

**Regulatory Committee**

**27th September 2007**

**Planning Services**

**List of Applications for Consideration**

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Full planning application for : Change of use to B1 (business) use and/or B8 (storage and distribution) use.

Plummers Farm 16 Patney Road CHIRTON SN10 3QT

RECOMMENDATION: Grant full planning permission

2 K/57167/F (page 11)

Full planning application for : Change of use from office/workshop to Indian take-away

Units 9 and 10 Woodlands Yard MARKET LAVINGTON Wilts

RECOMMENDATION: Grant full planning permission

3 K/56853/F (page 15)

Full planning application for : Change of use to activity centre for persons with learning disabilities or residential and stabling.

Harestone House Church Lane EAST KENNETT SN8 4EY

RECOMMENDATION: Grant full planning permission

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Baydon House BAYDON

RECOMMENDATION: Grant full planning permission

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Full planning application for : Proposed conversion and extension to outbuildings to form dwelling.

Brookes Farm Bath Road SEEND SN12 6RQ

RECOMMENDATION: Refuse planning permission

6 K/57130/LBC (page 34)

Listed building application for : Safe installation, alteration to modern WC access, revision to shop front boxing and installation of 2 security screens

48A Kingsbury Street MARLBOROUGH SN8 1JE

RECOMMENDATION: Grant listed building consent

Item 1:

APPLICATION: K/56769/F  
PARISH: CHIRTON  
APPLICATION TYPE: Full Planning Permission  
Change of use to B1 (business) use and/or B8 (storage and distribution) use.  
Plummers Farm 16 Patney Road Chirton SN10 3QT  
GRID REF: 07496 57824  
APPLICANT: Mr M Smith  
AGENT: Digby Rowsell Associates  
DATE REGISTERED: 18th June 2007  
CASE OFFICER: Mrs V Cains

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SITE & LOCATION

The application relates to Plummers Farm in Chirton. The site is located at the northern end of the village on the right hand side of the road (if heading in a northerly direction).

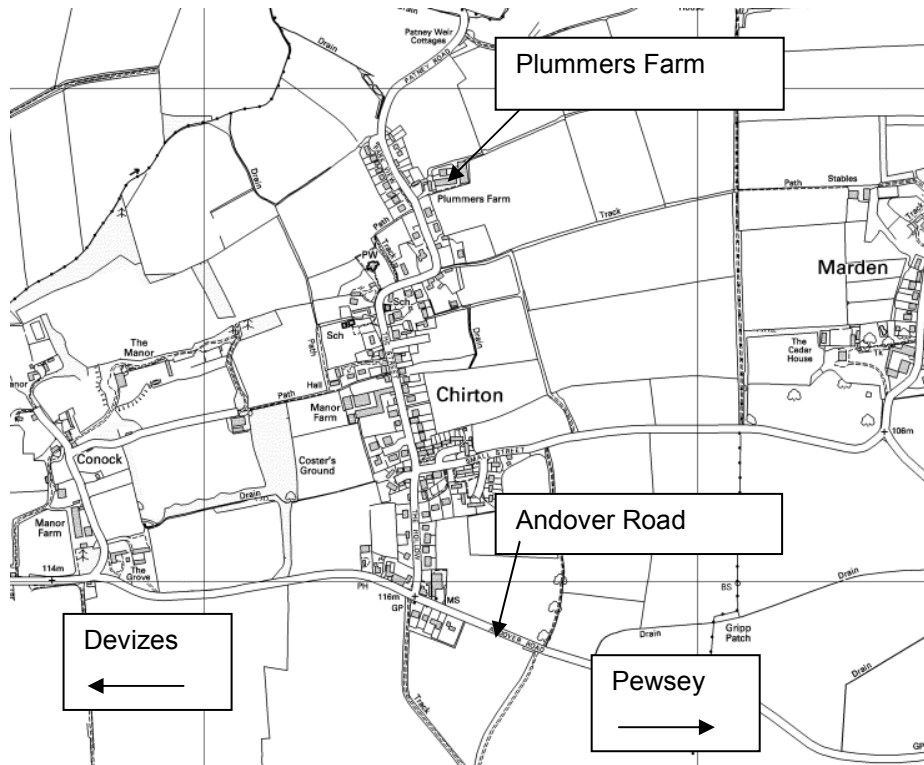
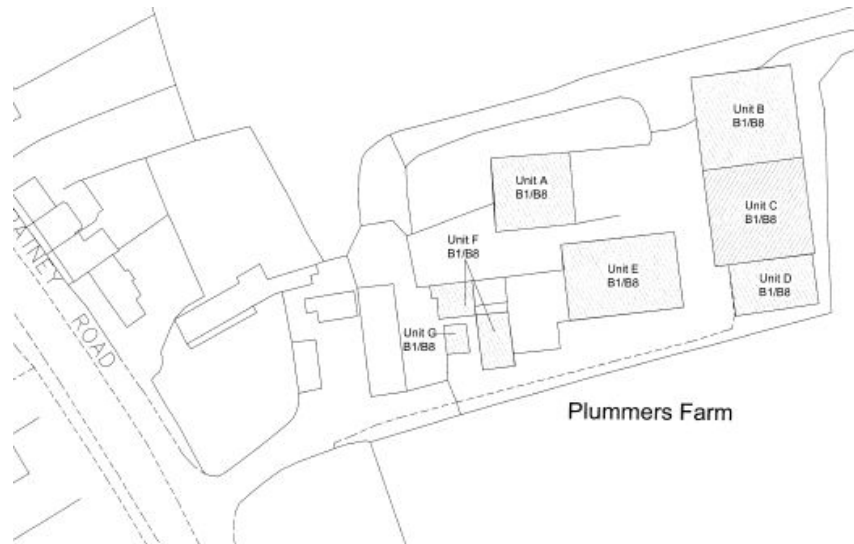


