environmental Health Officer expressed concern about the relationship between residences and adjoining licensed premises, however this change of use has not proved**



problematic in itself and no complaints relating to noise and disturbance when the Cross Keys was last in use as a pub had been reported.

With regard to this current proposal the plans show that a unit of accommodation, "Cross Keys Cottage"; is in the ownership of the applicant and is within the red line / site area. Discussions since the last application have been had with the applicants concerned with whether Cross Keys Cottage should form part of the proposal as an integral part legally tied to the pub business. It is considered that without the unit the overall area of buildings for the proposed use would be minimal and that this may possibly hinder future viability and potentially resulting in a conflict of uses where noise and disturbance could become an issue. Furthermore, it is not unusual nor is it unreasonable to expect that a public house has accommodation for tourists as overnight stay etc and for accommodation of the landlord / manager. Although the plans clearly show a bed-sit on the first floor next to the function room, the space it provides is very limited. The bed-sit will also share the bathroom / toilet with the function room which could prove problematic. Currently the first floor has accommodation and much of the facilities shown on the plans but, importantly, the remainder of the room is also part of the accommodation and thus it is amply spacious at the moment.

However, whilst the **associated residential** accommodation is considered to be limited and could be problematic, this proposal will provide accommodation related directly to the proposed use and as such any conflicts with the use are unlikely. **Furthermore this can be addressed by condition (suggested condition 6)**. As discussed earlier **whilst** it is reasonable to expect more **residential accommodation** with pubs, this is an ideal rather than a requirement of planning. **The only planning basis for tying Cross Keys Cottage to the proposed public house use would be** environmental health reasons – noise, smell and disturbance.

The Environmental Health Officer's comments **recommend** that the property should remain a single unit preventing Cross keys Cottage from being separated off.

Whilst the environmental health comments are material to the determination of this application, it is also considered that a consistent approach must be adopted for this site in common with others. In this respect the applicants have provided additional information in the form of a letter from 'Parker Bullen Solicitors'.

The letter explains amongst other things, that:

"A study of the nearby Pembroke Arms would be instructive. The position there is that similarly, part of the property was sold off to form a separate cottage but the planning permission for the creation of the separate cottage did not include any similar condition. This is despite the fact that, unlike the situation at the Cross Keys, part of the cottage actually overflies an area of the kitchen on the ground floor of the Pembroke Arms, and access to and egress from the rear door of the cottage passes directly in front of the kitchen door and two ground floor bedroom doors of the Pembroke Arms."

The applicants surmise that "the imposition of a condition on The Cross Keys in such circumstances would appear to be inconsistent with the approach previously adopted with the Pembroke Arms and manifestly unfair".

Whilst the environmental health concerns are clear, it is worth considering that processes including extraction, mechanical ventilation and odour control etc are all very strictly controlled under the environmental health regulations and building control. Thus, controls of such exist over and above planning regulations which would ensure their impacts are not unreasonable.

**The Environmental Health Officer has recommended conditions that should be imposed if Cross Keys Cottage is not tied to the public house use.**

It is considered therefore, on balance, that concerns raised based on disturbance from the proposed use of the pub (kitchen in particular) to Cross Keys Cottage can be adequately dealt with without the need to tie the property as a single unit. In combination with the fact that there are no **other** demonstrable planning reasons to require a single unit, and in the interest of consistency with other similar approved schemes, a condition or S106 tying the property as a single unit **is not recommended by officers.**

#### **9.4 Enforcement issues**

As previously stated the plans subject to the 1999 approval, clearly illustrated that the unit of accommodation would be accessible via two doorways from the area now proposed as the bar. The 1999 approval granted permission for a single residential unit. However, the access doors are **currently** blocked up thus forming a separate unit contrary to the approved plans, in breach of a planning condition.

A further breach of the 1999 approval is that the existing internal layout has been altered via a lobby area just inside the end entrance door to the proposed bar area.

Other elements of the proposal to be rectified include the removal of some "Stud Partition" and a brick wall enclosing the old WCs

In addition to mitigating the internal breaches at this property, the application also seeks to mitigate external breaches of planning. These include the shed storage building to the rear and the fencing / means of enclosure that has been erected along the boundary with the road. Neither of these have the benefit of planning permission - required in both cases.

**Cross Keys Cottage is currently occupied separately from the remainder of the building and is within the red line of this application. Should members resolve to approve the proposal as recommended (without Cross Keys Cottage being tied to the pub), this separate occupation would no longer be a breach of planning control. As such, it is considered reasonable that the cottage be subject to the requirements of policy R2 of the adopted local plan and be subject to a unilateral undertaking requiring payment of a recreation contribution in accordance with the policy.**

**Should members require a condition tying Cross Keys Cottage to the public house use, then the current use of Cross Keys Cottage as a separate dwelling will remain unauthorised.**

#### **9.5 Design / Character and appearance of the conservation Area / Impact on the Listed building**

The applicants state under Design Criteria that the design of the building has been arranged to clearly differentiate between public and staff areas, with the proposed extension being used for the kitchen, cellar and washroom, and the original building for the bar, lounge and upstairs as a function room and staff bed-sit and bathroom. It is stated that the function room will serve the needs of local societies in particular the local history interest group, which is desperately seeking a permanent base to house their military memorabilia and who have made enquiries to the applicants.

This new arrangement / layout will return the ground floor to its former barn-like and uncluttered

interior which itself is appropriate from a listed building point of view.

The design shape and form of the proposed extension has been subject to extensive pre-application consultations following the withdrawal of the previous application. The proposed extension is considered to be closely reflective of the advice given and is now considered to be appropriately designed, in keeping with the existing building in terms of scale and massing and in terms of materials. **(It should also be noted that an application for listed building consent for the erection of the rear extension and internal alterations as shown on the current application has already been approved in 2007).**

As such the extension part of this proposal would respect the special architectural or historic interest of this grade II Listed building and, the character and appearance of the Conservation Area in accordance with policies CN3 and CN8 of the adopted SLP.

### **9.6 Highway Safety**

As previously mentioned in this report the SDLP through policy G2, also seeks to avoid undue burden being placed on local roads and infrastructure. The Wiltshire Council Highways department have been consulted and in this case have not objected to the proposal. However this is subject to the stopping up of the existing sub-standard vehicular access immediately to the east of the building. The carrying out of this stopping up will be subject to a planning condition requiring completion prior to first use of the proposed development. The highways officer has not raised any concerns regarding the existing parking area to the side of the buildings accessed off the A30 further up the hill and away from the relatively sharp bend in the road. As such the car-parking areas as shown are satisfactory and will also be subject to conditions ensuring that the area is kept clear of obstruction for the proposed use.

It is clear in the letters received commenting on this proposal that highways safety is of significant concern locally. Neighbours for example have pointed out that several accidents have occurred adjacent to the site and that a recent accident resulted in a fatality.

Further to this a report has been commissioned by the owner of the Pembroke Arms opposite entitled "Transport Report" by: Gillian Palmer who is a qualified experience Transport Planner and Chartered Town Planner. The report concludes that the site is unsuitable to revert to commercial development given the road safety issues at the site and the environs and the inadequacy of the car park and its entrance to deal with the expected number of visitors' cars and size of servicing buildings. (The full report is attached as an appendix – minus the photographs which will not reproduce – these will be shown as part of the presentation).

The report has been carefully examined by the Wiltshire Council Highways officers who have not added any further comments than those set out above. Therefore, the highways consideration is as set out above that no highway objections subject to the conditions as stated are raised to the proposal.

*In answer to the issues raised by the Parish Council;*

Whilst the PC supports this proposal, they have considered that the support is subject to conditions which are set out in their comments. However, the following section addressed those issues raised and the full comments are attached to this report.

- The PC would want to see a section 106 agreement ensuring that the property is

conditioned as a single unit:

This issue has been dealt with above. **As both elements lie within the red line of the application, this could be achieved by condition. This would also give the applicant the right of appeal against the condition.**

- That the proposed ground floor alterations are not contentious:  
This is dealt with in the report which considers that they are acceptable.

- The PC support the construction of the extension:  
Dealt with in the above report.

- Disabled access to first floor function room will not be possible:

This issue is covered in the 'Design and Access Statement' 'Access Criteria'. It is clarified that "the redesign of the Cross Keys barn area has taken this into account. All new building work i.e. doorways, floor surfaces and toilets will be fully compliant with the latest regulations. It is felt at this point that wheelchair access to the upper floor will not be possible. The main entrance from the car park will have its wheelchair ramp much improved and access to the rear door of the main barn building will be down a ramp. Access to the central accommodation building of the original three, fronting the A30 will be via the original steps front and rear. This cannot be altered due to the nature of the original listed building being on several levels, but this part of the building has its own facilities within the listed building framework".

Whilst in this case disabled access does not raise concerns, disabled access is also a requirement of the building regulations and the proposal will have to fully comply with them.

- There being at least one pub in the village is of great importance:  
This proposal will not result in the loss of a village pub.

- Recycling facilities currently on car park are should not be displaced to land to the south.

The issue has been raised by the Parish Council, due to the fact that in part the parking area provides space for a village recycling facility. Whilst this provides a useful service to the local community, these facilities are provided by the applicants as a gesture of good will. These issues however, do not constitute a material planning consideration and it is a matter for negotiations between the PC and the applicant.

## 10. Conclusion

As the committee will now be aware this site has attracted a great deal of interest over time, which has not necessarily always been planning related. However, a very extensive planning history does exist which although not completely, is presented above. This planning history has resulted in a great deal of change to both the site itself, and to the listed building. The changes have increased the numbers of planning units and potential built form on the site, to that illustrated in this application and has in some cases, resulted in detriment to the site and building. Notwithstanding any extant agreements made under previous planning applications, the main planning consideration in this case are derived from the saved policies contained within the adopted Salisbury District Local Plan and Government guidance and statements. In this respect some of the main issues and concerns raised by local people and immediate neighbours have been difficult to mitigate from a planning standpoint.

The issue of viability for example is one. However, in other cases and in particular design of the extension and the improvement of the listed building, it is considered that this proposal will result in an acceptable development and a much improved site.

In addition having consulted the appropriate highways professionals the site can easily accommodate the required level of parking and turning and from a highway safety standpoint, will improve safety by stopping up an existing unsafe vehicular access in favour of a safe one.

As such it is a matter of balance whether this proposal is acceptable. It is considered that this proposal is in accordance with the overriding aims and objectives of current planning policy as set out above, and Government guidance resulting in a development that should be supported from a town and country planning standpoint. **The proposed change of use and extension of part of the building to form a new public house is considered to result in a significant visual improvement to the existing building whilst providing a community use against which no demonstrable harm is evident. The creation of a separate dwelling unit adjacent to the proposed public house use is also considered to be acceptable, subject to suitable conditions to limit the impacts of the proposals on residential amenities.**

#### Recommendation

**(a) Following completion of a legal agreement for the provision of an open space contribution in accordance with saved policy R2 of the adopted SDLP in respect of Cross Keys Cottage within 2 months of the date of the committee resolution ;**

**(b) Approve for the following reason:**

The proposed **change of use and extension of part of the building to form a new public house** is considered to result in a significant visual improvement to the existing building whilst providing a community use against which no demonstrable harm is evident. **The creation of a separate dwelling unit adjacent to the proposed public house use is also considered to be acceptable, subject to suitable conditions to limit the impacts of the proposals on residential amenities.** The proposal is therefore considered to be in accordance with the aims and objectives of policies G1 Sustainable development, G2 Criteria for development, D3 Extensions, CN3 Character and setting of listed buildings, CN4 Change of use of listed buildings, CN8 development in conservation areas.

