

# Schedule Of Planning Applications For Consideration

*In The following Order:*

*Part 1) Applications Recommended For Refusal*

*Part 2) Applications Recommended for Approval*

*Part 3) Applications For The Observations of the Area Committee*

With respect to the undermentioned planning applications responses from bodies consulted thereon and representations received from the public thereon constitute background papers with the Local Government (Access to Information) Act 1985.

## *ABBREVIATIONS USED THROUGHOUT THE TEXT*

<b>AHEV</b>	-	<b>Area of High Ecological Value</b>
<b>AONB</b>	-	<b>Area of Outstanding Natural Beauty</b>
<b>CA</b>	-	<b>Conservation Area</b>
<b>CLA</b>	-	<b>County Land Agent</b>
<b>EHO</b>	-	<b>Environmental Health Officer</b>
<b>HDS</b>	-	<b>Head of Development Services</b>
<b>HPB</b>	-	<b>Housing Policy Boundary</b>
<b>HRA</b>	-	<b>Housing Restraint Area</b>
<b>LPA</b>	-	<b>Local Planning Authority</b>
<b>LB</b>	-	<b>Listed Building</b>
<b>NFHA</b>	-	<b>New Forest Heritage Area</b>
<b>NPLP</b>	-	<b>Northern Parishes Local Plan</b>
<b>PC</b>	-	<b>Parish Council</b>
<b>PPG</b>	-	<b>Planning Policy Guidance</b>
<b>SDLP</b>	-	<b>Salisbury District Local Plan</b>
<b>SEPLP</b>	-	<b>South Eastern Parishes Local Plan</b>
<b>SLA</b>	-	<b>Special Landscape Area</b>
<b>SRA</b>	-	<b>Special Restraint Area</b>
<b>SWSP</b>	-	<b>South Wiltshire Structure Plan</b>
<b>TPO</b>	-	<b>Tree Preservation Order</b>

**LIST OF PLANNING APPLICATIONS TO BE SUBMITTED BEFORE THE FOLLOWING  
COMMITTEE  
CITY AREA - 4<sup>th</sup> SEPTEMBER 2008**

Note: This is a précis of the Committee report for use mainly prior to the Committee meeting and does not represent a notice of the decision

<b>Item Page</b>	<b>Application No Officer</b>	<b>Parish/Ward Recommendation Ward Councillors</b>
1	S/2008/1087	ST MARTIN & MIL
3-6	Mr T Wippell	REFUSAL
	VOLPOINT HOUSE MILFORD TRADING ESTATE TOLLGATE ROAD SALISBURY SP1 2JG  CHANGE OF USE OF WAREHOUSE AREA TO REAR OF PROPERTY TO D2 (FITNESS STUDIO) USE	ST MARTIN & MILFORD  Councillor Howarth Councillor Tomes
2	S/2008/1037	ST MARTIN & MIL
7-10	Mr T Wippell	REFUSAL
	VOLPOINT HOUSE MILFORD TRADING ESTATE TOLLGATE ROAD SALISBURY SP1 2JG  CHANGE OF USE OF GROUND FLOOR OFFICES AT FRONT OF BUILDING TO D2 (ASSEMBLY & LEISURE) USE	ST MARTIN & MILFORD  Councillor Howarth Councillor Tomes
3	S/2008/1047	EAST HARNHAM
11-16	Charlie Bruce-White	APPROVE WITH CONDITIONS
	63 BOUVERIE AVENUE SALISBURY WILTSHIRE SP2 8DU  CONSTRUCTION OF ONE 5 BEDROOM DWELLING & CREATION OF NEW ACCESS	EAST HARNHAM  Councillor Hill Councillor McKeown
4	S/2008/1062	FISHERTON/BEM V
17-24	Mr T Wippell	APPROVE WITH CONDITIONS
17:15	147-151 FISHERTON STREET SALISBURY WILTSHIRE SP2 7RP  CHANGE OF USE TO TAKEAWAY AND RESTAURANT AND ALTERATION TO EXISTING PREMISES (NEW SECOND DOOR ENTRANCE AND NEW INTERNAL AND EXTERNAL VENTILATION SYSTEM; INTERNAL ALTERATIONS)	FISHERTON & BEMERTON VILLAGE  Councillor Roberts Councillor Walsh

# Part 1

## Applications recommended for Refusal

1

Application Number:	S/2008/1087		
Applicant/ Agent:	MYDDELTON & MAJOR		
Location:	VOLPOINT HOUSE TOLLGATE ROAD SALISBURY SP1 2JG		
Proposal:	CHANGE OF USE OF WAREHOUSE AREA TO REAR OF PROPERTY TO D2 (FITNESS STUDIO) USE		
Parish/ Ward	ST MARTIN & MIL		
Conservation Area:		LB Grade:	
Date Valid:	16 June 2008	Expiry Date	11 August 2008
Case Officer:	Mr T Wippell	Contact Number:	01722 434554

### REASON FOR REPORT TO MEMBERS

Councillor Tomes has requested that this item be determined by Committee due to the controversial nature of the application.

### SITE AND ITS SURROUNDINGS

Volpoint House is an industrial building with B1 Use, situated within a small industrial estate at the end of Blakey Road. The building has a two-storey office at the front, and a warehouse section at the rear which has been subdivided into two units. The building is surrounded on three sides by a large tarmac hardstanding, with off-street parking available for dozens of vehicles.

The application site forms half of the ground floor warehouse area, with off-street parking provision for approximately 13 vehicles. Volpoint House has until recently been leased by a printing firm, but currently lies vacant.

### THE PROPOSAL

The proposal is for a change of use of approximately half of the rear warehouse from Class B1 light industrial to Class D2 Fitness Studio. Off-street parking provision will be provided for 13 vehicles.

### PLANNING HISTORY

07/1417	Change of Use to B2 Use MOT Station, (Other half of Volpoint House warehouse)	AC
07/2075	Change of use of ground floor to gym	WD

### CONSULTATIONS

WCC Highways - No highways objections raised

Economic Development - The following comments were received for S/2008/103 (an application for the change of use to D2 of the adjacent unit at Volpoint House). Economic Development has confirmed that the comments supplied should also apply in principle to the current scheme as well:

This is quite hard to comment on, as the proposal only affects a small portion of the larger property of Volpoint House and in the long term this whole area is identified as one of the main projects of the Salisbury Vision.

The applicant forecasts up to 6 FTE employees, and the use will cover 104sqm. Although the proposed new use is D2, the applicants predicted employee numbers are comparable with potential employee levels for the same floorspace in B1 use (which would be 5.7 FTE at 18.2sqm per employee in B1 use). Therefore in terms of pure employment potential, this application compares favourably to the highest density of potential employment use, B1. Considering the type of employment, it could be argued that the skills and knowledge levels of the employees working in this specialist area of healthcare are high and comparable to any potential B1 office use, and possibly higher than any other B use class would require.

My concern, as you mention, is the domino effect and that change of use of even part of this larger property will result in the long term loss of B class 'employment' space. There is already 'Outburst' (childrens soft play / bowling) next door, and I believe a snooker/bowls (?) place further back on Tollgate Road. I know this particular application is very small scale, but it could encourage further development away from B class in the area

At the moment, that could threaten the loss of quite a large patch of employment land, in close proximity to the city centre. Whilst the majority of that area (excluding the more modern green painted units near the entrance) is not particularly attractive, as an employment site it at least has the potential for future redevelopment to provide modern, purpose built business space close to the city centre. Unfortunately I can't offer definitive information about the supply of this type of business accommodation in that area. However, I am concerned about any suggestions that a 'marketing exercise' has been undertaken with the results determining any future potential use or development. This is an informal and subjective process and doesn't give regard to the long term strategic potential of sites. You may be aware that we are seeking to introduce a formal policy to apply objective criteria to assess the long term potential of sites for employment use (see the ELR and also LDF Topic Paper no.9).

Strategically, the site is identified as being part of the 'Eastern Gateway' project for the Salisbury Vision. This suggests the redevelopment of the whole area around Southampton Road, residential led, with other uses to include offices, retail, bulky goods retail etc. However, the Vision is at such an early stage, these are long term aspirations, with one key issue being the potential need to relocate some current uses to other areas.

I also believe the site has been identified through the SHLAA (no. 207?) for housing potential in the long term - but again linked to progression of the Salisbury Vision.

