

Regulatory Committee

5th July 2007

Planning Services

List of Applications for Consideration

1 K/56101/VAR

Full planning application for : Variation of condition 2 of K/42184/F for the extension of opening hours to 0700-2300 Monday to Friday, 0800-2300 Saturdays and 1000-1800 Sundays and Bank Holidays

Unit 1 The Little Arcade 39-41 High Street PEWSEY SN9 5AF

RECOMMENDATION: Approve variation of condition

2 K/56549/F

Full planning application for : Construction of single new dwelling

Land adjacent to 1 Meadowview Close Perham Down TIDWORTH SP11 9JX

RECOMMENDATION: Grant full planning permission

Item 1

APPLICATION: K/56101/VAR
PARISH: PEWSEY
APPLICATION TYPE: Variation of Condition
PROPOSAL: Variation of condition 2 of K/42184/F for the extension of opening hours to 0700-2300 Monday to Friday, 0800-2300 Saturdays and 1000-1800 Sundays and Bank Holidays
SITE: Unit 1 The Little Arcade 39-41 High Street Pewsey Wiltshire SN9 5AF
GRID REF: 16588 60150
APPLICANT: Mr D Cowen
AGENT: DPDS Consulting Group
DATE REGISTERED: 5th March 2007
CASE OFFICER: Miss R Hughes

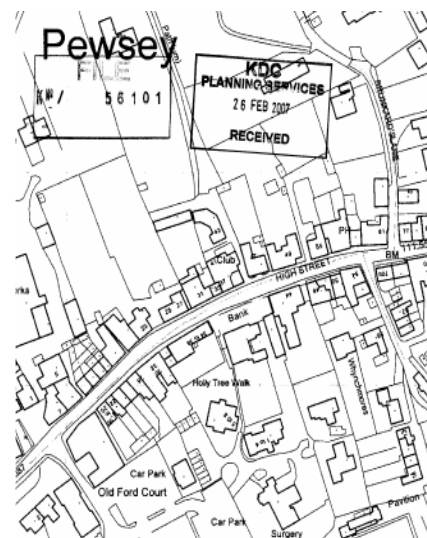
SITE & LOCATION

Unit One Little Arcade is a ground floor unit currently operated as a café, and located on the northern side of Pewsey High Street, opposite Lloyds Bank. Above and to the side of the unit are self-contained residential properties. The site lies within the designated service centre for Pewsey and is also located within Pewsey Conservation Area.

Photo of site:



Location Plan:



SITE HISTORY

The relevant site history is as follows:

K/42184 – Change of use from retail shop to café - approved Dec 2001. This planning permission is subject to a planning condition (condition no. 2) which restricts the hours of operation of the café to between 0700 hrs and 1800 hrs Mondays to Fridays, 0800 hrs and 1800 hrs Saturdays, and 1000 hrs and 1400 hrs Sundays and Bank Holidays. (This followed on from a similar condition attached to the original permission granted in 1999 for the creation of the retail units).

K/36639 – The erection of a new dwelling to rear of site. Alterations to enlarge existing two flats and removal of occupancy condition. Change of use of ground floor to retail – approved Feb 1999

DESCRIPTION OF DEVELOPMENT

The proposal is to vary condition no. 2 attached to application K/42184/F. Currently the permitted opening hours are 0700 hrs to 1800 hrs Monday to Friday, 0800 hrs to 1800 hrs Saturdays, and 1000 hrs to 1400 hrs Sundays and Bank Holidays. This allows the building to operate as a café during the day, but prevents operation as a restaurant during the evening. The application as originally submitted proposed an extension of these opening hours to 0700 hrs to 2330 hrs Monday to Friday, 0800 hrs to 2330 hrs Saturdays and 1000 hrs to 1800 hrs Sundays and Bank Holidays. Following discussions with officers the proposed closing time Mondays to Saturdays has been amended to 2300 hrs.