(c) And subject to the following conditions

1) No construction of the extension hereby permitted shall commence until details and samples of the materials to be used for the external walls 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 visual amenity and the character and appearance of the area.

POLICY G2 General Development Control Criteria D3 Design of Extensions

(2) No construction of the extension shall commence on site until a sample panel of stonework, not less than 1 metre square, has been constructed 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.

POLICY-G2 - General Development Control Criteria D3 Design of Extensions

(3) No external construction works shall commence on site until details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being brought into use

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

POLICY G2 General Development Control Criteria

(4) No external construction works shall commence on site until details of all new or replacement external chimneys, flues, extract ducts, vents, grilles and meter housings have been submitted to and approved in writing by the Local Planning Authority. 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.

POLICY-CN5 Preservation of character and setting of Listed Buildings

(5) The external flue(s) shall be finished in a matt black colour and maintained as such thereafter.

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

POLICY-CN5 Preservation of character and setting of Listed Buildings

(6) Upon the public house hereby permitted being brought into use, the residential accommodation provided on the first floor of the public house premises (illustrated on the plans DB901 Floor Plans Proposed First Floor), shall be occupied ancillary to the use of the building as a public house as a single planning unit and shall not be occupied at any time by any persons unconnected with the public house.

Reason; The Local planning Authority wish to ensure that the accommodation remains available for the approved use and in the interest of the amenity of the occupiers of the accommodation.

(7) Within 1 month of the date of this permission the access situated immediately to the east of the building shall be permanently stopped up for vehicular use ***in accordance with a scheme which shall have been submitted to and agreed in writing by the Local Planning Authority.***

Reason: In the interests of highway safety.

Policy G2 General Development Control Criteria.

**(8) Within 1 month of the date of this decision, two parking spaces shall be delineated and marked out on the ground as reserved for the use of the occupiers of Cross Keys Cottage in accordance with a scheme which shall have been submitted to and approved in writing by the Local planning Authority Such markings and reservation for the use of Cross Keys Cottage shall be retained thereafter.**

**Reason in the interests of the provision of adequate off street parking-**

**(9) The use as a public house, hereby permitted, shall not take place until details of the treatment of the boundaries with Cross Keys Cottage have been submitted to and approved in writing by the Local Planning Authority. Any tree screening, hedges, walls or fences thus approved shall be planted/erected prior to the public house hereby permitted occupation of the building[s].**

**Reason in the interests of amenity and to avoid conflict with adjoining users of the car park. Policy G2**

**(10) No construction or demolition work shall take place on Sundays or public holidays or outside the hours of 8.00am to 6.00pm weekdays and 8.00 am to 1.00pm on Saturdays.**

**Reason in the interests of the amenities of nearby residents. Policy G2.**

**(11) The use as a public house, hereby permitted, shall not take place until measures to protect the adjoining residential property against noise from the public bar, and any ventilation plant, refrigeration motors, air conditioning or similar equipment have been installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority**

**Reason in the interests of the amenities of adjoining residents. Policy G2**

**(12) The use as a public house, hereby permitted, shall not take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the control of odour and fumes from extractor fans, ventilation equipment or similar plant. Such a scheme as is approved shall be implemented to the satisfaction of the Local Planning Authority before any part of the public house development is brought into use.**

**Reason in the interests of the amenities of adjoining residents. Policy G2**

**INFORMATIVES:**

**The applicant should be under no illusion that if statutory nuisance were to be shown to exist The Department of Public Protection would be required by law to take action. The premise that because someone lives next to a pub they should accept unwarranted levels of disturbance is invalid.**

**The Developer is reminded of the requirement to protect the integrity of Wessex Water systems and agree prior to the commencement of works on site, any arrangements for the protection of**

infrastructure crossing the site. This should be agreed as early as possible and certainly before the developer submits to the council any building regulations application. The developer must agree in writing prior to the commencement of works on site, any arrangements for the protection of Wessex infrastructure crossing the site.

**(d) Should the S106 Agreement not be completed within the time period the decision be delegated to the Director Of Development .**

**Appendices:**

**Appendix 1: Parish Council comments / received 30/03/09  
Appendix 2: Transport Report and covering letter / received  
06/04/09**

**Background Documents Used in the Preparation of this Report:**

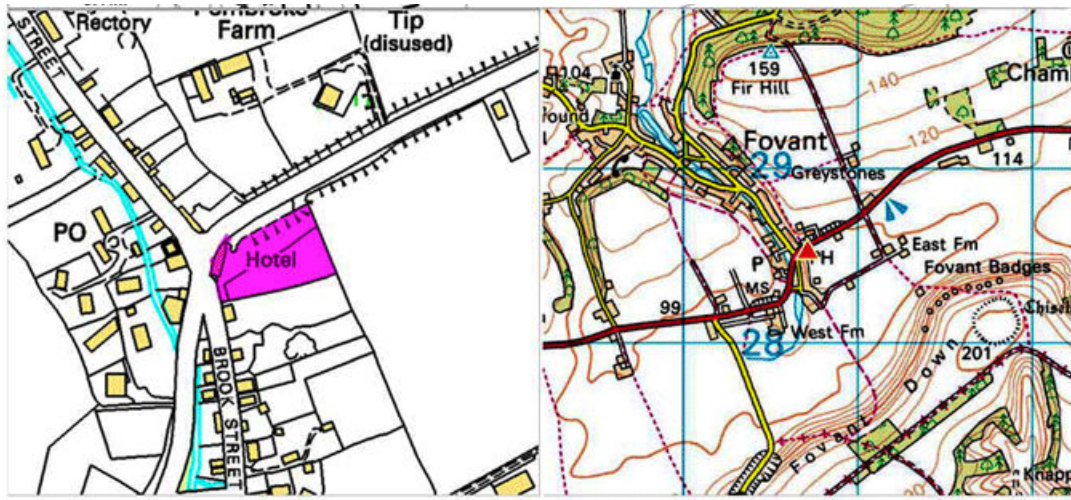
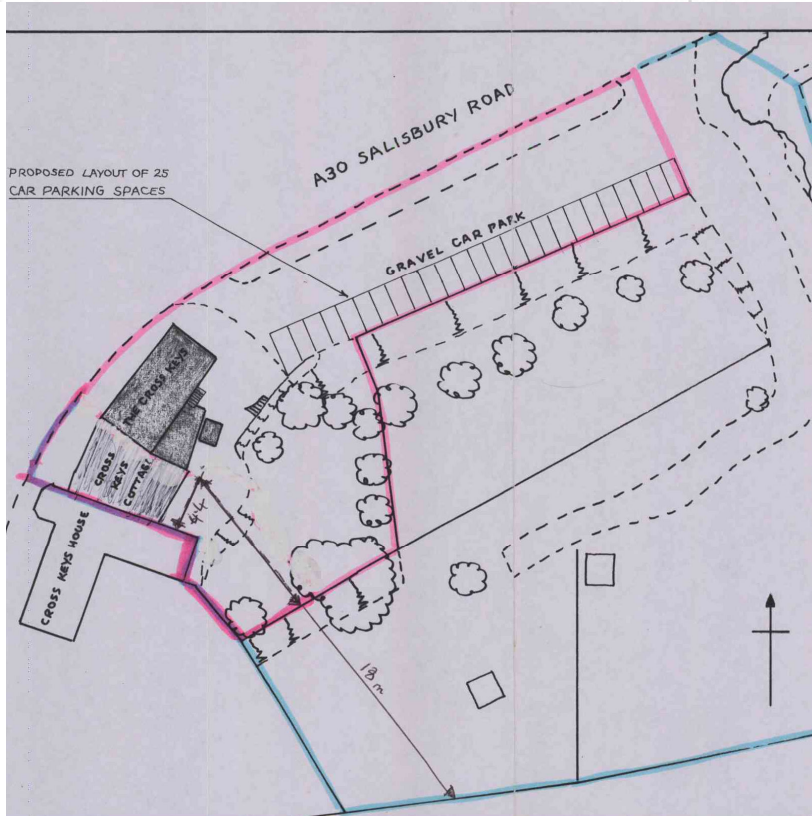
**Drawing Nos;**

**DB901 Floor Plans, Existing and Proposed  
DB902 Elevations and Block Plan  
903 A Cross Keys Cottage, Floor Plans  
903 B Cross Keys Cottage, Floor Plans  
904 North Elevation to main road**



Site Visit:

S/2009/307



**Wiltshire Council**  
Where everybody matters

**CROSS KEYS FOVANT SALISBURY SP3 5JH**

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## Fovant Parish Council

Parish Clerk : Mrs Elizabeth Young      Telephone/Facsimile: +44 (0)1747 870528

APPLICATION REFERENCE NO: S/2009/0307

**Proposal:**

**Full application: single story rear extension – internal alterations - change of use to public house**

**Address:** The Cross Keys Shaftesbury Road Fovant

At a meeting held on **Tuesday 24 March 2009** the Parish Council considered the above application and has the following response to make:

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/> No Comment | <input checked="" type="checkbox"/> Support (Subject to conditions as set out below) |
| <input type="checkbox"/> Support    | <input type="checkbox"/> Not supported (For reasons as set out below)                |

**Councillors in attendance:** R Bell; Mrs A Harris; A Phillips; Mrs G Law;

**Declarations of Interest:** Mrs P Story (applicant)

**Please see following three pages.**

**EA YOUNG**  
Parish Clerk Fovant Parish Council

**25.03.09**

## **Application S/2009/0307**

### **Background**

Cross Keys is the section of the old Cross Keys Hotel remaining after Cross Keys House (the western part of the Cross Keys Hotel) was sold and became a residence. The remaining part of the old hotel, Cross Keys, has two visibly different sections, the one nearest to Cross Keys House having a lower roof line. Currently the owner and applicant uses the term "Cross Keys Cottage" to describe that section and "The Cross Keys" to describe the larger and higher section to the East. Those terms are used on the plans and will be used in this document.

An earlier application, S/2007/0633, similar to the present application, was approved by the Western Area Committee on 21 June 2007. However, it was conditional on a Section 106 agreement being signed which would bind Cross Keys Cottage to the Cross Keys. The Section 106 agreement was not signed so the grant of planning permission for building work and change of use to public house lay dormant. Subsequently the applicant withdrew the application. The present application is, in effect, a resubmission with only minor changes.

The Parish Council notes that "Cross Keys Cottage" has been physically separated from the rest of Cross Keys. Drawing DB901 shows the existing blocks as stud walls and their planned replacement with more substantial structures.

### **Section 106**

The parish Council considers that, if change of use to public house is approved, there should be a Section 106 undertaking to ensure that the property in the ownership of the applicant adjoining the proposed public house (ie Cross Keys Cottage) shall not be sold off or let separately from the business and that approval of the application for change of use be conditional on the prior signing of the Section 106 undertaking. This repeats the Western Area Committee Resolution of 21 June 2007.