This application has come in advance of a lot of strategic and long term plans for the area. Given the council's pledge towards the Vision and the long term development potential of that whole area, and the fact that this proposal is for such a small floorspace, it may be that the applicant could carry out their business as proposed in the short/medium term without any significant impact on the overall employment land supply. My only concern would be if the long term aspirations for the development in that area were not progressed, then the trend for other uses in this area might continue with the loss of employment land - which in the long term may have to then be found elsewhere.

Forward Planning- No comments received

#### REPRESENTATIONS

Advertisement	No
Site Notice displayed	Yes- Expired 10/07/08
Departure	No
Neighbour notification	Yes- Expired 08/07/08
Third Party responses	No

#### MAIN ISSUES

Principle  
Pros/ Cons

Loss of Employment  
Highways Safety/ Parking  
Sustainability and Location

#### POLICY CONTEXT

Policies G2, E16, PS1, G1	Salisbury District Local Plan
PPS1-	Sustainable development
PPS6-	Planning for Town Centres

#### PLANNING CONSIDERATIONS

*Principle/ Loss of Employment*

The following policy is of importance when Members consider this proposal:

*E16- On land allocated or currently used for employment purposes, the construction, change of use or redevelopment of premises for other purposes will only be permitted where the proposed development is an acceptable alternative use that provides a similar number and range of job opportunities. The only exceptions to this are where the land or premises are no longer viable for an employment generating use and/or where redevelopment of a site for a non-employment use would bring improvements to the local environment or conservation benefits that would outweigh the loss of local jobs.*

In the supporting text it states that:

In recognition of the continuing demands to locate other activities within employment areas, proposals for other uses on employment sites will be considered where the alternative use is acceptable in principle and provides a similar number and range of job opportunities. Proposals involving the significant net loss of employment opportunities in a town or main settlement or the loss of an employment use that is important to the rural economy will be resisted. The Council will consider making exceptions to this only where there is clear evidence that the land or premises are no longer viable for an employment generating use and/or where redevelopment of a site for a non-employment use would bring improvements to the local environment or conservation benefits that would outweigh the loss of local jobs.

Policy PS1 states that: *The development of health, social services, places of worship and community facilities will be permitted within or adjoining the settlements. Proposals to redevelop or enlarge existing facilities which are located outside settlements will be permitted where the proposed development would take place within the existing boundaries of the site.*

In support of the scheme, the applicant has stated that he expects to employ up to 2 staff (possibly up to 3 or 4 staff). Evidence has also been submitted to show that the unit has been marketed for at least 6 months with no interest for occupancy with a B1 Use. A facility such as this does not currently exist in the immediate area, and the applicant sees the new use as providing a community facility. The site is close to town and public transport, and there is sufficient parking space for staff and visitors.

However, the Employment Land Review from April 2007 (produced as evidence for the Local Development Framework), identifies Southampton Road as a key strategic employment site for the district's economy. The area identified includes the Dolphin Industrial Estate, Bourne Centre, Dairy Meadow, Blakey Road and Tollgate Road. It also identifies that most of any future employment land should be located in and around Salisbury city and Amesbury, representing an additional need to ensure existing employment sites remain.

There is concern that if permission is granted for this application, a precedent would be set and a domino effect of new uses away from B1/ B2 would arise throughout the entire Tollgate/Blakey Road employment area. The long-term suitability of the property/ wider area may be undermined, and the Local Planning Authority remain concerned that the amount, and more specifically the range of employment opportunities associated with a D2 use would be far less than the range and amount of employment uses associated with a B1 use.

It must now be considered whether the applicant's justification into the benefits of the new use outweigh the loss of an industrial unit in this location.

### **Summary of Employment concerns**

On balance, and when considering the applicant's justification into the scheme, it is judged that the benefits resulting from the change of use to Fitness Centre should not be given such weight so as to outweigh the loss of this industrial unit.

By maintaining the current function of the unit with a B1 use, a much wider range of job opportunities could potentially be provided. Whilst it is acknowledged that the site has been marketed for 6 months unsuccessfully, and there may be constraints which could render the unit unsuitable for modern B1 uses, the LPA considers it more important to consider whether the long-term suitability of the property/ wider area will be undermined, and whether the unit's strategic value and contribution to the local economy in the long term is particularly relevant.

Overall it is considered that a change away from an industrial unit would result in the site having a less sustainable long-term use, and this could undermine the overall employment use of Blakey Road, and officers do not feel that enough evidence has been provided to support the view that change of use of the unit to a fitness centre is the only suitable use for the site. Whilst the Local Planning Authority recognises the need for different types of employment in the district, a strategic view of the site needs to be taken and the cumulative effect of this change of use considered.

### **Highways Safety/Parking**

Sufficient off-street parking will be available for the change of use, and highways raise no objections to the scheme. It is considered that there will be no impact on highways safety with this development.

In terms of the locational qualities of the site, the Local Planning Authority has considered the location of the fitness centre against the sustainability principles contained within Local Plan and National Guidance. It is judged that whilst the fitness centre is sited away from the main City Centre (i.e.- away from sustainable transport links such as bus routes), due to the small-scale nature of the unit, and its location within close proximity of residential areas on the edge of the City, the additional traffic/ trips generated by the scheme will not necessarily be significant enough to warrant refusal, given that the fitness centre could be used by local residents as a local community facility, in compliance with Policy PS1. However, there have been no letters of support for the creation of such a facility, and therefore no evidence of need for such a community facility. It is therefore considered that the provision of a community facility would not outweigh the loss of employment opportunities.

### **Conclusion**

On balance, and when considering the applicant's justification into the Change of Use, it is judged that the benefits resulting from the change of use to fitness studio do not outweigh the loss of the site for industrial employment purposes.

RECOMMENDATION: Refuse

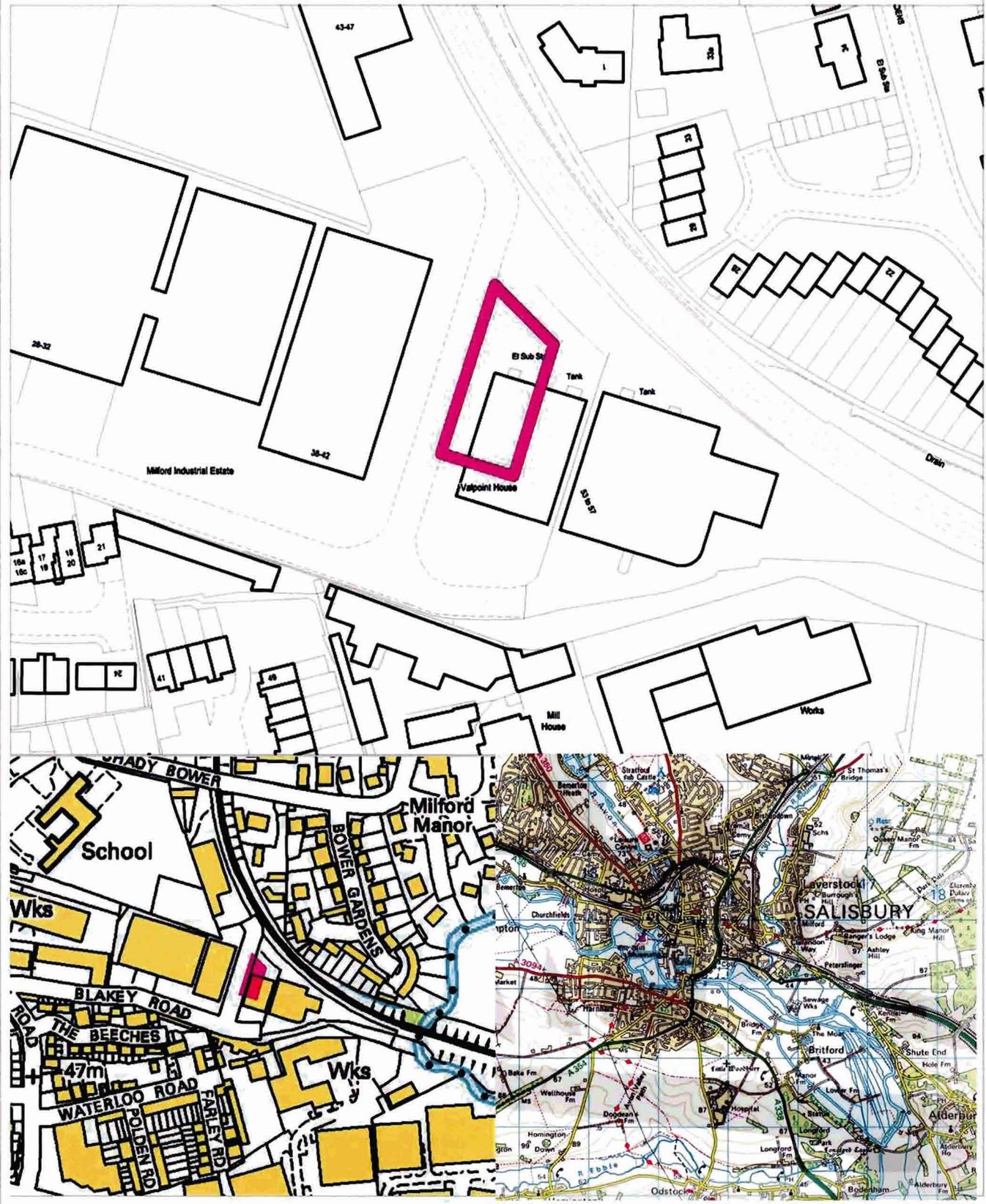
For the following reasons:

The change of use of this unit from B1 industrial to D2 fitness studio is considered to result in the loss of an industrial unit within an important industrial employment area of the City. Adequate provision for alternative employment with a similar number of job provision has not been made, and it is judged that the benefits resulting from the change of use to fitness studio do not outweigh the loss of the site for industrial employment purposes. Consequently the proposal is therefore contrary to Policy E16 of the adopted Salisbury District Local Plan.

CHANGE OF USE OF WAREHOUSE AREA TO REAR OF PROPERTY TO D2 (FITNESS STUDIO) USE

S/2008/1087

Site Visit:



SCALE: NTS  
DATE: 22/08/2008 16:43:44  
DEPARTMENT: Planning

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Application Number:	S/2008/1037		
Applicant/ Agent:	MR ROD COPPOCK		
Location:	VOLPOINT HOUSE TOLLGATE ROAD SALISBURY SP1 2JG		
Proposal:	CHANGE OF USE OF GROUND FLOOR OFFICES AT FRONT OF BUILDING TO D2 (ASSEMBLY AND LEISURE) USE.		
Parish/ Ward	ST MARTIN & MIL		
Conservation Area:	LB Grade:		
Date Valid:	6 June 2008	Expiry Date	1 August 2008
Case Officer:	Mr T Wippell	Contact Number:	01722 434554

#### REASON FOR REPORT TO MEMBERS

Councillor Tomes has requested that this item be determined by Committee due to the controversial nature of the application.

#### SITE AND ITS SURROUNDINGS

Volpoint House is an industrial building with B1 Use, situated within a small industrial estate at the end of Blakey Road. The building has a two-storey office at the front, and a warehouse section at the rear which has been subdivided into two units. The building is surrounded on three sides by a large tarmac hardstanding, with off-street parking available for dozens of vehicles.

The application site forms the first third of the ground floor, with off-street parking provision for approximately 14 vehicles. Volpoint House has until recently been leased by a printing firm, but currently lies vacant.

#### THE PROPOSAL

The proposal is for a change of use of approximately half of the rear warehouse from Class B1 light industrial to Class D2 Pilates/ Fitness Studio. Off-street parking provision will be provided for 21 vehicles.

#### PLANNING HISTORY

07/1417	Change of Use to B2 Use MOT Station, (other half of Volpoint House warehouse)	AC
07/2075	Change of use of ground floor to gym	WD

#### CONSULTATIONS

WCC Highways - No highways objections raised

Economic Development - This is quite hard to comment on, as the proposal only affects a small portion of the larger property of Volpoint House and in the long term this whole area is identified as one of the main projects of the Salisbury Vision.

The applicant forecasts up to 6 FTE employees, and the use will cover 104sqm. Although the proposed new use is D2, the applicants predicted employee numbers are comparable with potential employee levels for the same floorspace in B1 use (which would be 5.7 FTE at 18.2sqm per employee in B1 use). Therefore in terms of pure employment potential, this application compares favourably to the highest density of potential employment use, B1. Considering the type of employment, it could be argued that the skills and knowledge levels of the employees working in this specialist area of healthcare are high and comparable to any potential B1 office use, and possibly higher than any other B use class would require.

My concern, as you mention, is the domino effect and that change of use of even part of this larger property will result in the long term loss of B class 'employment' space. There is already 'Outburst' (childrens soft play / bowling) next door, and I believe a snooker/bowls (?) place further back on Tollgate Road. I know this particular application

is very small scale, but it could encourage further development away from B class in the area

At the moment, that could threaten the loss of quite a large patch of employment land, in close proximity to the city centre. Whilst the majority of that area (excluding the more modern green painted units near the entrance) is not particularly attractive, as an employment site it at least has the potential for future redevelopment to provide modern, purpose built business space close to the city centre. Unfortunately I can't offer definitive information about the supply of this type of business accommodation in that area. However, I am concerned about any suggestions that a 'marketing exercise' has been undertaken with the results determining any future potential use or development. This is an informal and subjective process and doesn't give regard to the long term strategic potential of sites. You may be aware that we are seeking to introduce a formal policy to apply objective criteria to assess the long term potential of sites for employment use (see the ELR and also LDF Topic Paper no.9).

Strategically, the site is identified as being part of the 'Eastern Gateway' project for the Salisbury Vision. This suggests the redevelopment of the whole area around Southampton Road, residential led, with other uses to include offices, retail, bulky goods retail etc. However, the Vision is at such an early stage, these are long term aspirations, with one key issue being the potential need to relocate some current uses to other areas.

I also believe the site has been identified through the SHLAA (no. 207?) for housing potential in the long term - but again linked to progression of the Salisbury Vision.

This application has come in advance of a lot of strategic and long term plans for the area. Given the council's pledge towards the Vision and the long term development potential of that whole area, and the fact that this proposal is for such a small floorspace, it may be that the applicant could carry out their business as proposed in the short/medium term without any significant impact on the overall employment land supply. My only concern would be if the long term aspirations for the development in that area were not progressed, then the trend for other uses in this area might continue with the loss of employment land - which in the long term may have to then be found elsewhere.

Forward Planning- No comments received

#### REPRESENTATIONS

Advertisement	No
Site Notice displayed	Yes- Expired 10/07/08
Departure	No
Neighbour notification	Yes- Expired 01/07/08
Third Party responses	No

#### MAIN ISSUES

Principle  
Pros/ Cons  
Loss of Employment  
Highways Safety/ Parking  
Sustainability and Location

#### POLICY CONTEXT

Policies G2, E16, PS1, G1	Salisbury District Local Plan
PPS1-	Sustainable development
PPS6-	Planning for Town Centres

## PLANNING CONSIDERATIONS

### *Principle/ Loss of Employment*

The following policy is of importance when Members consider this proposal:

*E16- On land allocated or currently used for employment purposes, the construction, change of use or redevelopment of premises for other purposes will only be permitted where the proposed development is an acceptable alternative use that provides a similar number and range of job opportunities. The only exceptions to this are where the land or premises are no longer viable for an employment generating use and/or where redevelopment of a site for a non-employment use would bring improvements to the local environment or conservation benefits that would outweigh the loss of local jobs.*

In the supporting text it states that:

In recognition of the continuing demands to locate other activities within employment areas, proposals for other uses on employment sites will be considered where the alternative use is acceptable in principle and provides a similar number and range of job opportunities. Proposals involving the significant net loss of employment opportunities in a town or main settlement or the loss of an employment use that is important to the rural economy will be resisted. The Council will consider making exceptions to this only where there is clear evidence that the land or premises are no longer viable for an employment generating use and/or where redevelopment of a site for a non-employment use would bring improvements to the local environment or conservation benefits that would outweigh the loss of local jobs.

Policy PS1 states that: *The development of health, social services, places of worship and community facilities will be permitted within or adjoining the settlements. Proposals to redevelop or enlarge existing facilities which are located outside settlements will be permitted where the proposed development would take place within the existing boundaries of the site.*

In support of the scheme, the applicant has stated that he expects to employ up to 6 staff (possibly up to 10 staff) within a year of the relocation. Evidence has also been submitted to show that the unit has been marketed for at least 6 months with no interest for occupancy with a B1 Use. A facility such as this does not currently exist in the area, and the applicant sees the new use as providing a community facility. The site is close to town and public transport, and there is sufficient parking space for staff and visitors.

However, the Employment Land Review from April 2007 (produced as evidence for the Local Development Framework), identifies Southampton Road as a key strategic employment site for the district's economy. The area identified includes the Dolphin Industrial Estate, Bourne Centre, Dairy Meadow, Blakey Road and Tollgate Road. It also identifies that most of any future employment land should be located in and around Salisbury city and Amesbury, representing an additional need to ensure existing employment sites remain.