Figure 1: Site Location Plan (not to scale)

The application relates to 8 redundant farm buildings at the rear of the site behind the main farm house. To the north, east and south the site abuts the open countryside and to the west lies the farm house and the access into the site. The buildings are mainly former livestock buildings, with steel portal frames and wooden/block walls, although some are not fully enclosed.



*Figure 2: Site Plan showing location of buildings (not to scale)*

#### SITE HISTORY

K/55283/F – planning permission for the change of use from farm buildings to part antique restoration business and to part livery yard (not DIY livery) was approved under delegated powers in November 2006. This permission has not been implemented.

#### DESCRIPTION OF DEVELOPMENT

This application seeks to change the use of the buildings from agricultural to Class B1 (business) use and/or B8 (storage and distribution).

#### AMENDED PLANS

The red application site plan has been revised to include the access road into the site

#### ADDITIONAL STATEMENT BY THE APPLICANT

The applicant's statement is summarised below:

My wife and I are both from local families and have lived and worked in the area for many years and continue to do so. At Plummers Farm, we see an opportunity to renovate a farmhouse of character and create a lovely home for our young children.

Regarding the farm buildings at the back of the property, we feel that they need regenerating to avoid them falling into a derelict state. Some already require considerable repair but it would be financially unviable to undertake these repairs if they were not used again. The barns could be put to use as rented units for storage and small workshops and create local employment and/or encourage small businesses.

The intention is to attract a handful of tenants that have minimum traffic movements to and from the site. In fact, we would actively favour such tenants as we ourselves would be living on the site and, with young children, would wish to keep the number of vehicles to a minimum. This concern also applies to the immediate neighbours and the village as a whole. To meet this requirement, we expect to accept reasonable restrictions on traffic movement. Likewise, for our neighbours' sake as well as our own, we would seek tenants whose businesses are quiet.

As examples of preferred activities, I have already had very positive interest from a local artist looking for a studio, a metal polisher and someone requiring furniture storage. It is not in our interest to create a busy industrial site right on what would be our own doorstep, but to develop a quiet enclave of a few businesses to make the farmyard sustainable again.

#### PARISH COUNCIL COMMENTS

Chirton Parish Council notes that Mr Matthews foresees vehicular movements in and out of the site to be in the region of 15-20 vehicles per day.

The Council is concerned that this may turn out to be an under estimate and wish to insert a caveat that should vehicle movements significantly exceed this estimate this matter should come back to the Planning Authority and the Parish Council for review.

In all other respects the Council support this application.