**Recommended condition.     Require Section 106 agreement**

### **Internal alterations (ground floor)**

The proposed internal alterations to the ground floor layout are not contentious.

**Erection of a single story extension at the rear of Cross Keys providing kitchen, cellar and washrooms.**

The Parish Council, having considered the extension plans and examined the existing facilities, and having regard to the construction materials specified and the roof pitch complementary to the existing listed building, support the construction of the extension regardless of whether or not change of use to Public House is approved.

**Providing, on the first floor, a function room and staff bed-sit.**

It is proposed that the first floor function room/staff bed-sit be reached by a flight of exterior stairs.

The Access Criteria section of the application states “It is felt at this point that wheelchair access to the function room on the first floor will not be possible”. (Application s/2007/0633 had also included the words “although the possibility of some form of external lift may be possible at a future date” but that is not in the present application.)

The Parish Council appreciates the difficulties of providing satisfactory access to the first floor. However, satisfactory access is not only needed for wheelchair users but also the elderly and children, and for the movement of food and drink.

The Parish Council considers that the provision of satisfactory access should be dealt with now and not deferred.

The Parish Council notes that the first floor bathroom facilities are “unisex” and are to be used by both members of the public using the function room and the occupant of the staff bed-sit. We question this arrangement and request that the planning staff check that this conforms to current rules and good practice.

**Recommended condition. Provide disabled access to Function Room.**

**Recommended action by Planning Department. Review “unisex” toilet arrangements for conformity with current rules and good practice.**

### **Recycling and parking**

At present the owner and applicant allows part of the car park area to be used for a recycling site. The plan indicates that the whole area will be used for car parking associated with the proposed pub business of the Cross Keys. The Parish Council recommends that the recycling activity displaced should not be moved to ground to the south of the car park to avoid adverse impact on an important part of the AONB landscape.

**Recommendation. That the recycling activity displaced should not be moved to ground to the south of the car park.**

## **Change of use to Public House**

The present application gave rise to two contrary threads of debate:

- a. Thread 1. The introduction of a second pub could result in the loss of both pubs because of:
  - (1) The available village trade being divided between both.
  - (2) Both having to pay business tax (not paid if a village has only one pub).
  - (3) Further reductions in sales while the country remains in recession.
- b. Thread 2. The desirability of encouraging new businesses.

We have no data about either of these two considerations. In view of the large number of village pubs closing, and the adverse social consequences of those closures, we consider it likely that there will have been formal studies at local and/or national level which could provide data on this matter. We therefore request SDC to seek information/evidence to inform the judgement which must be made.

We must stress that there being at least one pub in the village is of great importance to the whole village.

**Recommended action by SDC/WCC. Investigate the availability of information relating to pub closures which may inform discussion and decision in this case.**

## **Transportation Report**

**Cross keys, Fovant, Wilts SP3 5JH:**

**Application number S/09/0307.**

**Single storey rear extension, internal alterations, and change of use to public house.**

### **Introduction.**

I am Gillian Palmer BSc MSc MIHT, MCILT, MRTPI, Transport Planner and Chartered Town Planner. I have over 30 years experience of transport planning, including more than 20 years in dealing with the traffic, access and servicing aspects of planning applications. I have been retained by Mr Barrett of the Pembroke Arms to present this report in support of his objection to the above development.

My conclusion is that the site is unsuitable to revert to a commercial development given the road safety issues at the site and its environs and the inadequacy of the car park and its entrance to deal with the expected number of visitors' cars and size of servicing vehicles.

### **The Site.**

I visited the site on 20<sup>th</sup> March 2009. The site is situated on the south side of the A30 Salisbury Road on the inward aspect of a sharp bend and on a downward gradient on the approach to Fovant village. The site comprises the eastern section of the building which I understand has been a pub/hotel dating back for centuries. The western most section is now a private house. The middle section is a separate cottage, currently

vacant. I understand that it is the Council's intention that this centre building be retained as ancillary residential accommodation to any proposed pub. The section of the building which is the subject of this application was converted to a private dwelling in 1999.

The site includes the original parking area for the previous pub. This is currently used by the applicant for parking, and recycling facilities are also located there. There are proposals for another dwelling to the south of the site (02/2196) which would also use the access to the car park. This car park originally had 2 entrances, one opening within 25 m of the apex of the sharp bend. It is likely in the past that the car park operated a one way arrangement, with vehicles accessing the car park from the east side and egressing via the western access. This would have obviated the need for vehicles to turn round within the site as they would be obliged to do now. This entrance was closed on the advice of the Highway Authority, and its closure was a condition of a previous application. The remaining entrance to the car park is 80 m from the apex of the bend. The main carriageway at this point is 7m wide

### The Proposal.

The proposal is to convert the east part of the Cross Keys building back to a public house. This proposal is similar to S/2007/0633, (withdrawn). There is a long history of applications relating to this site which I will not rehearse in this report. The proposal comprises a ground floor bar area (approx 60 sq.m) and a single storey rear extension to provide kitchen and lavatory facilities.

A function room is proposed at first floor level (approx 35 sq.m.), and an extremely small residential bedsit is also proposed. It is of note that it is proposed that the residential bathroom would be used by the public. An outside seating area may also be incorporated, though this is not clear from the application drawings.



### Previous Transportation History.

I have read the great deal of correspondence and reports provided to me by my client, and it is clear that this section of road causes great concern to residents, commercial occupiers and council Members and officers alike. There is a long history of discussions between the Highway Authority (WCC), Salisbury District Council, the Police and the Parish Council going back several years regarding traffic management measures to improve the safety record at this site.

Of particular concern is the speed of traffic approaching the bend and the tendency of drivers travelling south west to misread the sharp left hand bend in the road, with subsequent loss of control. I am advised that there have been 18 accidents in a 3 year period including both damage only and personal injury accidents. Several of the accidents have resulted in damage to buildings, causing the occupier of the Post Office to take steps to protect the property with barriers. I understand that there was fatal accident involving a motorcyclist in 2008. The accident record at this location should be well known to the Local Planning Authority. I note that the Highway Department (WCC) do not object to the proposal, and I am surprised that they have not commented on it in more detail, given the level of interest in road safety at this location. Various measures have been put forward to mitigate accident risk and some have been implemented. A traffic management scheme was introduced in October 2005, which included measures to make the island at the junction of more visible to drivers, and to improve carriageway markings, for example "SLOW" markings. Other measures relating to a signage review are on hold pending the results of a county wide review of speed limits. At present a 40 mph limit is in force, with reinforcement, as promoted by the Parish Council, by a vehicle activated flashing sign on the approach to the bend. The data from the speed sign shows a consistent 21% of vehicles sampled exceeding the speed limit.

The proposals for various safety measures at this site continue to be investigated by WCC and SDC, including further carriageway markings and signage. The authorities are rightly concerned to avoid over cluttering with signs.

#### Comments on the Application.

The car park measures approx 10 m in depth. This is not sufficient for cars to be parked at 90 degrees as shown on the proposed plan. They will need to be parked in an "echelon" arrangement in order to allow sufficient space (6m behind the vehicle) for drivers to manoeuvre in and out of the spaces. There is little space for vehicles to turn round within the existing site. It would not be possible to achieve 25 spaces as shown on the application drawing. Certainly the spaces shown are less than the normal standard of 4.8m x 2.4m. I calculate that approximately 15 - 17 spaces of an operational standard could be achieved.

The pub will generate both customer and servicing traffic. Although many visitors would be local people and therefore likely to travel on foot, the pub would inevitably attract customers from further afield who will arrive by car. The style and nature of a proposed pub cannot be controlled by planning conditions. Although a quiet traditional pub may be envisaged, any operator will be seeking to maximise customer numbers and therefore profit. An operator concentrating on good food for example may seek to attract customers from a wider area. If successful, the pub could accommodate 100 people (standing, depending on fire and other regulations), and the function room 20 seated, and possibly more standing. The garden area could accommodate an additional 30 or more people. The smoking laws mean that outside areas are used much more at all times of the year, and cannot just be regarded as "summer daytime" facilities. Assuming that 30% would walk, and the other 70% would come by car, I estimate that 35% of customers would be car drivers. With 100 people in total, 35 cars would be generated, twice the capacity of the car park. Assuming a busy pub, people in the garden and a function on the first floor, then the capacity of the car park would be

exceeded on a regular basis. Some of the spaces would in any case be used by staff and any residential uses at the site. Overflow parking would result in an extremely dangerous situation with drivers tempted to park in unsuitable locations within the car park itself or on the public highway. The development would result in significant turning traffic in and out of the access, especially during the evening during the hours of darkness, and where there is no street lighting. This hazardous situation would be exacerbated if the car park was overfull.

The pub will require deliveries of beer, foods and other consumables, as well waste collections etc. I estimate that there could be at least 1 or 2 servicing trips per day, and I am concerned that problems that will occur with servicing of this site. I note that the site entrance is shared by a development site to the south. I attach a photograph provided by my client that shows the difficulties of a Large Goods Vehicle leaving the site. This would be exacerbated by parked vehicles within the site. I have checked the layout of the car park with vehicle template overlays produced by Autotrax to 1:200 scale. Large vehicles, for example a 9 metre refuse lorry, would not have sufficient space readily to turn round within the site, a manoeuvre that would be impossible if parked cars were present. When leaving the site, it would not be possible for drivers of large vehicles to position the vehicle correctly in order to achieve a left turn into the main road without going over to the opposite traffic lane. (see photo in Appendix) The situation would be compounded if a larger vehicle, e.g. 11m were to be attempting this manoeuvre.

The pub would give rise to increased pedestrian traffic. There are already problems for pedestrians crossing at this location, with poor sight lines, fast moving traffic, lack of street lighting and a complex road junction to contend with. The potential for vehicular/pedestrian conflict would be made worse by additional pedestrian volumes.

### **Summary and conclusion**

A pub /inn has existed on this site in the past for centuries. However, the way the road now operates in terms of volume and speed of traffic, and the difficult conditions on the road at this location despite various measures to address them, means that in my opinion the site is *unsuitable in traffic and road safety terms to be reinstated as a public house*. The reasons are:

The car park is too small for the number of cars likely to be attracted to the proposed pub;  
The layout of the car park could not be achieved as shown on the plan, and would achieve significantly fewer spaces;

There is insufficient space for goods vehicles to turn round in order to leave the site in a forward gear especially if cars were present;

The orientation of the entrance to the site would not allow large vehicles to leave, turning left, without crossing to the opposite side of the road;

Pedestrians attracted to the pub would be at risk crossing in this location, given the hazards present.

I would respectfully suggest that planning permission is refused for this commercial development.