The application is accompanied by a report prepared by a noise and vibration control specialist which refers to works to be carried out to improve sound insulation between the ceiling of the café and the floor of the flat above. These works include a secondary ceiling to be constructed below the existing ceiling with an insulation quilt inserted in the resulting void. Other works have already been carried out to a ceiling fan to reduce airborne noise and vibration. The report concludes as follows:

“Overall, I can confirm that we would expect noise transmission from the restaurant into the flat above to reduce very significantly by the proposed secondary ceiling. The predicted performance is, to all intents and purposes, the effective limit for a timber joisted construction. The noise and vibration from the fan was, when last assessed, a marginal situation only. Whilst we have been unable to assess the current situation, the improvement works recently carried out should have provided a very significant change and we would expect little issue now”.

PRINCIPAL AMENDMENTS MADE FOLLOWING SUBMISSION

The only amendment is the change to the proposed opening hours referred to in the Description of Development above.

PARISH COUNCIL COMMENTS

Pewsey Parish Council initially supported the application when the opening hours were stated as being to 23:00 Monday – Friday and 23:30 Saturdays. Opposed the application when the hours were stated as being to 23:30 Monday-Fridays. (NB The applicant has since agreed that the hours will be to 23:00 on Mondays-Saturdays (18:00 on Sundays))

CONSULTATIONS

KDC Environment and Community Safety Officer (Robert Draper) – No objection. The primary issue with this application is that of noise. In the past there have been problems with odour but these seem to have been resolved with works to the ceiling of the Bistro and the floor of the flat above.

The proposed works will certainly provide a good level of protection against noise from inside the main eating and cooking areas. The use of double thickness plasterboard and insulating blanket has proved to be effective in other similar premises, eg. ASK in Marlborough. This improved protection will of course benefit the occupiers of the flat at all times not just during the extended hours. The location of the fan unit above this ceiling structure is not ideal but all practicable steps have been taken to reduce noise from the fan and there have not been any recent complaints about fan noise.

The new structure will not significantly reduce noise that comes through the structure of the building. This will include noise from the opening and closing of the doors as people come and go. The use of 'soft close' door closers can substantially reduce the problem of slamming doors.

The Council cannot control the noise caused by people in the street outside the property or using other units within the arcade.

REPRESENTATIONS

A total of 23 letters of representation were received in respect of the application. Of these, 9 were letters of objection, 2 contained mixed comments, and 12 were letters of support. A petition of objection signed by 43 people has also been received. The key points raised are as follows:

Objections:

- Impact on human rights and additional stress caused to occupants of flat above bistro
- Flat above the Bistro will be 'unsellable' due to restricted mortgage availability (copies of two letters one from estate agent confirming six sales fallen through due to location above Bistro and one from mortgage lender confirming restricted mortgages available on the property)
- Traffic – the unit has no parking, customers and delivery vehicles cause road hazards and congestion.
- Disturbance – antisocial behaviour from drunks, unsuitable in residential area.
- Noise – voices from the kitchen and dining areas and from opening/closing of doors outside the unit (when people enter/leave) disrupts occupants of flat above Bistro.
- Smell – cooking smells pass both into the flat above the Bistro and its garden.
- Waste – no rubbish or waste disposal provision. Bins left in private side road causes nuisance.
- Accessibility – no provision for disabled, leading to scooters left on pavement or private side road causing hazard.
- People take short cuts via private side road running past no. 2 The Old Club to access High Street.
- Fear Bistro could change to fast food outlet in the future
- Additional disturbance from cleaning up etc. after opening hours.

Support:

- Proposal will result in positive commercial and social benefits for villagers and local community
- Business employs local staff
- Business is efficient, well run, popular and value for money
- Proposal offers alternative to takeaway/pub
- Proposal will help boost the local economy
- Proposal will result in a good local facility/meeting place in walking distance

Petition:

- Objects to the impact the proposal would have on value and the ability of the occupiers of flat above the site to sell their property.