#### CONSULTATIONS

County highways – Object to the change of use to an unfettered B1 and/or B8 use because such an open permission could create significant levels of traffic (and varying levels of traffic) on the highway network in Chirton where there is a lack of footway facilities for pedestrians and this is in relation to the primary school in the village and the increase in traffic generation would be contrary to highway safety.

KDC Design and Engineering Manager – No objection.

#### REPRESENTATIONS

Four letters of support from local residents have been received. These are summarised as:

- (a) The buildings have been disused for a number of years and are rapidly falling into disrepair and are visually unattractive in a well kept village. The repairs to the building would improve the appearance of the farm and be in keeping with the general appearance of the village.
- (b) The proposed use will attract small businesses of a type with low noise pollution and minimal increase in traffic as well as offer an opportunity for local employment.
- (c) This application is only a modification of that previously approved on the site.

#### POLICY CONSIDERATIONS

Kennet Local Plan 2011 - the application site lies outside of but adjacent to the Chirton Limits of Development. The site also falls within the Conservation Area and North Wessex Downs Area of Outstanding Natural Beauty. The relevant policy considerations are PD1, ED10, ED14, HH5 and NR8.

PPS 7 supports well conceived diversification schemes for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise and are consistent in their scale with their rural location. Local planning authorities are urged to be supportive of the re-use of existing buildings that are adjacent to or closely related to country towns and villages for economic uses.

#### PLANNING OFFICERS COMMENTS

It is considered that the main issues in the consideration of this application are (a) the principle of the change of use (b) neighbour amenity and (c) highway impact.

#### **(a) Principle of the change of use**

Policies ED10 and ED14 both seek to encourage employment uses on sites both within the countryside and within/on the edge of the Limits of Development of villages. Both policies recognise the need to encourage the diversification of the rural

economy and vacant agricultural sites such as this are therefore considered acceptable in principle for employment type uses. This stance is also supported in PPS 7.

**(b) Neighbour amenity**

The use of the buildings for B1 and/or B8 uses is considered acceptable in terms of the impact upon the reasonable living conditions of the occupiers of neighbouring properties. A B1 use by definition is a business/light industrial use that can be carried on in a residential area without detriment to the amenities of residents in the area. A B8 use is warehousing/storage.

**(c) Highway impact.**

The key issue in determining this application is considered to be the impact of the change of use in terms of highway safety.

Both national and local planning policy strongly supports the re-use of redundant agricultural buildings within or on the edge of settlements for employment purposes. This proposal is in line with these policies. However, highway safety is also an issue, particularly in a situation such as this where the village has a lack of footpaths and contains a primary school. The local highway authority are concerned that granting an unfettered business/storage use on all of these buildings without knowing the end users, and therefore not knowing more accurately the level of traffic generation, could lead to an unacceptable increase in traffic movements that would be prejudicial to road safety. They have therefore recommended refusal.

The Council is in a difficult dilemma. The planning policies favour economic development but the traffic generation from the development is not known and the highway authority have lodged their objection.

The Parish Council suggest that there should be a requirement that the permission be reviewed if the traffic generation exceed the 25 visits per day anticipated by the application. Unfortunately, this is not possible. Planning conditions cannot be imposed to limit traffic movements in this way.

There is a precedent for a similar operation in Kennet – the Uffcott Rural Business Park, at Uffcott, Broad Hinton. Here, former agricultural buildings have been converted to employment uses on a similar scale in a village that also lacks footways, although it is a smaller settlement and has no school. No highway objections have been raised to recent applications here, although there was a measure of local opposition. Council officers are unaware of any significant highway problems from the operation of this site.

Whilst highway objections on road safety grounds should always be taken seriously, members have a difficult balancing act on this occasion. Given the favourable national and local planning policies, local support and the experience at Uffcott, members may consider that the balance should lie in favour of approval of this application.

**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. Before the change of use of a building is first implemented, plans shall be submitted to and approved in writing by the local planning authority showing the parking facilities for that building. The facilities shall be provided before the building is occupied and shall thereafter be retained.

REASON:

To ensure the adequate provision of parking facilities on the site.