GMP 6/4/09

*Gillian Palmer BSc MSc MIHT MCILT MRTPI  
Transport Planner and Chartered Town Planner*

Deadline	10/12/09		
Application Number:	S/2009/1117		
Site Address:	FORMER SITE OF APPLE TREE INN MORGANS VALE ROAD REDLYNCH SALISBURY SP5 2HY		
Proposal:	ERECTION OF TERRACE OF 5 DWELLINGS, WITH ASSOCIATED PARKING ON FORMER SITE OF THE APPLE TREE INN		
Applicant/ Agent:	MR JAMES WHITNEY		
Parish:	REDLYNCH		
Grid Reference:	419565 121076		
Type of Application:	FULL		
Conservation Area:		LB Grade:	
Case Officer:	Mrs J Wallace	Contact Number:	01722 434687

### Reason for the application being considered by Committee

Councillor Randall has requested that this item be determined by Committee due to:-

Scale of development  
Environmental/highway impact

### 1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to a S106 Agreement in respect of public open space and conditions

### 2. Main Issues

The main issues to consider are :

1. Principle regarding loss of community facilities and planning history
2. Impact on surrounding environs
3. Impact on neighbours
4. Impact on highway safety

### 3. Site Description

The site is that of the former Apple Tree Inn in Morgans Vale. The building which suffered from fire damage has been demolished and cleared from the site. The floor plate of the former building and the parking area to the rear are however, still identifiable on the site. The canopy of a yew tree, formerly within the public house's car park, extends over part of the site. There is a vehicular access on to the site from the adjacent narrow Downton Hill.

Adjacent to the site is a new 3 bedroomed dwelling recently completed to replace the former Plum Tree Cottage whilst to the west, the floor plate of the former garage/store is identifiable.

#### 4. Planning History

03/2470	To demolish fire damaged buildings	Demo prior app not req	12/12/03
04/303	Five houses car parking and construction of new access	REF	
22/04/04	for the following reason: <i>"The proposal would result in the loss of a site which has until recently been used as a public house which was considered central to the economic and social life of the settlement of Morgans Vale, and the Local Planning Authority remains to be convinced that the previous public house use or the re-establishment of that facility would no longer be viable. The proposal is therefore considered to be contrary to policy PS3 of the adopted Salisbury District Local Plan</i>		
		APPEAL	
DISMISSED	19/11/04		
04/2097	Erection of 6 houses including off street parking with vehicular access	REF	01/04/05
	for the following reasons <i>"Based on the information provided by the applicant, and by the independent consultant commissioned by the Council, the proposal would result in the loss of a facility which was central to the economic and social life of the settlement of Morgans Vale, and which could be viable if rebuilt. The Local Planning Authority therefore remains to be convinced that the previous public house use or the re-establishment of that facility would no longer be viable. On that basis, the proposal is therefore considered to be contrary to policy PS3 of the adopted Salisbury District Local Plan".</i>		
		APPEAL	
DISMISSED	17/01/06		
08/0025 17/01/08	Erection of 5 houses (1 detached and terrace of 4) including off street parking drive.		WITHDRAWN
08/0109 11/04/08	Erection of 5 homes (1 detached and terrace of 4) including off street parking drive.	REF	
	for the following reasons 1) The proposal would result in the loss of a facility which was central to the economic and social life of the settlement of Morgans Vale and in the absence of any information the Local Planning Authority remains to be convinced that the previous public house use or the re-establishment of that facility would no longer be viable. On that basis, the proposal is therefore considered to be contrary to policy PS3 of the adopted Salisbury District Local Plan.		

2 The proposed residential development is considered by the Local Planning Authority to be contrary to Policy R2 of the Adopted Replacement Salisbury District Local Plan, as appropriate provision towards public recreational open space has not been made.

APPEAL WD

04/12/08

08/1723 O/L planning permission to construct a public house APPROVED OUT  
27/11/08  
(reinstate The Apple Tree Inn), using the existing  
access and parking area

08/1795 Erection of 5 homes (1 detached and terrace of 4) including AC 05/12//08  
off street parking drive.

## 5. The Proposal

Approval was granted in 2008 for a single detached house and a small terrace of four (three bedroomed) dwellings to be erected on the site of the former Apple Tree Inn. This scheme relates solely to the part of the site covered by the terrace and it is proposed to replace this terrace of four three-bedroomed dwellings with a terrace of five two-bedroomed dwellings.

The road is to be slightly widened and a footpath created across the front of the whole site and it is proposed that the new dwellings be built directly at the back of the pavement. The existing access on to Downton Hill is to continue to be used with parking for the dwellings to be provided at the rear of the site.

The previous application S/2008/1795 covered a slightly larger piece of land and whilst the visibility splay along Downton Hill for the access road is included in this application, all the rest of the area to the west of the access is excluded from this scheme.

## 6. Planning Policy

The following saved policies are considered relevant to this proposal.

G1 and G2,	Aims of the plan and criteria for development
D2	Design criteria
H16	Housing Policy Boundary
PS3	Retention of community facilities
R2	Provision of public open space
PPS3 Housing	

## 7. Consultations

### ***Parish council – Object***

There were major concerns from Councillors over the density of housing proposed on the site impact on local infrastructure. Concern for the lives and safety of local residents.

The Local Plan quotes 2 parking spaces per dwelling plus one for every 5 units=11 not 8 parking spaces basically there are insufficient spaces allocated however with out these spaces the buildings will have an increased detrimental impact on adjacent residents and exacerbate problems on an already dangerous junction

Redlynch Parish Council, Matt Holland (Neighbourhood Policing), Salisbury Fire Station Officer and the Highways Authority are all working together to try and reduce danger to road users on this junction and has recently written to all local residents to remind them of the laws on parking near junctions.

Looking back on the recent applications for houses along Orchard Road the Planning Committee are well aware that if passed this application will probably be resubmitted increasing the size of the houses gradually until the developers have gained optimum building conditions, possibly including an additional application for the plot yet to be considered.

The Planning Committee of Redlynch Parish Council would like to request that this application be submitted to the Area Board for consideration as they feel additional building on this plot will only increase the present problems in this already compact community.

### ***Highways***

No objection to scheme shown on drawing ref.no. 213.100 revD, subject to conditions regarding full details of the new 1.5m footway and widened carriageway, visibility splays, details of the boundary treatments adjacent to car parking spaces as well as details of the construction materials of the shared access courtyard and parking areas.

### ***Environmental Health***

Not yet received but responded in relation to pervious application that there was no objection in principle, but would seek to condition any consent granted so as to the amenities of nearby residential dwellings during the works by limiting the hours of construction work on the site to 0800 to 1800 on Mondays to Fridays and 0800 to 1300 on Saturdays.

### ***Wessex Water***

There is a public sewer crossing the site. The integrity of Wessex systems must be protected. Wessex Water normally requires a minimum three metre easement width on either side of its apparatus for the purpose of maintenance and repair. Diversion or protection works may need to be agreed and a condition or informative should be placed on any consent to require the developer to protect the integrity of Wessex systems. The Council should be satisfied with any arrangements for the satisfactory disposal of surface water from the proposal. Bournemouth and West Hampshire Water Company is responsible for water supply in the area.

### ***Bournemouth and West Hampshire Water Company***

None received.

### ***Wiltshire Fire and Rescue***

- In principal, no adverse comments to make, as per our reply to the similar application



(S/2008/0109) (Comments relating to need for satisfactory access for fire engines, adequate water supplies and appropriate fire safety measures as well as the encouragement for the provision of domestic sprinklers).

- The applicant is reminded that to satisfy Part B5 of the Building Regulations 2000, *'there should be vehicle access for a pump appliance to within 45 metres of all points within the dwelling house'*
- Access approaches to the site appear to be satisfactory, in that 2 different routes are available
- Wiltshire Fire & Rescue Service are currently investigating reported local problems with access in the vicinity of this development, for a fire appliance and will liaise with partner organisations to attempt to resolve, should any issues be found

## 8. Publicity

The application was advertised by site notice/neighbour notification with an expiry date of 12 November 2009

24 letters and e-mails of objection have been received.

Summary of key points raised

- The pub should be rebuilt
- Advice about change of use of public house was erroneous
- Car parking was not a problem for the pub as users mainly walked
- Site was successfully marketed for the 'rebuild of a public house', but offers were ignored
- Houses not in keeping with the area, height, number of windows lack of front gardens,
- Overdevelopment of the site, should be a maximum of 3 terraced properties or 2 bungalows.
- Character of area is two storey dwellings **and** bungalows
- 6 houses was previously considered overdevelopment of site; the result of this proposal is permission for 6 dwellings.
- Site is too small for terrace of 5 houses
- Replacement houses are too high, they should not follow the new Plum Tree House, which is overpowering
- Ridge height of new dwellings should relate to former Appletree Inn.
- This is a rural area **not** an urban one.
- There are no facilities
- The area is being overdeveloped, density too high, too many houses being crammed into the area
- Serious impact on amenities – overlooking/loss of privacy/loss of light/overbearing
- Emergency vehicles have difficulties accessing the area due to road side parking. The Council will be liable if this development is permitted.
- Police have written to residents to remind them about laws on parking close to junctions.
- Insufficient parking spaces provided for future residents or their visitors
- Proposal will increase parking problems, cars will park on the street and obstruct other road users
- Occupants of new houses will be endangered by vehicles mounting the pavement in front of their homes
- Public transport is very limited, each household needs two cars

- There are no footways, site is on junction of 3 roads, new houses will increase risk of accidents
- Difficult to access existing houses due to parked cars. Need more parking spaces not houses, the site should be compulsorily acquired to provide parking
- Land retained by the developer should be used for parking
- Gardens are too small, nowhere for children to play
- No need for this type of property, rebuilt Plum Tree Cottage and 3 at Holmsdale not yet sold.
- Yew tree should be retained
- Concerns regarding drainage and effect on bungalows below
- Concerns that multiple planning applications confuse residents
- Developer has retained land in order to propose another dwelling on an already congested site
- Site visit should be made in evening or weekend to see car parking problem

1 letter of support has been received.

Summary of key points raised

The principle of residential development is acceptable on the site subject to detailed design and layout

Demand is for smaller two-bedroomed units

Design, height, scale and form are appropriate to the area

Layout is very similar to approved scheme

Proposal will have no greater impact on privacy than approved scheme

Road is to be widened and footpath provided

1.5 car parking spaces per unit is adequate. LPA's requirements are a maximum.

## 9. Planning Considerations

### 9.1 Principles and Planning History

Since the public house was burnt down in 2003, a number of applications for planning permission for the erection of 5 or 6 dwellings in its place, were refused because the erection of housing on the site of the last public house in the area was considered to be contrary to policy PS3. The policy states that:-

**“The change of use of premises within settlements that are currently used, or have been used for retailing, as a public house or to provide a community facility central to the economic and/or social life of the settlement, will only be permitted where the applicant can prove that the current or previous use is no longer viable”.**

As members can see from the above site history these decisions of the Local Planning Authority to refuse the applications for housing were upheld on appeal. However, the law has now moved on from the position that the previous Inspectors took. The High Court decision of *WE Black Ltd v. First Secretary of State* dealt specifically with a situation, such as exists in Morgans Vale where the public house has been demolished. The *W.E. Black* case is clear authority for the proposition that where a building is demolished, the use rights associated with that building cease at the same time.

Subsequently this principle regarding the loss of use rights, was applied by an Inspector to a decision relating to the loss of a pub in Great Missenden. The Inspector confirmed the principle

regarding the loss of use rights when the building is already demolished and awarded costs against the local council on the basis that in view of the High Court case it was unreasonable to argue the contrary. Therefore, this means that, in this case at Morgans Vale as the public house has been demolished there is no remaining lawful public house use on the site and policy PS3 does not and can not apply.