POLICY CONSIDERATIONS

Kennet Local Plan - the site lies within the designated service centre for Pewsey, and within the designated Conservation Area. Policies PD1, ED23, and HH5 of the local plan are relevant to the consideration of this application. Government guidance contained in PPG24: Planning and Noise is also material to the consideration of the application.

PLANNING OFFICERS COMMENTS

Central to the consideration of this application are the impacts of the extended Bistro opening hours on the amenity of nearby residents. In this regard officers are of the opinion that the main issue to be addressed is that of potential noise disturbance.

The application site lies within the High Street and designated service centre of Pewsey where shops, restaurants and other services exist cheek by jowl with residential properties. In mixed use situations such as this it is reasonable to expect a higher degree of activity and associated noise than might be experienced within a solely residential area. Such activity is likely to be generated by, for example, customers visiting the various uses, delivery vehicles servicing the uses, and the operators of the uses themselves carrying on their businesses.

Notwithstanding this, the planning system is able to regulate uses, and specifically their hours of operation, in the interests of public amenity. In the case of the application site, the original planning permission for the café use was subject to a condition restricting the hours of opening to between 0700 hrs and 1800 hrs Mondays to Fridays, 0800 hrs to 1800 hrs Saturdays, and 1000 hrs and 1400 hrs Sundays and Bank Holidays. This carried on from the original permission and was considered reasonable at the time. However, this does not preclude future proposals with different modes of operation from being considered. In this case, the current applicant wishes to open the business as a restaurant in the evenings in particular with opening times between 0700 hrs and 2300 hrs Mondays to Fridays, 0800 hrs and 2300 hrs Saturdays and 1000 hrs to 1800 hrs Sundays and Bank Holidays. He proposes additional insulation measures to address the issue of disturbance to the flat above. The critical consideration is, therefore, whether or not the extended hours would cause such disturbance to neighbouring residential properties within this High Street context to justify a refusal of planning permission.

The Council's Environmental Health Officer raises no objection to the proposal, commenting that best practicable measures have been incorporated to contain noise pollution resulting from the operation of the business. It should be noted that since the previous consent for the change of use to the café, insulation measures have been introduced within the café to minimise noise transmission to the flat above (namely alterations to the ceiling fan in particular). A secondary ceiling is now proposed to further increase insulation levels. Such works would effectively reduce noise transmission at all times, not just during the proposed extended opening hours.

An acoustic consultants report assessing the potential for noise disturbance to the occupants of the flat above was submitted as part of the application. The report states that the proposed sound insulation works (and specifically the installation of an insulated secondary suspended ceiling) would represent a further significant improvement on the current situation, and is the best practicable solution to airborne transmission. The consultants report outlines that the most recent noise assessments carried out in 2003 indicated that the noise levels in the flat above the Bistro were just below 30 dB(A) against a background noise level of 22 dB(A). The World Health Organisation and British Standards dictate that for living rooms during the day (0700 hrs to 2300 hrs) it is preferable to limit noise levels to a maximum level

of 30 - 40 dB(A). Whilst lower levels of background noise are likely in the evening, the noise levels in the flat are below these commonly adopted standards. Since that measurement in 2003 significant acoustic works have already been undertaken to the ceiling fan located between the ceiling voids in the Bistro. The noise consultant's report, therefore, concludes that expected noise levels in the flat would now be closer to background noise levels and further below the British Standard. This conclusion is agreed by the Environmental Health Officer.