There is concern that if permission is granted for this application, a precedent would be set and a domino effect of new uses away from B1/ B2 would arise throughout the entire Tollgate/Blakey Road employment area. The long-term suitability of the property/ wider area may be undermined, and the Local Planning Authority remain concerned that the amount, and more specifically the range of employment opportunities associated with a D2 use would be far less than the range and amount of employment uses associated with a B1 use.

It must now be considered whether the applicant's justification into the benefits of the new use outweigh the loss of an industrial unit in this location.

### **Summary of Employment concerns**

On balance, and when considering the applicant's justification into the scheme, it is judged that the benefits resulting from the change of use to Pilates/ Fitness Centre should not be given such weight so as to outweigh the loss of this industrial unit.

By maintaining the current function of the unit with a B1 use, a much wider range of job opportunities could potentially be provided. Whilst it is acknowledged that the site has been marketed for 6 months unsuccessfully, and there may constraints which could render the unit

unsuitable for modern B1 uses, the LPA considers it more important to consider whether the long-term suitability of the property/ wider area will be undermined, and whether the units strategic value and contribution to the local economy in the long term is particularly relevant.

Overall it is considered that a change away from an industrial unit would result in the site having a less sustainable long-term use, and this could undermine the overall employment use of Blakey Road, and officers do not feel that enough evidence has been provided to support the view that change of use of the unit to a fitness centre is the only suitable use for the site. Whilst the Local Planning Authority recognises the need for different types of employment in the district, a strategic view of the site needs to be taken and the cumulative effect of this change of use considered.

### **Highways Safety/ Parking**

Sufficient off-street parking will be available for the change of use, and highways raise no objections to the scheme. It is considered that there will be no impact on highways safety with this development.

In terms of the locational qualities of the site, the Local Planning Authority has considered the location of the Pilates/ Fitness centre against the sustainability principles contained within Local Plan and National Guidance. It is judged that whilst the Pilates/ Fitness centre is sited away from the main City Centre (i.e.- away from sustainable transport links such as bus routes), due to the small-scale nature of the unit, and its location within close proximity of residential areas on the edge of the City, the additional traffic/ trips generated by the scheme will not necessarily be significant enough to warrant refusal, given that the fitness centre could be used by local residents as local community facility, in compliance with Policy PS1. However, there have been no letters of support for the creation of such a facility, and therefore no evidence of need for such a community facility. It is therefore considered that the provision of a community facility would not outweigh the loss of employment opportunities.

### **Conclusion**

On balance, and when considering the applicant's justification into the Change of Use, it is judged that the benefits resulting from the change of use to Pilates/ Fitness Studio do not outweigh the loss of the site for industrial employment purposes.

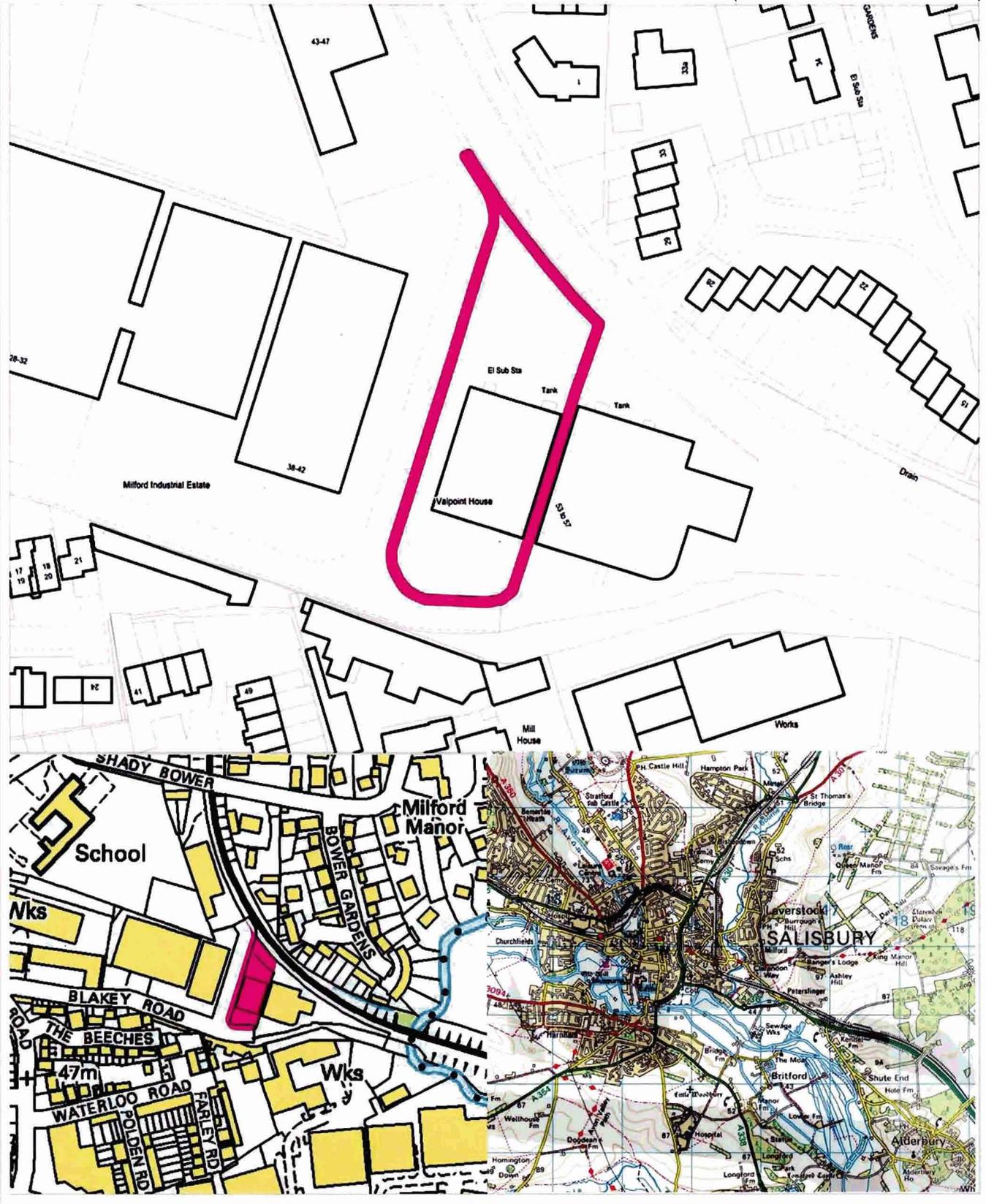
**RECOMMENDATION: Refuse**

For the following reasons:

The change of use of this unit from B1 industrial to D2 Pilates/ Fitness Studio is considered to result in the loss of an industrial unit within an important industrial employment area of the City. Adequate provision for alternative employment with a similar number of job provision has not been made, and it is judged that the benefits resulting from the change of use to Pilates/ Fitness Studio do not outweigh the loss of the site for industrial employment purposes. Consequently, the proposal is therefore contrary to Policy E16 of the adopted Salisbury District Local Plan.

S/2008/1037

Site Visit:



### Volpoint House Tollgate Road SP1 2JG

SCALE: NTS  
 DATE: 22/08/2008 12:15:03  
 DEPARTMENT: Planning

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## Part 2

### Applications recommended for Approval

3

Application Number:	S/2008/1047		
Applicant/ Agent:	JOHN COLEMAN		
Location:	63 BOUVERIE AVENUE SALISBURY SP2 8DU		
Proposal:	CONSTRUCTION OF ONE 5 BEDROOM DWELLING AND CREATION OF NEW ACCESS		
Parish/ Ward	EAST HARNHAM		
Conservation Area:		LB Grade:	
Date Valid:	9 June 2008	Expiry Date	4 August 2008
Case Officer:	Charlie Bruce-White	Contact Number:	01722434541

#### REASON FOR REPORT TO MEMBERS

Cllr McKeown has called the application before Committee due to the local interest, predominantly concerning the potential impact of the development upon the character of the area.

#### SITE AND ITS SURROUNDINGS

The site relates to a residential dwelling and its curtilage, situated on a corner plot of Bouverie Avenue and Bouverie Avenue South, Salisbury.

The site is within a Housing Restraint Area, as designated within the Local Plan.

#### THE PROPOSAL

It is proposed to erect two new dwellings and vehicular accesses.