If the site no longer has a lawful use for a public house, the only issue is whether or not housing is an acceptable use on the site. The site lies within the Housing Policy Boundary (HPB) of Morgans Vale and is also within an existing established housing area. Therefore, in principle, the development of the site for housing is acceptable. Each application to redevelop the site must be considered on its merits, against this background, and as the principle of a terrace of dwellings has been accepted by virtue of the previous consent (S/2008/1117), this revised scheme must be judged against the impact of the changes to the scheme on the overall character of the area, the impact on the amenities of the adjacent dwellings and its impact on the surrounding environs.

### **9.2. Impact on Character of Area**

Around the former Apple Tree Inn, the surrounding established residential area has a variety of architectural styles, with dwellings of various sizes and on a range of different sized plots. Adjacent to the site itself is the rebuilt Plum Tree Cottage, a three bedroomed dwelling with a single off-street car parking space. To the rear of the site, are the detached dwellings of Appletree Close, which are larger dwellings on more generous plots. However, to the immediate north of the site, the dwellings are smaller and are arranged in a relatively linear built form. Therefore when considering a proposal for a small terrace it was considered that a linear development would be in keeping with the character of the surrounding area. Indeed when considering the merits of the earlier applications, the Inspectors had commented that linear development would be in keeping with the area.

The general layout of this revised scheme adheres to that of the previous scheme, in that the dwellings are sited at the back of the pavement with the parking to the rear. The submitted plans indicate that the proposed new dwellings will have a very simple architectural form which would still be in keeping with the existing dwellings in the surrounding area. As there has been a lot of infill development of no particular character in this area, it is considered that notwithstanding the thatched building that was formerly on this site, like the previous proposal will enhance the character and appearance of the area. Again it is considered that the proposed terrace of dwellings will relate well to the other dwellings in the area and in terms of design it is considered that changes are such that the impact of this revised scheme would be no greater than that of the previous approved dwellings.

### **9.3 Impact on Neighbours amenities**

Concern had been expressed with regard to the previous application regarding potential overlooking, loss of privacy and because of the height of the dwellings, particularly in comparison with the former public house, there was a perception that the new dwellings would be overbearing.

The earlier schemes for the development of five and six dwellings on this site were not refused on amenity grounds, merely on policy PS3 grounds and when considering the scheme for a terrace of four dwellings, it was considered that despite the site being elevated compared to that of the adjacent dwellings in Apple Tree Close and located close to other existing dwellings, any impacts in terms of overshadowing would not be so significant as to warrant refusal on this

basis alone. In essentials the impact of this revised scheme for five dwellings, instead of four, would be no greater than that of the previous approved dwellings, and therefore the changes would not be so significant as to warrant refusal on this basis alone.

Like the approved scheme, there will be a change in the relationships that adjacent residential properties have with the site. The former public house, with its low ridge, faced mainly into the car park area and apparently did not affect the privacy of adjacent residents. However, like the previous scheme, the dwelling on the northern side of Downton Hill will now have a number of windows facing directly towards the terrace. However, whilst the front elevations of the dwellings will face towards the side elevation of 'Corner House', in each case one of the two first floor windows is a bathroom window which could be obscure glazed. Previously, it was accepted that there would be some loss of privacy caused by the introduction of four first floor bedroom windows, in a position where currently there are none, but this was not considered to be so significant as to warrant refusal. In this context the addition of one further bedroom window is not considered to be so significant as to change this view.

As previously, the rear windows of the terrace of five dwellings will because of the elevated position of the site overlook the rear of no.9 Apple Tree Close. However, because this dwelling and its garden are located several metres below the terrace; it is not considered that the rear windows of the proposed five dwellings would look into this existing house and any view into the rear garden would be oblique. Previously, it was accepted that whilst there would be some impact on the privacy of this dwelling, it was not considered to be so significant as to warrant refusal and in considering this revised scheme it is not considered that there would be such significant changes as to warrant refusal on these grounds.

#### **9.4 Impact on Highway/Parking**

As previously, the general public and the Parish Council have again raised concerns regarding the impact of the proposed development on the highway, particularly regarding the perceived problems which fire-engines have in accessing the area due to on street vehicle parking. It is accepted that the existing highway network in this area and in particular around the site is narrow and constricted. Recent housing developments in the area have served to heighten these local concerns.

This revised scheme, like the previous approved scheme, reuses the former public house's access off Downton Hill. Again it is also proposed to widen the narrow road in front of the site and create a footpath in front of the dwellings. This will be achieved by setting the proposed dwellings into the site. The scheme provides off road parking for the new dwellings. One and a half parking spaces are provided for each dwelling. This compares with the 12 spaces proposed for the previous scheme for the larger site which provided two spaces for each of the five three-bedroomed dwellings as well as two visitor spaces. In this case, only eight off-street parking spaces are proposed for these five smaller dwellings but the Highway Authority still has no objections to this level of provision as the parking standards in the Salisbury District Local Plan are expressed as a maximum provision. Two spaces per dwelling is therefore the maximum that has to be provided.

When considering this revised scheme, Members should be aware that all the previous applications were not refused on highway grounds and that the previous scheme which created a terrace of four dwellings on this site (five dwellings overall on a slightly larger site) was also not objected to by the Highway Authority, who considered the scheme acceptable. Members should also be aware of the comments of both Inspectors at the two Appeals. Both Inspectors indicated that the residential development of the site would create no highway danger. In both

cases, the upholding of the Local Planning Authority's decision and the dismissal of the appeal related solely to policy PS3 and not to highway issues.

In considering this revised application, it would be difficult to argue that a change from four three-bedroomed dwellings to five two-bedroomed dwellings would create such an additional volume of traffic as to make the current scheme unacceptable, particularly in the absence of support from the Highway Authority.

### **9.5 Public Open Space – Policy R2**

A contribution towards public open space will be required in pursuance of saved Policy R2.

## **10. Conclusion**

The principle of a terrace of four dwellings on this site has been accepted by virtue of the previous consent (S/2008/1795). This revised scheme is judged to have no greater impact on the overall character of the area or the amenities of the adjacent dwellings, than the previously approved scheme and therefore this amended revised scheme is considered acceptable in terms of design, accordance with Salisbury District Local Plan policies

## **Recommendation**

(A) Subject to no further material considerations being raised by third parties prior to the expiry of the consultation period and (B) following completion of a S106 legal agreement being completed in relation to Policy R2, (C) APPROVE for the following reason:

The site currently has a nil use but is in the residentially developed part of Morgans Vale and within the Housing Policy Boundary. Taking into account the objectives of national planning policy statements, the objectives of Local Plan policies and that this revised scheme is judged to have no greater impact on the overall character of the area or the amenities of the adjacent dwellings, than the previously approved scheme it is considered that this amended revised scheme is acceptable in accordance with Salisbury District Local Plan policies.

And 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. (A07B)

REASON To comply with the provisions of Section 91 of the Town and Country Planning Act 1990. AS amended by section 51 (1) of the Planning and Compulsory Purchase Act 2004 (0004 AMENDED)

(2) No development shall take place until a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external wall[s] and roof[s] of the proposed development have been submitted to and approved in writing, by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details. (D04A)

REASON To secure a harmonious form of development.

POLICY G2 and D2 General and design criteria for development

(3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), no windows/dormer windows/roof lights [other than those expressly authorised by this permission] shall be inserted in any elevation (such expression shall be taken to refer to both walls and roofs) of any of the dwellings hereby approved

REASON To ensure adequate privacy for the occupants of neighbouring premises.

POLICY G2 General criteria for development

(4) Notwithstanding the provisions of Class[es] A To F of Schedule 2 (Part 1) to the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), there shall be no extensions to the dwellings nor the erection of any structures or enclosures within the curtilages and no additions or alterations to the roofs of the dwellings, unless otherwise agreed in writing by the Local Planning Authority upon submission of a planning application in that behalf.

REASON To enable the Local Planning Authority to retain control over the development in the interests of neighbouring amenities and the character of the area.

POLICY G2 General criteria for development

(5) No development shall take place until details of the treatment to all hard surfaces have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details, prior to the first occupation of any of the dwellings hereby approved.

REASON In the interests of the amenity and the environment of the development

POLICY G2 and D2 General and design criteria for development

(6) If within a period of 5 years from the date of the planting of any tree, shrub or plant, that tree, shrub or plant or any tree shrub or plant planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation. (G12A)

REASON To ensure the satisfactory establishment of the approved scheme for the landscaping of the site.

POLICY G2 and D2 General and design criteria for development

(7) During construction works, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site other than between the hours of 0800 to 1800 on Mondays to Fridays, 0900 to 1300 on Saturdays and at no time on Sundays, Bank and Public Holidays.

REASON To minimise the disturbance which noise during construction of the proposed

development could otherwise have on the amenities of nearby residential dwellings

POLICY G2 General criteria for development

(8) During construction works, all plant, machinery, and building materials shall be contained within the application site.

REASON In order to limit the impact on the narrow Downton Hill.

POLICY G2 General criteria for development

(9) No development shall take place until a scheme for the implementation of water efficiency measures has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the agreed details, prior to the first occupation of any of the dwellings hereby approved

REASON In the interests of sustainable development. Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development" promotes the prudent use of natural resources. It is necessary to minimise the local demand for water to protect future supplies.

POLICY Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development

(10) No development shall take place until full details of the improvement to the frontage to Downton Hill, as shown on drawing number 213.100 revD, have been submitted for the further written approval of the Local Planning Authority; and the improvements shall be completed in accordance with the approved details prior to the first occupation of the development.

REASON In the interests of highway safety.

POLICY G2 General criteria for development

(11) Prior to the first occupation of the dwellings, visibility splays of 2m x 25m shall be provided at the access point in both directions throughout which there shall be no obstruction to visibility and the splays shall be so maintained in perpetuity.

REASON In the interests of highway safety.

POLICY G2 General criteria for development

(12) No development shall take place until details of the boundary treatments adjacent to the car parking spaces have been submitted to and approved in writing by the Local Planning Authority. Development shall be completed in accordance with these approved details prior to first occupation of the development.

REASON. In the interests of highway safety.

POLICY G2 General criteria for development

(13) No development shall take place until details of the construction materials forming the shared access courtyard and parking areas has been submitted to and approved in writing by

the Local Planning Authority and the shared access and parking areas shall be constructed in accordance with the approved details prior to first occupation of the development.

REASON In the interests of highway safety.

POLICY G2 General criteria for development

(14) No development shall take place until details of a scheme for the discharge of surface water from the building, driveway, paths and all hard surfaces has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with these approved details.

REASON To ensure that the development is provided with a satisfactory means of surface water disposal.

POLICY G2 General criteria for development

### **INFORMATIVE 1**

#### **DOCUMENT/PLANS SUBMITTED WITH THE APPLICATION**

This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Drawing no. 231/100 Rev D received on 16 October 2009.

Drawing no. 231/101 Rev B received on 16 October 2009

Drawing no. 231/102 Rev B received on 16 October 2009

Drawing no. 231/103 Rev B received on 16 October 2009

Drawing no. 231/104 Rev B received on 16 October 2009

Drawing no. 231/105 Rev B received on 16 October 2009

### **INFORMATIVE 2 Highways**

A Section 278 Agreement will be necessary to ensure that the carriageway widening and footway works are implemented in accordance with the approved details and thereafter maintained as public highway. The visibility splays should be included within the land for adoption.