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 building(s) 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. INFORMATIVE TO APPLICANT:  
This permission authorises a Change of Use only and does not authorise any works or alterations that may require planning permission.
6. 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, on balance, cause any significant harm to interests of acknowledged importance, having regard to balancing the national and local planning policies in favour of re-use of agricultural buildings for economic purposes (eg Kennet Local Plan policy ED14) with highway safety arguments, and taking account of the experience of previous similar proposals in the district.

## Item 2

APPLICATION:	K/57167/F
PARISH:	MARKET LAVINGTON
APPLICATION TYPE:	Full Planning Permission
PROPOSAL:	Change of use from office/workshop to Indian take-away
SITE:	Units 9 and 10 Woodlands Yard Market Lavington
GRID REF:	01629 54198
APPLICANT:	Mr O Mannan
AGENT:	Mr C Sault
DATE REGISTERED:	13th August 2007
CASE OFFICER:	Miss R Yeomans

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### SITE & LOCATION

The site is located within Woodlands Yard which is a small complex of industrial units in the service centre for Market Lavington. It can be found by proceeding along the B3098 in an easterly direction from the village of West Lavington. At the mini-roundabout, proceed straight ahead, and after passing the village shop on the left hand side, the site can be found on the right hand-side, immediately opposite the village car park.



*Site location*

### SITE HISTORY

K/16491/F – Planning permission was granted on 30<sup>th</sup> October 1990 for the change of use from agricultural buildings to storage.

K/38730/F – Planning permission was granted on 4<sup>th</sup> May 2000 for the demolition of derelict building and replacement with one bedroom caretakers flat and office/workshop with garage parking.

## DESCRIPTION OF DEVELOPMENT

The application proposes the change of use of two industrial units to an Indian take-away and associated alterations.

## PARISH COUNCIL COMMENTS

The parish council do not object to the principle of a food outlet but has raised major concerns about parking, access to and space within Woodlands Yard, late night and weekend working, and the lack of suitable external storage for bins etc.

## CONSULTATIONS

County Highways – No objection in view of central location which offers adequate public parking.

KDC Environmental Health – No objection subject to conditions requiring details of extraction equipment etc to be first submitted and approved by the local planning authority.

## REPRESENTATIONS

Five letters of objection have been received from local residents. Their concerns can be summarised as follows;

- 1 There is already a shortage of parking spaces and if the change of use was approved, it would be likely to lead to more unauthorised parking in dangerous places. This would deter people from visiting Market Lavington and using the local businesses. There is no provision for any additional off-street parking for customers.
- 2 The access to Woodlands Yard is substandard and visibility when exiting is especially poor to the right. The change of use would be likely to result in more cars using this access, which would increase the chance of accidents.
- 3 The increase in the amount of traffic using the village for the take-away would increase the amount of traffic noise which would cause harm to residents.
- 4 The cooking odours would affect the enjoyment of the neighbouring properties and the air quality around the units.
- 5 Market Lavington cannot sustain a further catering business as it already has two Chinese take-aways and three pubs serving food.
- 6 The proposal would be likely to result in an increase in traffic (both customers and delivery vehicles) using Woodlands Yard, which currently has inadequate parking and turning facilities and would be likely to cause further disruption to private parking areas to the rear of numbers 22 & 24 High Street.
- 7 Yet another take-away outlet in the village centre would result in further litter which would be an eye-sore and a health risk for visitors and residents.
- 8 The proposed take-away would fuel further late night anti-social behaviour, and its secluded poorly lit location in a residential area is far from ideal.
- 9 The passage of customers to and from the take-away would result in noise nuisance particularly at night as the use of the existing units currently ceases at 6pm.
- 10 There is no facility for secure rubbish disposal/ storage or wheelie bins at the site.
- 11 If permitted, it would set a precedent for a change of use of the other units to retail which would further exacerbate traffic problems.