The Environmental Health Officer is sensitive to the attendant problems resulting from flank noises (those which travel through the structure of buildings caused by actions such as shutting of doors) and noise resulting from customers arriving/leaving the actual premises. Having regard to the location of the site within the high street and the designated service centre, and the presence of nearby services which currently benefit from evening opening hours, and the nature of the business concerned, it is not considered that the level of any noise outside of the site associated with the extended opening hours would result in unacceptable noise levels or loss of amenity. This conclusion is reached also with regard to the actual hours of operation proposed which are, in any event, outside the hours when people are "normally sleeping" as defined in Planning Policy Guidance Note no. 24 (Planning for Noise) – namely, 2300 hrs to 0700 hrs. In an attempt to further reduce any flank noise a condition is recommended to ensure that all doors within the unit have soft closers fitted (to prevent doors slamming).

In the absence of evidence to suggest otherwise it is not considered that an objection on the grounds of noise can be sustained.

Other Issues

A number of other issues have been raised, which will be considered below. Several representations raise issues related to the nature of the business carried out on the site, suggesting that the extended opening hours would exacerbate alleged existing problems. Members will appreciate that the additional impact from the extended hours alone should be considered and not personal circumstances or concerns regarding the principle of the established café use, permitted by application ref: K/42184.

Other matters raised are addressed as follows:

1. Impact on health and general well being of occupants of flat above the site – although a material consideration, it is not considered that the application gives rise to any impacts which could be considered to directly result in loss of health or general well being to neighbouring residents.
2. Impact on value of residential property above site – the impact of a development on property values is not a material planning consideration.
3. Disturbance resulting from anti social behaviour – it is not considered that the extended opening hours for this restaurant are likely to increase the potential for anti social behaviour.
4. Smell and Waste – the EHO is not aware of any recent complaints regarding smells or waste associated with the Bistro. The Council has separate powers under environmental health legislation to investigate and take appropriate action where necessary should any nuisance for this reason arise.
5. Accessibility – the application relates to the extension of an established use in a service centre and, therefore, complies with government guidance encouraging development in sustainable locations.

6. Parking – Due to the sites location within a town centre and the availability of public parking in the near vicinity it is not considered additional parking provision is required in connection with the development.
7. Positive effect resulting from extended opening hours on range/level of services in the village – the application offers potential to enhance the centres role and improve the vitality of the evening economy in Pewsey.
8. Future change to takeaway – the established use relates to a restaurant/café (A3). Hot food takeaway falls under a separate use (A5) and therefore to operate a takeaway from the unit would require an application for a change of use.

RECOMMENDATION

Approve with Conditions

1 - The development hereby permitted shall be begun before the expiration of three years of the date of this permission.

REASON:

To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - The use hereby permitted shall only take place between the hours of 0700 and 2300 Mondays to Fridays, 0800 and 2300 Saturdays and 1000 and 1800 Sundays and Bank Holidays.

REASON:

To protect the amenities of the occupants of surrounding residential properties.

3 - The premises to which this permission relate shall be used solely for purposes within Class A3 of the Schedule to the Town and Country Planning (Use Classes Amendment) Order 2005, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

REASON:

The proposed use is acceptable but the local planning authority wish to consider any future proposal for a change of use, other than a use within the same Class, having regard to the circumstances of the case.

4 - The extended opening hours hereby permitted shall not be implemented until the noise insulation measures referred to in the letter from Ian Sharland Ltd dated 7 February 2006 are completed.

REASON:

To protect the amenities of surrounding residential properties.

5 - The extended opening hours hereby permitted shall not be implemented until all internal and external doors at the premises have been fitted with 'soft closers', the details of which shall have been first approved in writing by the local planning authority. The soft closers shall be permanently retained thereafter.

REASON:

To protect the amenities of surrounding residential properties.

6 - INFORMATIVE TO APPLICANT:

The applicant is reminded that all activities associated with the permitted A3 use must cease at or before the permitted closing hours. There shall be no clearing up, etc. after this time.

7 - INFORMATIVE TO APPLICANT:

The Council is required to give a summary of the reasons for this decision and a summary of the development plan policies and proposals relevant to the decision. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the following policies and proposals in the Kennet Local Plan 2011 namely: policies ED23, HH5, NR8 and PD1.