#### PLANNING HISTORY

S/2007/2564	Erect 5 dwellings (demolish existing) and new vehicular access	REF	20.02.08
		26.06.08	Appeal Dismissed
S/2008/0686	Erect 2 dwellings and new accesses	REF	27.05.08
S/2008/1078	Erect garage	AC	07.08.08

Concern has previously been expressed over residential development of the site due to its adverse impact upon the character of the Housing Restraint Area and the amenity of a neighbour. An appeal decision has been recently issued on the refused scheme for 5 dwellings, confirming the Council's concerns upon the character of the Housing Restraint Area.

#### CONSULTATIONS

Highways Officer	No objection subject to standard conditions relating to new access/driveway
Environmental Health	Have previously recommended planning condition to impose restricted hours of construction works.
Wiltshire Wildlife Trust	Have previously recommended that the clearance of trees and areas of scrub should be avoided during the bird breeding season, and that any trees to be felled should be assessed for their bat habitat by a suitably qualified person.

Wessex Water Foul flows can be connected to the public sewer. Storm flows should be disposed to soakaways, if soil conditions are favourable, or to the public surface water sewer, subject to Wessex Water's approval. Water supply can be provided by the existing system.

## REPRESENTATIONS

Advertisement	Yes	Expiry.....10/07/08
Site Notice displayed	Yes	Expiry.....10/07/08
Departure	No	
Neighbour notification	Yes	Expiry.....02/07/08

Third Party responses 8 letters of objection/concern. Reasons include:

- Detrimental impact upon character of the area due to the cramped form of development;
- Contrary to aims and objectives of Housing Restraint Policy;
- The proposed forward projecting garage impacts upon the spaciousness of the area, and contravenes the building line;
- New accesses and resulting vehicular movements would be a hazard to road safety given the location of the site adjacent to a blind bend;
- Inadequate turning facilities within the cramped front driveway;
- Loss of privacy to Nos. 61 and 103 Bouverie Avenue;
- Development would exacerbate local flooding problems;

## MAIN ISSUES

1. The acceptability of the proposal given the policies of the Local Plan;
2. Character of the locality and amenity of the street scene;
3. Amenities of the occupiers of adjoining and near by property;
4. Highway considerations.

## POLICY CONTEXT

Local Plan policies G1, G2, G5, D2, H19, C12, C13, TR11, TR14, R2

PPS1: *Sustainability & Climate Change*; PPS3: *Housing*; PPG13: *Transport*

## PLANNING CONSIDERATIONS

### *Principle of development*

***The site is within a Housing Restraint Area where policy H19 of the Local Plan states that residential development will be acceptable only if the following criteria are met: i) there will be no adverse impact on the character of the settlement or neighbourhood designated as a Housing Restraint Area; ii) there is no loss of an important open space which contributes to the special character of the area; iii) the loss of features such as trees, hedges and walls, which contribute to the character of the area, is kept to a minimum; and iv) the development will be in keeping with the character of the neighbouring properties.***

The supporting text to policy H19 states:

*Some Housing Restraint Areas are characterised by areas of buildings set in large gardens, possibly containing mature trees, which give the area a "green" appearance and where it is considered that the intensification of development would be detrimental to the established character, for example, the Harnham Hill area in Salisbury.*

For any development to be acceptable within these Housing Restraint Areas, it will need to be demonstrated to the satisfaction of the Local Planning Authority that there will be no adverse impact on the character of the settlement, there will be no loss of important open areas which contribute to the character of the area such as small fields or large gardens, and that the City Area Committee 04/09/2008

proposal is in keeping with immediately neighbouring properties in terms of plot size, dwelling size and design. In view of these considerations although, in the main development is likely to be limited to a single dwelling only, there may be occasions where more than one dwelling will be acceptable, dependent on the size of the plot.

***Policy D2 of the Local Plan states that the design of the proposal should respect the character of the area, with particular regard to building lines, scale and height and plot widths. PPS3 promotes a more efficient use of land, while at the same time ensuring a high quality design and environment which contributes to the maintenance and creation of sustainable communities.***

***Impact upon visual amenity, including character of the Housing Restraint Area***

Comments of the Planning Inspector on application S/2007/2564 are particularly relevant in terms of assessing the character of the area and determining how much weight should be given to preserving the existing environment:

*The appeal site is on a prominent corner location within a designated Housing Restraint Area, as protected by saved Local Plan Policy H19. It is currently occupied by a dwelling set in a large garden. This in my opinion precisely fits the description of the important character which the policy seeks to protect, as defined in the supporting text where the site's location on Harnham Hill is given as the prime exemplar.*

*Many of the houses are set well back in their plots behind substantial hedges. Coupled with the mature trees on the front boundary and within the footways, this gives an air of space and semi rural peace to the immediate neighbourhood. Existing properties within the Restraint Area vary widely in design and in age, but it seems to me that the appeal property and its surrounding spaces make a particularly valuable contribution to the area's attractive character.*

On the particular frontage to which the current application relates, the same Inspector made the following comments on the original scheme:

*On the Bouverie Avenue South frontage, the houses on Plots 4 and 5 and the side of the house on Plot 3 would be much closer to the road than is typical within this part of the Housing Restraint Area. Although much of the existing hedge would be retained, the three storey gable ends of each property would loom well above it and in my opinion would have an excessive presence in the streetscene contrary to the aims of Policy H19.*

The current application now only proposes the creation of one additional dwelling, to front onto Bouverie Avenue South. At present, this frontage provides a significant area of open space and greenery through the long and high section of boundary hedge. The proposed development would substantially retain this existing boundary hedge, and it is not considered that the relatively modest hole created by the new access would be detrimental to this feature. It is considered important to ensure that the existing boundary hedge is retained and protected, and replanted if its health is affected, and this can be secured through a planning condition.

The new dwelling would be sited closer to No.103 than No.63, rather than sited an equal distance in between. However, such an approach is considered acceptable, since a relatively large open space would be retained to its north, and the spacing between the proposed dwelling and No.103 would relate well to the spacing this existing dwelling has with its neighbour, No.105. The bulk of the dwelling would be sited approximately 10 metres from the highway, which is considered appropriate in order to fit in with the character of the area, and is a significantly greater distance from the highway than the original scheme which was dismissed at appeal. There would, however, be a front garage element that would project forward, although due to the presence of the existing boundary hedge, its lower single storey height, and the absence of a dwelling immediately to its north, it is not considered that this would result in a feature that would be so out of keeping with the character of the streetscene to warrant refusal.

Regarding scale, it is noted that the proposed dwelling would be higher than Nos. 63 and 103. However, despite its relatively close association with No.103, it is considered that it would not appear unduly out of scale due to the design of the sloping hipped roof which reinforces the space between the two buildings and provides a reasonably gentle transition in height. The

scale of the dwelling would be comparable to the No.63, although it would appear larger due to its more elevated siting. However, as with No.103, it is not considered that the contrast in height would be harmful to character of the streetscene given the degree of visual separation.

The general design of the dwelling is considered acceptable, picking up on some of the more traditional dwellings within the area. Materials would substantially comprise render and clay tiles, although there would also be elements of brick and tile hanging, all of which are characteristic of the area.

### ***Highways implications***

The Local Highways Authority have raised no objection to the proposal subject to conditions to control the surface material of the parking/turning area, the direction in which any entrance gates should open, and the disposal of surface water. In order to ensure that sufficient parking provision is maintained, it is considered appropriate to impose a condition to prevent the conversion of the garage spaces to accommodation.

### ***Neighbouring amenity***

#### No.61 Bouverie Avenue

Previous concerns have been expressed by the Council regarding overlooking of this property. However, the following comments of the Planning Inspectorate are of significance in terms of assessing the impact of any subsequent application:

*There would be no sideways facing windows to habitable rooms above ground floor level in the houses sharing a boundary with existing neighbours. On my site visit, it seemed to me that the effect of the proposals on neighbours' living conditions in terms of overlooking would be small and no more than might be expected in a built up area such as this.*

The scheme now proposed would only provide one dwelling, to be sited towards the rear half of No.61's garden, and the new dwelling has been designed so that most of the upper windows which face onto this neighbour provide light to en-suites, where it would be reasonable to impose a planning condition requiring obscured glazing to be fitted. Taking these factors into account, it is not considered that loss of privacy would be so harmful as to justify refusal.

#### No.103 Bouverie Avenue

It is considered that the bulk of the dwelling would be sited far enough away from his neighbour so as not to cause a significant overbearing effect or loss of light. Windows have been omitted from the facing side elevation, and any overlooking would be restricted to an oblique angle to a corner of the neighbours garden from first floor windows in the rear elevation only.