## POLICY CONSIDERATIONS

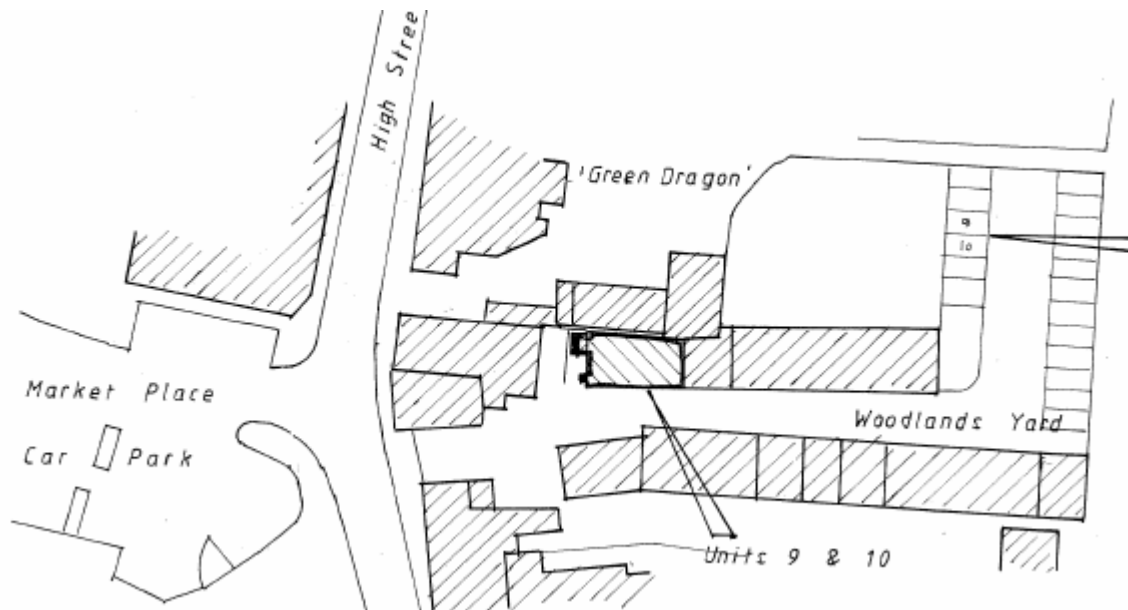
Kennet Local Plan - policies PD1 (General Development & Design), ED24 (New Development in Service Centres) and HH5 (Conservation Areas) of the adopted Kennet Local Plan 2011 are relevant.

## PLANNING OFFICERS COMMENTS

The key considerations are principally the impact on neighbour amenity and highway safety.



Policy ED24 permits the principle for new shops and services within the Service Centre provided that service arrangements are adequate. This is to allow centres to retain vitality and viability. The site is located opposite the village car park and close to some on-street parking. Although no provision is made for any further allocated off-road parking for customers, two spaces on site will be used for employees. Wiltshire county highways consider the location offers adequate public parking and raises no objection. As regards deliveries, the proposed use is unlikely to result in any significant need for additional deliveries over and above those associated with the current permitted use of the site. It is on this basis that officers also consider that the increase in traffic noise resulting from traffic using the proposed take-away, would not result in significant harm to neighbour amenity to warrant refusal of the planning application.



*Layout and parking arrangements*

In terms of bin storage and potential noise / smell concerns, Environmental Health have raised no concerns and consider the site suitable, provided that details of all plant and the extraction equipment are submitted to and approved in writing by the local planning authority prior to the implementation of any change of use. They consider that by agreeing appropriate extraction units and plant, no significant harm to neighbour amenity would result. In addition, the Environmental Protection Act can control noise/ odours which become a statutory nuisance.

Concerns raised about obstruction of private parking areas and competition for other catering premises within the village are not material planning considerations.

If members are minded to approve the application, a condition restricting the number of hours that the take-away is open to the public is suggested. This should limit noise nuisance, traffic flows and any associated harm to neighbour amenity.

### **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 - Prior to the Class A5 (take-away) use being commenced, ventilation and extraction equipment shall be installed in accordance with the details and specification that shall first be submitted to and approved in writing by the local planning authority. The extraction equipment shall be maintained in accordance with the approved details and specification thereafter unless otherwise agreed in writing by the local planning authority.

REASON:

To protect the amenities of nearby residential properties and in the interests of the character and appearance of the conservation area.

3 - The extract fans, motors and other associated machinery should be designed to ensure that the equivalent continuous A-weighted sound pressure (L<sub>aeq</sub>) should not exceed the background noise level (L<sub>A90</sub>) during the hours of operation by more than 5dB at the boundary of any domestic premises.