### **INFORMATIVE 3 Wessex Water**

A public foul sewer crosses the site Wessex Water normally requires a minimum three metre easement width on either side of its apparatus for the purpose of maintenance and repair Diversion or protection works may need to be agreed

The developer is required to protect the integrity of Wessex systems and agree prior to the commencement of works on site any arrangements for the protection of infrastructure crossing the site. This should be agreed as early as possible and certainly before the developer submits to your Council any Building Regulations application. The developer must agree in writing prior to the commencement of works on site any arrangements for the protection of our infrastructure crossing the site

Appendices:

NONE.

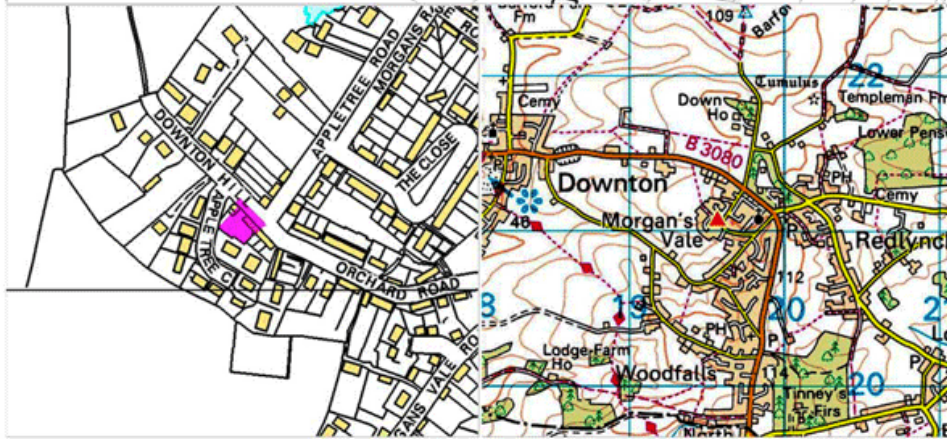
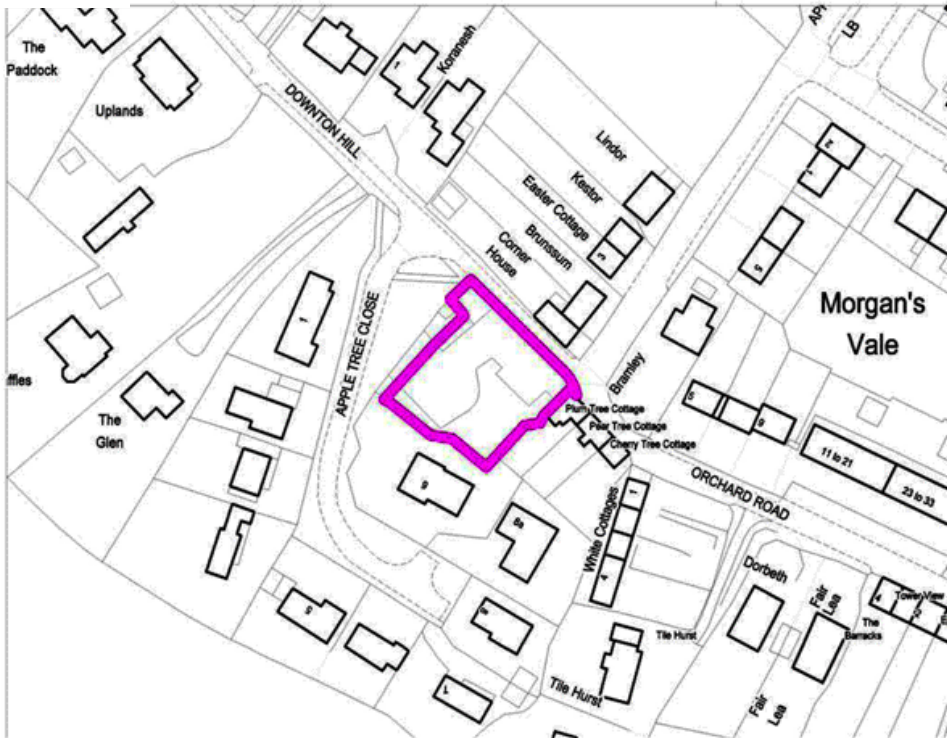


Background Documents Used in the Preparation of this Report:	Drawing no. 231/100 Rev D received on 16 October 2009. Drawing no. 231/101 Rev B received on 16 October 2009 Drawing no. 231/102 Rev B received on 16 October 2009 Drawing no. 231/103 Rev B received on 16 October 2009 Drawing no. 231/104 Rev B received on 16 October 2009 Drawing no. 231/105 Rev B received on 16 October 2009



ERECTION OF TERRACE OF 5 DWELLINGS, WITH ASSOCIATED PARKING ON FORMER SITE OF THE APPLE TREE INN

S/2009/1117



**Wiltshire Council**  
Where everybody matters

APPLE TREE INN, REDLYNCH, SP5 2HY

SCALE: NTS DATE: 09/11/2009 11:03:53  
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Deadline	17/11/09		
Application Number:	S/2009/1409		
Site Address:	BROOKS COURT 63 CASTLE ROAD SALISBURY SP1 3RH		
Proposal:	DEMOLITION OF SINGLE GARAGE AND ERECTION OF DWELLING		
Applicant/ Agent:	MR JOHN COLEMAN		
Parish:	SALISBURY CITY COUNCIL		
Grid Reference:	414343 131041		
Type of Application:	FULL		
Conservation Area:		LB Grade:	
Case Officer:	Mrs J Wallace	Contact Number:	01722 434687

### Reason for the application being considered by Committee

Councillor Mary Douglas has requested that this item be determined by Committee due to:

Visual impact upon the surrounding area.  
 Relationship to adjoining properties.  
 Design – bulk, height, general appearance.  
 Environmental/highway impact.  
 Car parking.

### 1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions and the applicant entering into an Agreement in respect of the provision of public open space (policy R2).

### 2. Main Issues

The main issues to consider are :

- Principle
- Impact on street scene
- Impact on adjacent amenities
- Impact on highway safety

### 3. Site Description

The site is located within a predominantly residential street scene. The existing garage building is sited adjacent to the drive to a large Edwardian House. There are six garages in two blocks at the rear of the house which is now sub-divided into flats. To the rear of the site and using the same access off Castle Road is a modern dwelling.

The traffic light controlled junction of Castle Road with Stratford Road and Victoria Road is adjacent to the vehicular access to the site and Victoria Park is opposite.

The detached garage appears to be currently used for storage purposes, and has apparently not been used for the parking of a vehicle in conjunction with any of the adjacent dwellings for a considerable period of time.

#### 4. Planning History

Application number	Proposal	Decision
Relating to this site D343	O/L Erection of bungalow and garage.	Refused 24/07/1970
Relating to no.63 1988/0303	Erection of double garage	A 30/03/1988
Relating to no. 65A 6486 7959 B949 S/2004/1162	O/L Erection of house or bungalow O/L. Site for 4 flats Erection of detached house and garage Single storey extension to provide sitting room, garden room and kitchen extension.	AC 6/04/1959 Refused 31/05/1961 AC 16/07/1968 AC 16/07/2004

#### 5. The Proposal

It is proposed to demolish the existing garage and erect on a similar footprint a two storey building with living rooms in the roof. The proposed building would be slightly wider (1.2m) and taller (2m) than the existing garage and is to be constructed of brick with timber boarding to the roof gables under a natural slate roof.

The accommodation to be provided will be an integral garage, bedroom and bathroom on the ground floor and a living room and kitchen above. Three rooflights would be inserted in the southern elevation roof of the building, and a Juliet balcony in the eastern gable end.

A garden/amenity area is to be provided to the rear of the dwelling.

#### 6. Planning Policy

The following saved policies of the Salisbury District Local Plan are considered relevant to this proposal

G1 and G2	General criteria for development
D2	Design criteria
H8	Housing Policy Boundary
CN17	Tree Preservation Orders
TR14	Provision of cycle parking

R2 Provision of public open space

Also relevant are:-

SDC Supplementary Planning Guidance  
Achieving Sustainable Development  
PPS3 Housing

## 7. Consultations

### ***Tree Officer***

No development is scheduled to be taking place within the root protection area of the Copper Beech so no objection to the proposal. However, recommend conditions to have a tree protection plan and a landscaping scheme that satisfactorily takes account of the Copper Beech and incorporates it into the design.

### ***City Council***

None received

### ***Highways***

As the site is within easy walking distance of public transport and other local facilities; no highway objections. Recommend that on site cycle parking facilities be provided in accordance with Appendix VI of the Adopted Salisbury District Local Plan and also that vehicle turning facilities are provided and maintained for that purpose only within the site.

### ***Environmental Health***

No objection in principle subject to conditions in the interests of the amenities of the neighbours; on hours of work, burning on site and details of process of demolition and clearance.

### ***Wessex Water***

Located in a sewered area with foul and surface water sewers. Point of connection can be agreed at the detailed stage.

## 8. Publicity

The application was advertised by site notice/neighbour notification with an expiry date of 22 October 2009

### **10 letters of objection have been received.**

Summary of key points raised

Demolition of existing sympathetically restored building would be a waste of resources.

Proposed Chalet style house is out of keeping with other houses in the area which are mainly Edwardian.

Proposed dwelling very cramped.  
Raising roof by 2metres will make the building unacceptably imposing on neighbours.  
Loss of light and privacy.  
Reduction in sunlight to adjacent gardens.  
First floor living area with French windows and balcony will impact on privacy.  
New building will be overbearing and will overlook neighbours.  
Density of residential development on site already more than reasonable, this proposal results in unacceptable urbanisation of area.  
Concerns regarding impact of development on protected tree.  
Garage has not been used as a garage since 1975, only used for storage. Renovated recently.  
Proposed garage unlikely to be used for a car.  
West wall of garage forms boundary, there is only a right of way on the drive between the garage and the main road.  
No rights to turn on the drive, will have to reverse out on to main road.  
Inadequate space on the site for more cars.  
Will result in more use of a dangerous access.  
Sewers in the area are old and overloaded.  
No rights of access to services.  
Building works would have unacceptable impact on neighbours and will impact on busy junction.  
Land registry conveyance of 1964 limits use of building to a 'motor house'.  
Neighbour disputes position of northern boundary.

**1 letter of support has been received.**

Summary of key points raised  
New dwelling would provide modest accommodation.  
Site has easy access to city centre.  
Proposal makes good use of land.  
Almost identical to development in St Marks Road.

**1 letter of comment from the Agent has been received**

Copy of map showing an easement giving a right of way over the driveway.

## **9. Planning Considerations**

### **9.1 Principle**

An application for the erection of a bungalow and garage on the site was refused in 1970. The reasons for the refusal were appropriate in the context of the planning policies in force at that time but the decision is not a significant consideration in the context of today's national and local policies.