#### Dwellings on opposite side of road to site

It is considered that dwellings on the opposite side of the road from the site are situated far enough away from the new dwelling so as not to be significantly affected.

### ***Other matters***

#### Impact on wildlife habitat

Wiltshire Wildlife Trust have commented on the application and raised no objection subject to a number of conditions. Given the well kept nature of the existing garden it is not considered that protected or notable species are likely to be affected, subject to the precautions that could be secured through planning conditions based on the recommendations of Wiltshire Wildlife Trust.

#### Disturbance resulting from construction works

Such issues are often inevitable, but since construction works are a temporary situation, they do not carry significant weight within the determination of planning application. It would be within the control of the Local Planning Authority to restrict the hours of demolition/construction works, as has been recommended by the Council's Environmental Health Officers

#### Increased pressure on utilities and local services

The number of additional dwellings proposed is not considered to be significant enough so as to put an undue burden on existing utilities or local services. Wessex Water have raised no objection to the proposal, and their agreement, like that of other utility providers, would be required to connect to their existing services.

### Localised flooding problems

Several residents have noted that there have been localised flooding of properties in the area due to excess surface water run-off from the highway. It is noted that the Building Regulations include provisions for soakaways and treatment of surface water for new development, and Wessex Water control whether storm flows can be disposed to the public surface water sewer. It is also noted that the development intends to incorporate rainwater harvesting, which would provide further assurances against excess storm flows.

### **CONCLUSION**

The proposed dwelling would be in keeping with neighbouring properties, providing a detached dwelling set within a generous sized plot, that would substantially retain the existing beech hedge and an impression of open space, and would therefore preserve the character of the Housing Restraint Area.. Due to the appropriate design and siting of the dwelling, and the nature of the built up area, a reasonable level of amenity for neighbours would be preserved. Subject to conditions, the proposed new access and parking/turning area would be acceptable in highway safety terms. The development would therefore accord with the provisions of the development plan and Government guidance.

### **RECOMMENDATION: APPROVED WITH CONDITIONS**

Conditions and Reasons:

### **REASONS FOR APPROVAL**

The proposed dwelling would be in keeping with neighbouring properties, providing a detached dwelling set within a generous sized plot, that would substantially retain the existing beech hedge and an impression of open space, and would therefore preserve the character of the Housing Restraint Area.. Due to the appropriate design and siting of the dwelling, and the nature of the built up area, a reasonable level of amenity for neighbours would be preserved. Subject to conditions, the proposed new access and parking/turning area would be acceptable in highway safety terms. The development would therefore accord with the provisions of the development plan and Government guidance.

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 Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2) Before the dwelling hereby approved is first occupied, the proposed parking/turning area shall be surfaced in a properly consolidated material (not loose stone or gravel), details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highways safety.

- 3) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highways safety.

- 4) Any gates to close the access shall be hung to open away from the highway only.

Reason: In the interests of highways safety.

- 5) The garages shown on the approved drawings shall not be converted into a habitable room.

Reason: To ensure the retention of adequate off-street parking facilities.

- 6) Before development is commenced, 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 shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To secure a harmonious form of development.

- 7) The proposed en-suite windows in the east elevation of the dwelling hereby permitted shall be fitted with obscured glazing to the satisfaction of the Local Planning Authority and maintained in such a condition thereafter.

Reason: In the interests of neighbouring amenity.

- 8) Notwithstanding the provisions of Class[es] A, B and C 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 dwelling(s) unless otherwise agreed in writing by the Local Planning Authority upon submission of a planning application in that behalf.

Reason: In the interests of visual and neighbouring amenity.

- 9) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of existing trees and/or hedgerows on the boundaries of the site, and details of any to be retained, together with measures for their protection in the course of development. Such details shall show the retention of the boundary hedge to Bouverie Avenue South (except in the case of new/altered access). Development shall be carried out in accordance with the approved details.

Any part of the boundary hedgerow that dies, becomes diseased or fails to thrive within a period of 5 years from the occupation of the dwellings, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the Local Planning Authority agrees to a variation beforehand in writing.

Reason: In the interests of visual amenity.

- 10) No construction or demolition work shall take place on Sundays or bank holidays or outside the hours of 8.00am and 6.00pm weekdays or 8.00am to 1.00pm Saturdays. This condition shall not apply to the internal fitting out of the buildings.

Reason: In the interests of neighbouring amenity.

## INFORMATIVES

### Breeding birds

All British birds, their nests and eggs are protected in law. It is an offence to take, kill or injure any wild bird or to take, damage or destroy any nest (while in use or being built) or egg of any wild bird under Part 1 of the Wildlife and Countryside Act 1981 (as amended). To reduce the likelihood of harm to breeding birds, clearance of trees and areas of scrub should be avoided during the bird breeding season (March to August inclusive).

### Bats

All bats are protected under the Wildlife and Countryside Act 1981 (as amended), and under the Conservation (Natural habitats & c.) Regulations 1994. Any trees to be felled should be assessed for their bat potential by a suitably qualified person. If any are identified, further guidance should be sought from the relevant District Ecologist.

Please note that if any evidence of bats is found during the development, all works must stop immediately and the relevant District Ecologist contacted for further advice.



Application Number:	S/2008/1062		
Applicant/ Agent:	MR EKRAMUL HOQUE		
Location:	147-151 FISHERTON STREET SALISBURY SP2 7RP		
Proposal:	CHANGE OF USE TO TAKEAWAY AND RESTAURANT AND ALTERATION TO EXISTING PREMISES (NEW SECOND DOOR ENTRANCE AND NEW INTERNAL AND EXTERNAL VENTILATION SYSTEM; INTERNAL ALTERATIONS)		
Parish/ Ward	FISHERTON/BEM V		
Conservation Area:	LB Grade:		
Date Valid:	9 June 2008	Expiry Date	4 August 2008
Case Officer:	Mr T Wippell	Contact Number:	01722 434554

#### REASON FOR REPORT TO MEMBERS

Councillor Walsh has requested that this item be determined by Committee due to the interest shown in the application

#### SITE AND ITS SURROUNDINGS

The application site premises are currently vacant on the ground floor, and the building lies within a small row of commercial premises *outside* the Salisbury Central Area and Conservation Area.

The site was formerly in use as a retail shop (furniture and carpets). The row includes local shops and services, with four takeaways and restaurants. Immediately north of the premises is a florist and to the south is a newsagent. Above the site is a dental surgery, and there are residential flats in the immediate vicinity.

#### THE PROPOSAL

The applicant has submitted a scheme, seeking to change the use of the shop from Class A1 to Class A3 (food & drink). The proposals would create a restaurant and takeaway, with a new door added to the front and an external flue added to the rear elevation.

#### PLANNING HISTORY

90/0609	Change of Use to Class A3	R	11/07/90
04/945	Change of Use to Class A3 & alterations to facade	R	21/06/04
04/2121	Change of Use to Class A3 & alterations to facade	Invalid	24/11/04
04/2690	Change of Use to Class A3 & alterations to facade	R	28/01/05

Application S/1990/609 was refused for the following reason by committee:

*The proposed development would be likely to encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and thereby add to the hazards of road users at this point. (RI05).*

Application S/2004/945 was refused under delegated powers for the following reasons:

*In the absence of details regarding the proposed means of ventilation, ducting and extraction and noise insulation, and on the basis of the information submitted, it is likely that the proposal will have a detrimental effect on amenities of adjacent occupiers (of residences and business premises) by reason of the noise and disturbance that would be generated by the premises, and fumes and odours from the premises, contrary to Policy G2 (vi) and (viii). Furthermore, in the absence of details regarding the proposed means of ventilation, ducting and extraction, it is not possible to fully assess the likely impact of the development on the setting of a listed building, contrary to Policy CN5 of the adopted Salisbury District Local Plan.*

Application S/2004/2690 was refused for the following reasons by committee:

*(1) The application seeks to change the use of part of an existing building to an A3 (food and drink) use. The existing occupier of the remainder of the building is a dental surgery, and it is*  
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considered that this use presents very special circumstances when considering the sensitivity and impact of smell and odours on the occupiers and users of the surgery, who are likely to be particularly sensitive to smell. An acceptable scheme for an extraction and filtration system has been submitted for the kitchen. However, whilst this scheme is likely to prevent a statutory nuisance occurring to the detriment of existing occupiers, it has not been satisfactorily demonstrated that there would be no risk of cooking odours entering the dental practice (either through open windows and doors, or through the building fabric itself) and unduly disturbing the amenities of users of the dental surgery through associated restaurant activities contrary to Policy G2.