8 - INFORMATIVE TO APPLICANT

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside his/her control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

Item 2:

APPLICATION: K/56549/F
PARISH: TIDWORTH
APPLICATION TYPE: Full Planning Permission
PROPOSAL: Construction of single new dwelling
SITE: Land adjacent to 1 Meadowview Close Perham
Down SP11 9JX
GRID REF: 25906 48780
APPLICANT: Mr C Isaac
DATE REGISTERED: 11th May 2007
CASE OFFICER: Mr R C Cosker

SITE & LOCATION

Perham Down is essentially a military settlement that has built up around the Swinton Barracks. The application site is located within an estate of houses to the South of the C9 Perham Road. This estate of houses was developed by the MOD but is now in private ownership. The site, which is part of the garden of 1 Meadow View Close, is located towards the south eastern corner of the estate.



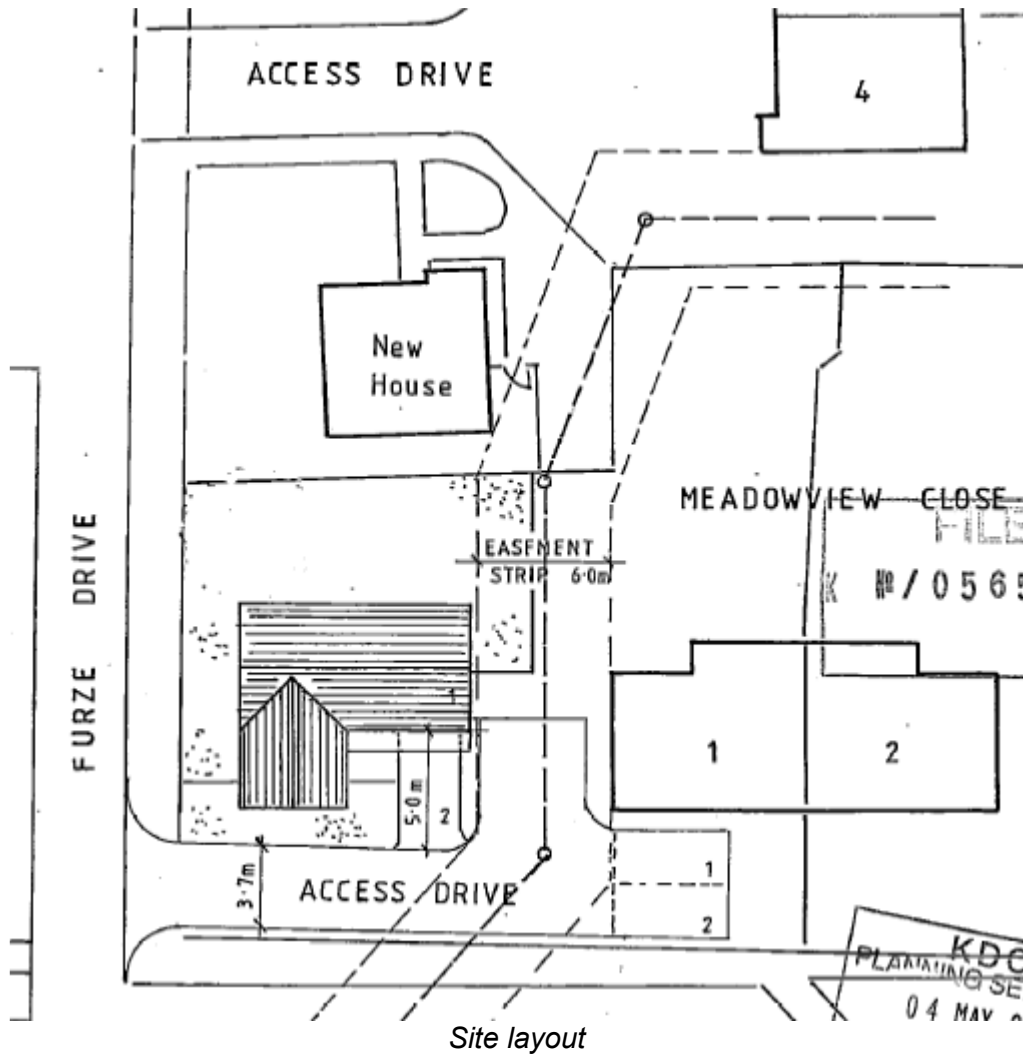
Site location

SITE HISTORY

There is no planning history relating directly to this site although planning permission has previously been granted for new dwellings on adjacent land. In 2003 planning permission was granted for four dwellings on land to the north of the site and these have now been constructed. In March this year a further single dwelling on vacant land immediately to the north of this site was allowed on appeal.

DESCRIPTION OF DEVELOPMENT

The application proposes the construction of a 4 bedroom dwelling with integral garage on part of the garden which lies to the side of 1 Meadow View Close. The existing access off Furze Drive will be moved further south to create a shared access and turning area for the existing and proposed dwelling. The existing dwelling will have two parking spaces and the proposed dwelling would have one space plus the garage.



PRINCIPAL AMENDMENTS MADE FOLLOWING SUBMISSION

No amendments have been made.

ADDITIONAL STATEMENT BY THE APPLICANT

The applicant has submitted a Design and Access Statement with the application.

TOWN COUNCIL COMMENTS

Tidworth Town Council – No objections but make the observation that the visitor spaces mentioned in the Design and Access Statement is not shown on the plan. Councillors believe some of the spaces in the designated parking area are already owned by residents of Meadowview Close and this will make parking very tight and all spaces need to be clearly defined.

CONSULTATIONS

WCC highways – No highway objection subject to conditions being imposed concerning the provision of the car parking and turning area shown, the consolidation of the first 4.5m of the access and the proper closure of the existing access.