The site is located within an established residential area, and within the designated Salisbury Housing Policy Boundary. Consequently, the conversion of an existing building to residential use is acceptable in principle; subject to the impact of the proposal on the surroundings, the neighbours and the highway.

### **9.2 Design and impact on character of street scene**

In terms of design, this proposal takes a rather unusual approach. The existing outbuilding would be removed, and the replacement building, (on a very similar footprint) would, in officers'



opinion, have the appearance of a outbuilding which has been converted to residential use, rather than a more traditional domestic design. As a result, the architectural appearance of the proposed dwelling would differ significantly from the adjacent dwellings, which are of a much larger and more domestic scale and design.

However, there have been at least two planning cases within the city centre in recent years where the conversion of buildings to dwellings has been permitted even though the design and scale of the buildings have been at odds with the prevailing characteristics of the locality.

In the case of the conversion of the former coach house on St Marks Road, Salisbury, the building was a pitched roofed, brick outbuilding set at the back of the pavement, in an area of traditional brick two storey terraced dwellings. The coach house had been used by a local business for storage purposes for a long time. The approved scheme converted the building into a two bedroomed dwelling, which neither incorporated a garage, off-street parking nor amenity space. In contrast, the building at no.1A Gas Lane, was a long narrow workshop/store with a flat roof. In that case, the applicant proposed to replace the flat roof with a steeply pitched roof changing the external appearance substantially, but again the building was very unlike the Victorian style dwellings in the vicinity. Approval was recently granted on appeal.

Whilst this particular application does not relate to the conversion of the existing outbuilding, the creation of a dwelling which looks like a converted outbuilding raises the same planning issues as an application for conversion. Furthermore, if this application were simply for the erection of a new larger outbuilding as shown on the plans, possibly for use as some form of ancillary accommodation, then it seems unlikely that it would be contentious in design terms.

As a result, of the above, it may be difficult to defend a reason for refusal based solely on the fact that the dwelling as proposed does not reflect the character of the area.

Also the detached garage on this site off Castle Road, is a relatively modern brick building with a pitched roof of no particular historic or architectural merit. The demolition of the building and its reconstruction as proposed would result in some changes to the visual appearance of the building but the rebuilt building would have the external appearance of a converted outbuilding rather than a small dwelling. However, whilst the character of the building would alter, and it would not match in either appearance or design the dwellings immediately adjacent, it is considered that the proposals would have no adverse impact on the character of the area in general, as the building will not be prominent or obtrusive in the street scene.

### ***9.3 Impact on amenities***

#### ***9.3.1 Impact on existing surrounding occupiers***

The proposed first floor living room of the new dwelling would be served by three roof lights on the southern elevation, two small windows looking directly down the drive towards Castle Road and French Doors behind a Juliet balcony facing towards the dwelling to the rear of the site (no.65A). Additionally there will be three ground floor windows serving the garage, bedroom and bathroom. However, the side northern elevation of the building would remain blank.

Concern has been expressed that the development of this site in the manner proposed would because of the overlooking, create a loss of privacy for the residents of the locality. The new dwelling has been designed to minimise this, with no windows on the northern elevation adjacent to no.65 Castle Road.

### **65 Castle Road**

In relation to no.65 Castle Road, the private area of this dwelling is to the rear and therefore there would be an increase in overlooking of this area because of the oblique views from the proposed first floor French Windows. However no.65 Castle Road is at a higher level than the existing garage and whilst the introduction of a 1.8m fence on the northern boundary will not significantly affect the situation; planning permission has been granted for single storey brick and slate rear extension with high level windows to replace the existing glazed garden room. Therefore on balance it is considered that within a residentially developed area, this change is not so detrimental as to be a sufficient reason for refusal.

### **1 Victoria Road**

The proposed roof lights for the living area will face south and overlook one of the existing garage blocks serving no.63 Castle Road, to the south of which and therefore partially screened by it, is no.1 Victoria Road. That dwelling would be separated by approximately 22metres from the new dwelling and whilst this is a change to the current situation, this is considered a reasonable distance between elevations in a residentially developed area.

### **65A Castle Road**

It is considered that the French Windows proposed on the eastern elevation may result in additional overlooking of the adjacent properties, particularly that to the rear no.65A. Whilst there are mature trees on this boundary, they are deciduous and therefore during the winter the level of screening they provide will be much more limited. The new dwelling would be some 15 metres from the boundary with no.65a and there will be approximately 30metres between the elevations. Therefore, any overlooking will only partially affect the front garden area of this dwelling and not affect the level of privacy enjoyed within the rear garden areas.

### **63 Castle Road**

The proposed roof lights for the living area will face south and overlook an existing garage block which serves no.63 Castle Road, and at an oblique angle will also overlook the rear of the flats. Whilst this is a change to the current situation, it is considered that in existing residentially developed areas, there is some overlooking and inter-visibility between dwellings. Therefore, as in this case, the angle of view will be oblique, this change is not so detrimental as to be a sufficient reason for refusal

Therefore, as a consequence of the above, and on balance, it is considered that the privacy enjoyed by adjacent dwellings would not be so significantly affected as to warrant refusal of the application on these grounds.

### ***9.3.2 Impact on future occupiers of proposed dwelling***

The Council's Environmental Health Officer has raised no objections to the proposal, subject to conditions which would limit the hours of work in the interests of the amenities of the neighbours. Also it would appear from the submitted plans that an adequately sized single bedroom dwelling with an integral garage could be achieved within the proposed structure and whilst the outdoor amenity/garden space would be small and overshadowed by the protected copper beech, it is considered that this is not untypical of other residential units elsewhere in the city centre. Consequently, it is considered that the proposal would result in acceptable living accommodation for any future occupiers.

### ***9.4 Impact on highway safety and existing parking problems***

The access to the site is used by the occupiers of the flats in no.63 Castle Road, (each of

whom has the use of a garage within one of the garage blocks), the occupiers of no 65A Castle Road as well as the users of the second garage block which provides another two garages. In overall terms, even if the existing garage has not been used as a garage for a number of years, the addition of one further vehicle using the site is not considered to be so significant as to warrant refusal on these grounds.

Objections have been received from neighbours regarding the problems likely to arise because the replacement building has no rights to turn a vehicle upon the drive. There is considerable concern that vehicles would reverse out on to a busy junction to the detriment of highway safety. However, the agent has confirmed that the property does benefit from a right to use the existing drive and therefore the right to turn a vehicle within the site.

This scheme proposes an integral garage and the Highway Authority has no objection to the proposal provided vehicles can enter and leave in a forward gear. The Authority has also confirmed that if no garage or parking space was proposed, the small scale of the proposed dwelling and its proximity to public transport and the city centre, there would be no objection as PPG13 encourages the use of alternatives to the private motor car.

Consequently, on balance, it is considered that the use of the property as a private dwelling house would be unlikely to have any more impact on highway safety and parking problems than the current use of the building. Given the Highway Authority's comments, it would also be difficult to support a refusal of the scheme on highway grounds.

### **9.5 Public Open Space Policy R2**

A contribution for recreational facilities would be required for the new dwelling pursuant to the above policy.

### **9.6 Other issues**

#### **9.6.1 Right to turn on land**

Concern has been expressed that the applicant has no right to turn a vehicle on the existing drive, but the agent has confirmed that the owner of the site has the right of access and use of the whole of the existing driveway. If this is disputed this is a matter covered by other legislation.

#### **9.6.2 Protected tree**

Concerns have also been expressed that the proposed works might affect the long term health of the protected tree adjacent to the garden of the proposed property. The tree is on land outside the control of the applicant and any permission can be conditioned to provide protection to the tree during the building works.

## **10. Conclusion**

The principle of increasing the density of development within existing residential areas is acceptable.

The construction of a new dwelling in a similar style to the existing garage on the site would

have no adverse impact on the character of the street scene.

The dwelling as proposed would not have such a significant impact on surrounding amenities as to warrant refusal.

Provided the owner of the site has the right to turn a vehicle on the existing driveway, the proposal would have no more impact on the existing highway than the existing use of the property.

### **Recommendation**

Following completion of a legal agreement to :

**Subject to applicants entering into a section 106 agreement relating to the payment of a commuted sum towards the provision of public open space in accordance with policy R2, then:**

**APPROVE** for the following reason

The principle of new residential development is acceptable within the Housing Policy Boundary and as the construction of a new dwelling in a similar style to the existing garage on the site would have no adverse impact on the character of the street scene, there would be no significant detrimental impact on surrounding amenities and any approval could be conditioned to ensure that a vehicle should only enter and leave the site in a forward gear the proposal is considered to be acceptable in accordance with the Salisbury District Local Plan.

And 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) Other than those approved by this permission, there shall be no other windows inserted in the building hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.

REASON To ensure adequate privacy for the occupants of neighbouring premises.

POLICY G2 General criteria for development

(3) No development shall commence until it has been confirmed that the owner of the site has the space to turn a vehicle so that a vehicle can and enter and leave the site in a forward gear, using the existing access on to Castle Road. Such turning space shall thereafter be retained and kept clear of obstruction at all times.

REASON: To enable vehicles to enter and leave the site in forward gear in the interests of highway safety.

## POLICY-G2 General criteria for development

(4) No development shall commence on site until details of secure covered cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first occupation of the dwelling hereby permitted and shall be retained for use at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

## POLICY-TR14 Provision of cycle parking

(5) The tree subject to a Tree Preservation Order shall not be cut down, uprooted or destroyed, nor shall it be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work) and will require specific consent of the Local Planning Authority on submission of a Tree Works application..

No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until a scheme showing the exact position of protective fencing to enclose the protected tree and all other retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837 (2005): Trees in Relation to Construction, has been submitted to and approved in writing by the Local Planning Authority, and; the protective fencing has been erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

In this condition retained tree means an existing tree which is to be retained in accordance with the approved plans and particulars; and the above paragraphs shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later.

REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

## POLICY G2 General criteria for development CN17 Tree Preservation Orders

(6) No development shall commence on site until the trees on the site which are protected by a Tree Preservation Order have been enclosed by protective fencing, in accordance with British Standard 5837 (2005): Trees in Relation to Construction. Before the fence is erected its type and position shall be approved with the Local Planning Authority and after it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas(s).

REASON: To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity.

POLICY G2 General criteria for development CN17 CN17 Trees protected by Tree Preservation Orders

(7) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (a) indications of all existing trees and hedgerows on the land;
- (b) details of any to be retained, together with measures for their protection in the course of development;
- (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- (d) finished levels and contours;
- (e) means of enclosure;
- (f) hard surfacing materials;
- (g) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY-G2 General criteria for development:CN17 Trees protected by Tree Preservation Orders

(8) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY G2 General criteria for development: CN17 Trees protected by Tree Preservation Orders

(9) During demolition and construction works, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following time 0800 to 1800 on Mondays to Saturdays and there shall be no activities/working on Sundays, Bank and Public Holidays.

REASON To avoid the risk of disturbance to neighbouring dwellings/the amenities of the locality during unsocial hours.

POLICY G2 General criteria for development

(10) No development approved by this permission shall commence until a scheme of water

efficiency measures has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

REASON In the interests of sustainable development. Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development" promotes the prudent use of natural resources. It is necessary to minimise the local demand for water to protect future supplies.