(2) The proposed A3 use would require the installation of an extraction scheme, with a flue. The flue would be approximately 0.5 metres wide, and 7.5 metres above ground level. The flue would also extend some 0.5 metres above the existing ridge height of the building. The flue would be positioned to the rear of the building on a flat roof, overlooked by the Dental Surgery and adjacent residential properties, and fixed to the roof with braces. The visual impact of the flue, by virtue of its proportions and height, is considered to be out of scale with the existing building, and detrimental to the amenities of existing occupiers, whose windows overlook the site. The addition of the proposed flue to the rear flat roof extension of the building would therefore be contrary to Policy G2 and D3.

### CONSULTATIONS

Highways- Due to the town centre location and the parking restrictions outside the property, envisage customers of the proposed development reaching it on foot, causing no adverse effect on the highway.

Highways Agency-No significant adverse impact on the Strategic Road Network and no objections are raised.

Environmental Health- The extract system proposed should in my opinion provide good filtration and provided it is well maintained should be effective in reducing odours and the noise levels should be acceptable in this location. Whilst I think that a duct terminating above the ridge line would be the most effective position, the proposed increase in height from the original should improve the dispersion of any odours from the kitchen extract system.

Whilst the extraction system may control odours in the kitchen, because of the construction of the building this may not stop odours permeating through the building and causing an impact on the amenity of the existing dentistry use on the first floor.

If you do approve the proposal I would still like to see conditions applied similar to those on previous app. Condition 2 (with the bit about the acoustic box deleted) requiring detailed design drawings and specifications relating to the extract system that they propose to install, as the details with the application are based on a general description and a manufacturers brochure.

From there on you could reasonable apply :- Condition 3 with the addition of in a) "and the dental surgery above". Condition 4 suitably modified to relate to the windows by the cooking range. Condition 5, 6, 7 & 8

Building Control- No comments to make on planning application. However, confirmed that a building regs application would be required, which would deal with the following issues:

- Fire Safety (including liaising with WCC fire safety)
- Drainage
- Toilets
- Means of escape

### REPRESENTATIONS

Advertisement	No	
Site Notice displayed	Yes	Expiry 10/07
Departure	No	
Neighbour notification	Yes	Expiry 03/07

Third Party responses Yes 1 letter of support received, and 77 letters of objection, with the main points of objection summarised as follows:

- Proximity of outlet to surgery windows,
- Noise disturbance to dentist,
- Parking Provision,
- Loss of amenity,
- Loss of shop,
- Operation of restaurant in residential environment,
- Opening and operating hours,
- Fire regs,
- Proximity of duct to flat,
- Impact of A3 use on listed buildings,
- Internal smell pervasion to flat and dental surgery & age of building,
- Visual impact,
- Food hygiene waste disposal and storage may attract vermin – (non planning) Traffic congestion,
- Illegal parking and litter.

#### **MAIN ISSUES**

- Loss of retail frontage/ principle of change of use
- Neighbouring amenities
- Highway Safety
- Visual Amenity/ Impact on the setting of a Listed Building

#### **POLICY CONTEXT**

Adopted SDLP Policy G1, G2 and CN5

#### **PLANNING CONSIDERATIONS**

##### ***Loss of retail frontage/ principle of change of use***

The adopted SDLP does not provide any specific retail policies for the change of use of existing retail premises to A3 uses *outside the Salisbury Central Area*. Whilst Policy G1 and G2 make provision for new development subject to general principles and sustainability criteria, this site is located outside of the designated '*Primary and Secondary shopping areas*' of Salisbury. It would be difficult to argue that the loss of this particular A1 retail shop would affect the vitality or viability of the settlement, and therefore, it is considered that a refusal of this application based on the loss of this A1 unit would be difficult to support in policy terms.

##### Amenity

Policy G2 of the adopted SDLP also requires new development to avoid unduly disturbing, conflicting with or interfering with other occupiers, and avoid locations that are liable to environmental problems due to their proximity with incompatible development. Criteria (viii) also seeks to avoid development that would be detrimental to public health or pollution by the emission of excessive noise or fumes.

##### i) Fumes and Extraction Equipment

The flue and extraction equipment to serve mainly the kitchen area of the premises would be situated to the rear of the building, above a flat roof extension and within a small yard. The first-floor surgery waiting room and surgery windows, which provide ventilation to the premises, are also situated at the rear of the premises, overlooking the small courtyard. The dental surgery has objected to the proposals, on the grounds of potential disturbance to patients caused by pervasive cooking odours.

The applicant has submitted a revised scheme for the extraction ducting, with a higher flue proposed which will discharge level with the ridge height of the building. The proposed duct would be fixed to the building at roof level, and would be situated between two first floor windows on the flat roof. Therefore, the duct would not obscure any windows, or discharge close to any windows. It is anticipated that the extraction system would create a negative pressure within the building, and draw odours away and out through the system.

Furthermore, the applicant confirmed via letter that they would be happy for the Local Planning Authority to add conditions on any approval to ensure that odour nuisance does not occur (including underlining the ceiling with plasterboard and skim coat, to ensure that the joints and junctions are adequately sealed to prevent ingress of odours from the ground floor).

The proposed ventilation, ducting and extraction equipment has been given careful consideration by Environmental Health officers. In summary, Environmental Health considers that the proposed should provide good filtration, subject to the following mitigation measures to be added as conditions:

- An hours of use condition, to ensure hours are commensurate with other nearby A3 uses.
- Further details of a scheme to control of fumes and noise extract system to be submitted, and used and maintained in accordance with manufacturer's specification.
- Insulation and prevention of odour transmission (between all ceiling areas, party walls and doors, and all division wall/s/ staircases between the premises and adjoining dental surgery).
- All existing ground floor kitchen window/s on the south west ground floor plan and rear elevation plan are removed and suitably infilled, and all other windows on the ground floor rear elevation of the building shall be non-openable.
- Hours of cooking limit on the premises
- No amplified music that is audible outside and above the restaurant premises.
- The A3 use shall be restricted to the ground floor of the premises only.
- A scheme for the insulation against noise emissions from the equipment or machinery and a scheme for the control of fumes shall be submitted to and approved by the Local Planning Authority.

Whilst there is little doubt that cooking smells may be noticeable on occasions, it is difficult to quantify in terms of the frequency, duration and intensity that these will occur. It is therefore considered that provided all the above recommended conditions are met and maintained, such smells are *unlikely* to be a statutory nuisance, on the grounds that the smell will not materially affect the comfort or wellbeing of the other nearby uses.

Officers cannot however categorically state that there will be no risk of smells being noticeable in the dental practice and Members should be mindful of the strong objections expressed by the dental practice, whose concerns centre on the pervasive nature of the cooking smells (particularly due to the age and condition of the building fabric and the fact that windows and doors may be open in summer), the heightened sensitivity of patients to smell whilst attending surgery, and the likelihood of *undue* disruption to amenities likely to arise. However, Members are also referred to the proposed conditions, particularly in terms of control of odours and restrictions of cooking times outside dental surgery opening hours.

#### **ii) Noise and Fire.**

Generally, fire and sound regulations for new buildings or substantial reconstruction of existing buildings are dealt with under building regulations. The proposed change of use does not constitute a "change of use" in building regulation terms, and so building regulations would not necessarily apply to the fabric of the building, and furthermore, substantial alterations have not been proposed. However, the ventilation equipment would require building control consent, and the fire officer would therefore be consulted as part of that application.

A planning condition could be applied requiring appropriate sound insulation of the compartment floor separating the ground and first floors, which would also have the effect of reducing likelihood of transmission of odours (cooking and dental related) between the floors. This could also apply to the division wall that compartments the staircases, and other internal dividing walls.

Members may also wish to consider the possibility of noise impact from dentistry on users of the restaurant during the day, which could be mitigated by the above condition.

The applicant has stated that cooking for the mid day session would take place on the previous evening, with the article being warmed through. An hours of use condition has been recommended by the EHO, to ensure the use is in line with other A3 uses in the frontage.

In order to minimise the likelihood of disturbance to the neighbouring uses, further details of the proposed acoustic enclosure can be agreed by condition, and verified by Environmental Health to ensure that noise is not a problem.