REPRESENTATIONS

Three letters of representation have been received, the comments raised can be summarised as follows;

1. The house will not fit in. It is the only four bedroom house with a garage on the estate.
2. The application says no trees will be felled but before the application was made a large old tree was felled on the site.
3. The proposed change to the vehicle access will be more dangerous for pedestrians as the existing footpath will be lost.
4. If visitor parking exists it is not clear to any visitor where it is. My privately owned parking bays are often blocked by visitors or other residents. My concern is this may intensify with the new house.

POLICY CONSIDERATIONS

Kennet Local Plan – planning policies PD1, HC24 and AT9 are considered relevant to the determination of this application.

PLANNING OFFICERS COMMENTS

Perham Down is classed in the Kennet Local Plan 2011 as a 'village with limited facilities' and as such regard must be had to policy HC24 when considering whether the dwelling is acceptable in principle. That policy is permissive towards 'infill' residential development subject to the following three criteria;

1. The site is within the built up area of the village
2. It does not consolidate loose knit development
3. The development is in scale and harmony with the village.

The site is considered to fall within the definition of 'infill' in the local plan, which is that the site is a small gap which is not sufficiently large for more than one dwelling. It is also considered that the proposed dwelling would be within the built up area of the village and would not consolidate loose knit development. The main issue therefore raised by this proposal concerns whether the dwelling is in harmony with the surrounding development, together with issues concerning highway matters and neighbour amenity.

The application site is part of what is a very large garden for 1 Meadow View Close which, if the development were to be permitted, would still retain a generous rear garden that would actually still be larger than many other rear gardens on the estate. Indeed the size of the land around the house is very much an anomaly and it is not clear why it was left undeveloped when the estate was built. Whilst the proposed layout shows the dwelling built within 3 metres of the pavement this is only slightly less than other houses in the immediate vicinity. Officers therefore consider the site is perfectly adequate to accommodate a new dwelling.