POLICY Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development"

INFORMATIVE 1

DOCUMENT/PLANS SUBMITTED WITH THE APPLICATION

1. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Drawing reference 'site location plan' received on 22 September 2009.

Drawing ref.no. 706/1 received on 22 September 2009

Drawing ref.no. 706/2 received on 22 September 2009

Drawing ref.no. 706/3 received on 22 September 2009

Drawing ref.no. 706/4 received on 22 September 2009

Appendices:	Appendix 1: Appeal Decision for S/2009/0112/FULL
Background Documents Used in the Preparation of this Report:	Drawing reference 'site location plan' received on 22 September 2009. Drawing ref.no. 706/1 received on 22 September 2009 Drawing ref.no. 706/2 received on 22 September 2009 Drawing ref.no. 706/3 received on 22 September 2009 Drawing ref.no. 706/4 received on 22 September 2009

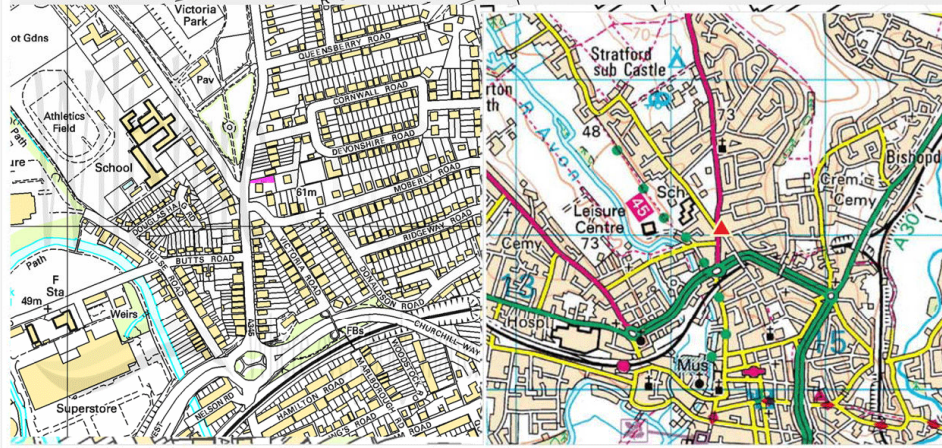




DEMOLITION OF SINGLE GARAGE AND ERECTION OF DWELLING

S/2009/1409

Site Visit:



**Wiltshire Council**  
Where everybody matters

63 CASTLE ROAD, SP1 3RH

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## Appeal Decision

Site visit made on 14 September 2009

by **David Leeming**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

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**Decision date:**  
**8 October 2009**

**Appeal Ref: APP/Y3940/A/09/2106565**  
**1A Gas Lane, Salisbury SP2 7AN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Harvey Euridge against the decision of Wiltshire Council.
- The application Ref S/2009/112/FULL, dated 6 January 2009, was refused by notice dated 20 April 2009.
- The development proposed is conversion to single storey dwelling.

### Procedural Matters

1. I have made my decision in the light of clarification of various matters relating to the proposed development, as sought and received from the parties after expiry of the original period for submission of representations on the appeal.
2. The appellant has confirmed that, contrary to the information on the application form, no provision would be made for off-road parking at the property. Instead, the development would proceed on the basis that there would be a front garden, as shown on the amended version of plan 07/439/06.B. Although this is dated 'Dec 08', the Council advise that they received it on 6 March 2009, under cover of a letter dated 4 March 2009 from the appellant's architect. This amended plan was the one considered by the Council when determining the application.

### Decision

3. I allow the appeal, and grant planning permission for conversion to single storey dwelling at 1A Gas Lane, Salisbury SP2 7AN in accordance with the terms of the application, Ref S/2009/112/FULL, dated 6 January 2009 (but without an on-site parking space) and plan 07/439/06.B, as amended, subject to the following conditions:
  - 1) The conversion hereby permitted shall begin not later than three years from the date of this decision.
  - 2) Before conversion work commences, a schedule of external facing materials shall be submitted to and approved in writing by the local planning authority. Work shall be carried out in accordance with the approved details.
  - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order, with or without modification), no windows, including both in the western side elevation and in the roof, other than

those expressly authorised by this permission, shall be inserted into the dwelling.

- 4) The proposed porthole windows on the western elevation of the dwelling shall be fixed, non-opening with obscure glazing.
- 5) Before first occupation of the dwelling, full details of both hard and soft landscape works for the front garden area of the dwelling hereby permitted shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.
- 6) No part of the front garden area shall be used at any time for the parking of motor vehicles.
- 7) Demolition or construction works shall not take place outside the hours 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays nor at any time on Sundays and Bank Holidays.

**Main issues**

4. I consider the main issues in this appeal to be:
  - Whether the proposed dwelling would represent poor design and be out of keeping with the character and appearance of the area
  - The effect of the development on the living conditions of local residents in Devizes Road in respect of overlooking
  - Whether satisfactory provision is made to meet infrastructure needs, relating to recreational open space, likely to arise from the development.

**Reasons**

5. On the first issue, the proposed dwelling would occupy a similar footprint to an existing workshop/store on the site except that its front building line would be set further back to provide a front garden area. The elongated form of the dwelling would be unusual but would maintain that of the existing building. The addition of a pitched roof, in place of the existing flat roof, would give it a more traditional appearance and better reflect that of a more typical dwelling. The building would be single storey in height and the set back position of its narrow front elevation would further reduce its prominence. In these circumstances, I consider that, rather than detracting from the character and appearance of the area, the development would actually improve it. Saved Policy D2 of the Replacement Salisbury District Local Plan – June 2003, which requires infill development to respect or enhance the character and appearance of the area, would thus be complied with.
6. On the second issue, the Council have clarified that their objection on grounds of overlooking concerns the three proposed porthole windows in the western side elevation. However, these windows are modest and at the site visit I established that only the uppermost 0.2m of any of these windows would be above the height of the lowest of the fencing on the rear boundaries of the houses to the west on Devizes Road. Nevertheless, to prevent any possibility of overlooking, a condition could be imposed requiring obscure glazing and appropriate fixing of these windows. The Council now accept that such a condition, which would be acceptable to the appellant, would overcome their

objection. Subject to this, the development would comply with saved Policy G2 (vi) of the Local Plan, by preventing any loss of privacy through overlooking.

7. On the third issue, the Council seek 'a suitable commuted payment towards off site open space provision.' This is based on a requirement in saved Policy R2 of the Local Plan which specifies that new residential development will be required to make provision for recreational open space (comprising facilities for communal outdoor sport and children's play) in accordance with a standard of 2.43 hectares per 1000 population. The Policy also says that additional amenity open space (including landscaped areas, public gardens and roadside verges) will be sought as appropriate. This is not challenged by the appellant but no planning obligation has been submitted.
8. Circular 05/2005 *Planning Obligations* advises that they are intended to make acceptable development that would otherwise be unacceptable in planning terms. The Council advise that the commuted payment would go towards outdoor sports/recreation facilities that would be accessible to the future occupants of the proposed accommodation and that these facilities would not be those solely for children/young people. However, there is no indication where these facilities are, or would be located and I have been given no information about the amount of the contribution being sought, nor any clear indication how this would be spent. The proposed development is for a one bedroom dwelling which would clearly be unsuitable for family occupation. No contribution would therefore be appropriate towards that element of a facility relating to children and young people.
9. Having regard to the above, I have not been provided with sufficient information to enable me to establish whether the contribution sought is fairly related to this particular development and would therefore meet the tests set out in Circular 05/2005. As a result, I consider that the apparent failure on the part of the appellant to meet the requirements of Policy R2 is not a sufficient justification for refusing a grant of planning permission for the proposed development.

#### **Other Matters**

10. The Council have now clarified their concern about the development having 'a significant impact on the existing amenities enjoyed by occupiers of adjacent and adjoining residential properties and existing structures, including the existing drainage system.' They advise that these concerns relate to potential damage to the adjacent outbuildings and drainage infrastructure shared with the neighbouring dwellings. However, these concerns do not bear on the planning merits of the proposal and cannot therefore carry weight in my decision. The same applies to the concerns by neighbours in Devizes Road about use of the side passage to the west of the dwelling.
11. Although I notice that the Council's decision referred to saved Policies G2 (ii) and G5 of the Local Plan, the Council do not allege that the development would place an undue burden on existing infrastructure or that adequate water supplies, drainage and sewerage facilities are unavailable, or could not be made available.
12. Concerns have been raised by Wessex Water and some local residents about the possible presence of a public sewer crossing the site and restrictions on

new development in that event. However, this and the other related matters raised, including arrangements for disposal of surface water, are covered by other legislation and are not valid reasons for refusing planning permission. Should there be any public sewer on the site, my grant of planning permission does not prevent the authority (Wessex Water) from requiring an agreement relating to the carrying out of any necessary diversionary and/or protection works at the appellant's expense.

13. Local residents have raised a concern about loss of light and sunlight due to the increased height of the roof. However, following my visit, which included viewing the site from one of the neighbouring properties and from the adjacent shared enclosed back yard at Merom Row, I am satisfied that the increased height would not have a harmful material impact in this regard.
14. I am satisfied too that, despite concerns of neighbours, whilst the proposed dwelling would be small, with the accommodation set out in an elongated form, the physical space and facilities would be adequate to enable an acceptable quality of life for its future occupants. The proposed lantern and roof lights would enable adequate natural light to enter the dwelling. The development would also be an efficient use of land, bearing in mind the lack of any objection on the part of the Council to a change in use at the site from light industrial to residential.
15. The upper windows to the rear of the houses in Merom Row and Devizes Road appear mostly to have obscure glazing and to serve bathrooms. This would prevent unacceptable overlooking of the proposed dwelling through the lantern and roof lights. A notable exception is an attic box window to the rear of No 2 Merom Row, but the nearest of the lights is sufficiently further back and set away from this window to prevent overlooking.
16. As to concerns about parking difficulties in the area, I consider that the confirmed lack of any off-road parking provision is unlikely to have a significant effect in this regard, bearing in mind that the dwelling would only provide accommodation for a maximum of two people. Moreover, the site is in a sustainable location, served by public transport, and the Council do not raise any concerns about the lack of parking provision for the dwelling.

#### **Conditions**

17. I have considered possible conditions against advice set out in Circular 11/95, *The Use of Conditions in Planning Permissions*. Where necessary I am imposing amended versions of the Council's suggested conditions to better accord with the advice in the Circular or for brevity.
18. In addition to conditions relating to commencement of the conversion and to the external facing materials, I am imposing, in the interests of securing a satisfactory development, others relating to the fixing and glazing of the porthole windows in the western elevation; to prevent off-road parking; and to restrict hours of working on site during the conversion.
19. Given the constraints of the site, it seems to me that there would be no permitted development rights in relation to an extension and thus that there is no need to impose the suggested condition removing permitted development rights in this respect. In order to protect the privacy and outlook of adjacent

occupiers it is necessary only to restrict the insertion of further windows, including within the roof.

20. The Council have suggested a landscaping condition, which I am imposing, but in a modified form, to reflect the fact that the only available area for this is to the front of the property.

**Conclusion**

21. For the reasons given above, I conclude that the appeal should be allowed.

*David Leeming*

INSPECTOR