### **iii) Fall back position**

The fall back position for the premises is also a material consideration for the application. The premises could be used for any retail use falling with Class A1 of the Use Classes Order without planning permission. This would include occupiers that could potentially generate noise (e.g. a music shop, hairdressers), odours (e.g. a handmade soap shop or sandwich shop) fumes (e.g. a dry cleaners), health and hygiene (pet shop) and traffic (e.g. one stop shop or video hire).

#### Highway safety

The Highway Authority have raised no objection to the proposal, as the site is located close to the city centre and parking restrictions are in force in the vicinity of the site, in the form of a single yellow line. Furthermore, there is a small lay by for cars to park on a short term basis in close proximity to the site.

However, application S/90/609 for the same site proposed a change of use from A1 to A3. Whilst officers recommended approval, and highways raised no objection, the committee resolved to refuse the application on the grounds that *the development would encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and thereby add hazards to users at this point*. Referring to the change in the balance of uses described above, it is considered that the takeaway element of the proposal is likely to encourage additional traffic movements in the vicinity, which may cumulatively, with other existing takeaways in the row, cause a hazard to road safety at peak times. However, this assumption could equally be applied to an A1 use such as a one stop shop or video hire shop, and as a reason for refusal, it would be difficult to defend at appeal without the support of the Highway Authority.

### **Visual Amenity/ Impact on Listed Building**

Amended plans have been submitted, which show the duct extending up to the ridgeline of the property at the rear, to ensure adequate dispersal. It would be visible from the upstairs windows of the dental practice, and partially visible from some residential properties in Egerton Place, and No 6 Windsor Road. Members will be aware from the photographs that there are two other visible ducts in the row, serving other A3 uses. Whilst the duct would be visible from residential properties, it is not considered that an additional structure in this location would be unacceptably detrimental to visual amenities. The rear view of Fisherton Street from dwellings in Egerton Place is generally characterised by uneven roof lines, mixed colours of rear extensions with windows overlooking adjoining properties, lamp columns, aerials, ducts serving other A3 uses, and a larger dormer window on the rear elevation of one of the premises. The addition of the duct is likely to have the greatest visual impact when viewed from the first floor of the dental surgery over the courtyard and No 6 Windsor Road. However, given the visual characteristics of the area and the general streetscene, the impact is not considered to be so detrimental to justify refusal on these grounds alone.

The listed building (St Paul's House) and St Paul's Church lies opposite the application site. The applicant is seeking to amend the existing access arrangements for the premises by adding a new glass door, and splitting the unit into a restaurant area and a takeaway area. It is not considered that this element of proposal would have any detrimental impact on the building itself, in accordance with Policy S10 (Shop fronts). The proposed ducting is at the rear of the building and therefore will not be visible from the listed building, or detrimentally affect its setting. The proposal would therefore be acceptable in terms of Policy CN5.

## Conclusion

The change of use of the premises in this location, beyond the central area of Salisbury is not regulated by the retail policies of the adopted Salisbury District Local Plan. Officers have negotiated with the applicant to reach the best practical means of ensuring that the environmental impacts of the development are minimised to an acceptable level, and through the use of appropriate conditions, the likelihood of any further disturbance through smell and noise to existing occupiers would be acceptable, enforceable (in terms of cooking times), and not *undue*. The EHO has recommended conditions to ensure that fumes are controlled, and noise from the extraction system are kept to an acceptable level. The conditions below would seek to ensure that the internal fabric of the building is upgraded, to minimise the pervasion of odour, and to reduce noise impact between both premises. Hours of use would also be controlled, in line with other A3 uses in the vicinity. The fall back position for the existing A1 use is also a material consideration for the application.

Officers have taken into account the views of neighbours, and statutory consultees such as Environmental Health and Highways. The potential impact of pervasive odours is a finely balanced issue. On balance, it is considered that there is insufficient evidence or support from statutory consultees to support a recommendation for refusal. Furthermore, appeal cases may be dismissed through the use of appropriate conditions to mitigate potential impacts. However, it is accepted that there is no definition for statutory nuisance for smell, and that this is a matter of fact and degree for an "ordinary" person to discern within the particular environment. It is also accepted that there may be research evidence to suggest that patients are more susceptible to smell in a clinical environment such as a dental surgery, although no such detailed evidence has been submitted. On the basis of the submission, officers consider that the proposed ventilation system and works resulting from appropriate conditions are likely to ensure that the amenities of the dental surgery and other adjoining occupiers are not *unduly* disturbed, although they cannot categorically state that there would be no risk of smells being noticeable in the dental practice.

There will be minimal impact on highways safety, and the settings of the listed building and the impact on visual amenity will not be significant enough to warrant refusal.

**RECOMMENDATION: APPROVE** - for the following reasons:

### REASONS FOR APPROVAL:

The proposed change of use of the ground floor of the premises from a shop (A1) to an A3 (food and drink) would be appropriate development within the Salisbury Housing Policy Boundary. Subject to the attached conditions, and provided the hours of use are strictly controlled, and an agreed extraction system is installed, used and maintained at all times, the development would be considered unlikely to unduly or materially affect the amenities of neighbouring occupiers. The impact on the listed building would be acceptable and the development would be appropriate development in accordance with the adopted policy context of 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 section 51 (1) of the Planning and Compulsory Purchase Act 2004 (0004 AMENDED)

- (2) No development shall take place until a scheme for the control of fumes from the extractor fans and ventilation equipment and for the sound insulation of that equipment by means of an acoustic box have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until those schemes have been implemented in accordance with the approved details, and the equipment shall be used and maintained in accordance with the manufacturer's specifications thereafter.

Reason: To minimise the effect which the emission of fumes from the proposed development/use could have upon neighbouring premises and in the interests of amenity and the environment of the development

- (3) No development shall take place until a scheme/schemes to adapt the building to provide an appropriate means of acoustic insulation and prevention of odour transmission between:

- All ceiling areas of the ground floor in contact with the first floor of the premises and dental surgery above.
- All party walls and doors on the ground and first floors between the premises and the adjacent dental surgery premises.
- All division wall/s that compartment the staircase/s between the premises and adjoining dental surgery have been submitted to and approved in writing by the Local Planning Authority.
- The development shall not be brought into use until those schemes have been implemented in accordance with the approved details.

Reason: To minimise the effect which the internal transmission of fumes and noise from the proposed use could have on adjoining premises.

- (4) No development shall take place until a scheme showing all existing ground floor kitchen window/s by the cooking range removed and suitably infilled, and all other windows on the ground floor rear elevation of the building non-openable, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until those schemes have been implemented in accordance with the approved details.

Reason: To minimise the effect which fumes and noise from the proposed use could have on adjoining premises

- (5) The A3 use hereby permitted shall not take place except between the hours of 12 mid day to 12 midnight.

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

- (6) There shall be no cooking on the premises and all food served shall be pre cooked and reheated except between the hours of 7pm to 12pm midnight.

Reason: To minimise the effect which the emission of fumes from the proposed development/use could have upon neighbouring premises.

- (7) No amplified music that is audible outside and above the restaurant premises shall be played at any time.

Reason: In the interests of amenity for the occupants of the neighbouring/nearby dwelling(s).

- (8) The A3 restaurant and takeaway use hereby permitted shall be restricted to the ground floor of the premises only, and the use of the first floor shall be restricted to ancillary or storage purposes only, unless otherwise agreed in writing by the Local Planning Authority, upon submission of a planning application in that behalf.

Reason: To minimise the effect which fumes and noise from the proposed use could have on adjoining premises.

- (9) The development, including the external ductwork, shall be carried out in strict accordance with the drawings hereby approved, or with any other details as may

subsequently be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

Reason: For the avoidance of doubt

- (10) Any outdoor storage of foodstuffs and waste associated with the A3 use shall at all times be within a covered bin enclosure on the site, details of which shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

Reason: In the interests of amenity and the environment of the development

- (11) Before the installation of any air conditioning or other ventilation equipment or machinery (and all similar equipment) a scheme for the insulation against noise emissions from the equipment or machinery and a scheme for the control of fumes shall be submitted to and approved by the Local Planning Authority. The equipment or machinery shall not be brought into use until the approved scheme has been implemented in accordance with the approved details to the satisfaction of the Local Planning Authority, and the scheme of insulation shall be maintained in that condition thereafter.

Reason: To minimise the effect which the external transmission of fumes and noise from the proposed use could have on adjoining premises.

And in accordance with the following policies of the adopted Salisbury District Local Plan:

Policy G1 & G2	General Principles for Development
Policy S10	Shop fronts
Policy CN5	Listed Buildings

**INFORMATIVE: -**

The applicant is advised to seek guidance on food hygiene requirements, disability access and health and safety requirements.