Proposed elevations

Representations received have stated that the detached dwelling proposed would be out of keeping with the other dwellings on the estate. Certainly most of the houses on the estate which date from the 1950's and 1960's are in terraces of 3 or 4, although 1 Meadow Close is a semi-detached dwelling. There is however a number of modern dwellings which have been built on the estate in the last few years, including those to the north, and these have been built as pairs of semi-detached dwellings. A detached dwelling was also allowed on appeal on the site immediately to the north. In terms of the design of the proposed dwelling, this has very much been done in a similar style to recently built dwellings on the estate. Whilst this style has more design detailing than the simpler design of the original dwellings they do respect the character and form of those dwellings and blend in well in the streetscene. Officers therefore consider that the proposed dwelling would be in harmony with the surrounding development.

With regard to highway issues vehicular access already exists off Furze Drive but it is proposed to move this further to the south in order to create a shared access to the existing and proposed dwelling. The old vehicle access will be closed off with the pavement being restored and as such there is no impact on pedestrian safety. The highway authority has raised no objections to the proposal.

In terms of neighbour amenity the proposed dwelling is well related to other existing dwellings, achieving the normal separation distances, as such it is considered that there would be no adverse impact on the amenities of the occupiers of those existing dwellings. With regard to the dwelling approved to the north of the site, this has been designed with a controlled aspect so no windows (other than a bathroom window) would face this proposed dwelling. The proposed dwelling also has restricted openings on its rear elevation to ensure there would be no adverse impact on the amenities of the occupiers of that approved house.

Finally mention has been made in the representations that a tree on the site was felled before the application was submitted. This is correct but that tree was unprotected and as such the applicant was entitled to do this.

RECOMMENDATION

Approve with Conditions –

1 - The development hereby permitted shall be begun before the expiration of three years of the date of this permission.

REASON:

To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - No development shall take place until details of the materials to be used for the external walls and roofs (including samples) 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:

To secure harmonious architectural treatment.

3 - No development shall take place until there has been submitted to and approved by in writing by the local planning authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. Details shall also include species, sizes at planting, densities, location and numbers.

REASON:

To ensure a satisfactory landscaped setting for the development.

4 - All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the development whichever is the sooner; 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.

5 - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting or amending that Order with or without modification), no additions to, or extensions or enlargements of, the dwelling hereby approved shall be erected.

REASON:

To enable the local planning authority to retain control over the enlargement of the dwelling in the interests of the proper planning and amenity area.

6 - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting or amending that Order with or without modification), no windows, doors or other

openings, other than those shown on the approved plans shall be inserted in the northern or eastern elevation of the building hereby permitted.

REASON:

In the interests of the privacy of the neighbouring properties

7 - Before the dwelling hereby permitted is first occupied the access, turning area and parking spaces for 1 Meadowview Close and the proposed dwelling shall be completed in accordance with the details shown on the approved plans, and shall thereafter be maintained for these purposes.

REASON:

In the interests of highway safety.

8 - Prior to the first occupation of the dwelling hereby permitted the first 4.5 metres of driveway back from the edge of the carriageway shall be surfaced in a well bound consolidated material (not loose stone or gravel) and maintained as such thereafter.

REASON:

In the interests of highway safety.

9 - Prior to the first occupation of the dwelling hereby permitted the existing access to the site shall be permanently closed off and the pavement restored in accordance with the details first submitted to and approved in writing by the local planning authority. Those details shall include the replacement of the existing lowered kerbs by full height kerbs and the resurfacing of the footway to suit the revised levels.

REASON:

In the interests of highway safety.

10 - INFORMATIVE TO APPLICANT:

The Council is required to give a summary of the reasons for this decision and a summary of the development plan policies and proposals relevant to the decision. These are set out below:

The decision to grant planning permission has been taken on the grounds that the proposed development would not cause any significant harm to interests of acknowledged importance and having regard to the following policies and proposals in the Kennet Local Plan 2011 namely: policy PD1, HC24 and AT9.