REASON:

To protect the amenities of nearby residential properties.

4 - The take-away hereby permitted shall only open to the public between the hours of 0900 and 2230 from Mondays to Saturdays (inclusive) and between 1000 and 2200 on Sundays and Bank Holidays.

REASON:

To protect the amenities of nearby residential properties.

5 - 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 PD1, HH5 & ED24.

6 - INFORMATIVE TO APPLICANT:

The applicant's attention is drawn to the recommendations set out in the letter received from Wiltshire Fire & Rescue Service on the 7th September 2007, a copy of which has been attached to this Decision Notice.

7 - INFORMATIVE TO THE APPLICANT:

The applicant should note that this permission only permits the external flue as shown on the approved drawing 1515.2 received on 8th August 2007. Any larger and/or different flue required may require further planning permission.

Item 3:

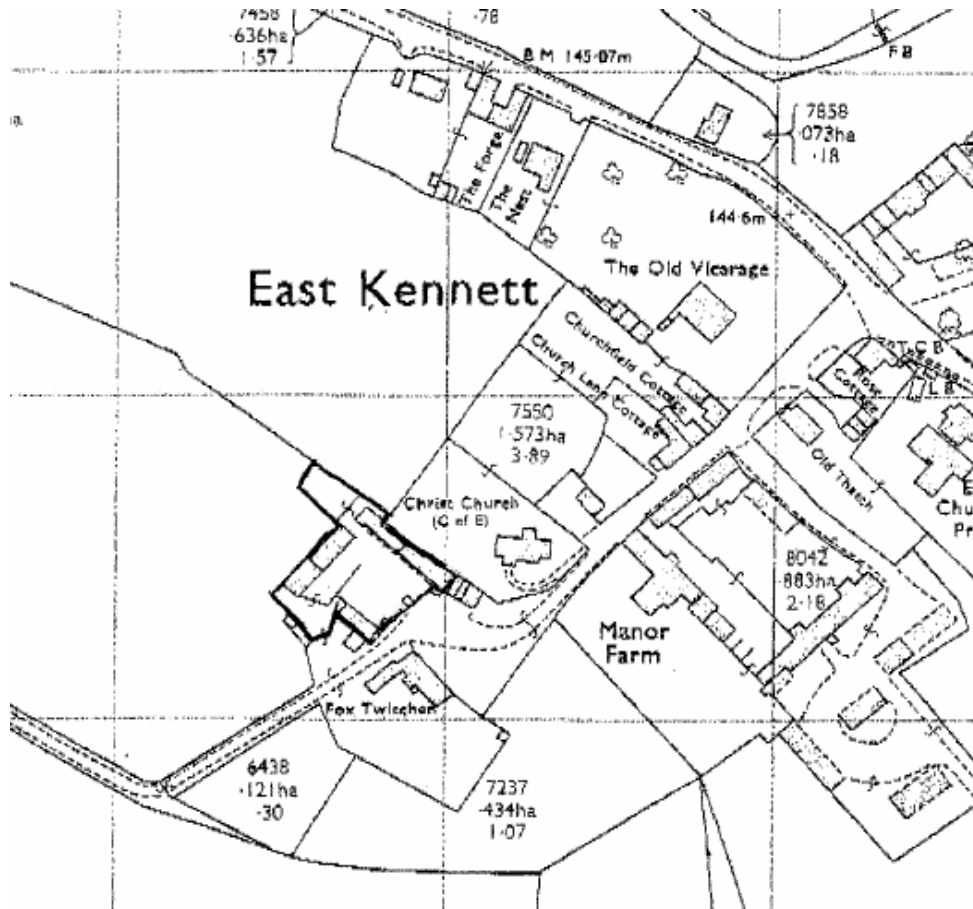
APPLICATION: K/56853/F  
PARISH: EAST KENNETT  
APPLICATION TYPE: Full Planning Permission  
PROPOSAL: Change of use to activity centre for persons with learning disabilities or residential and stabling.  
SITE: Harestone House Church Lane East Kennett  
Wiltshire SN8 4EY  
APPLICANT: Mrs J E Abbott  
DATE REGISTERED: 29th June 2007  
CASE OFFICER: Miss G Salisbury

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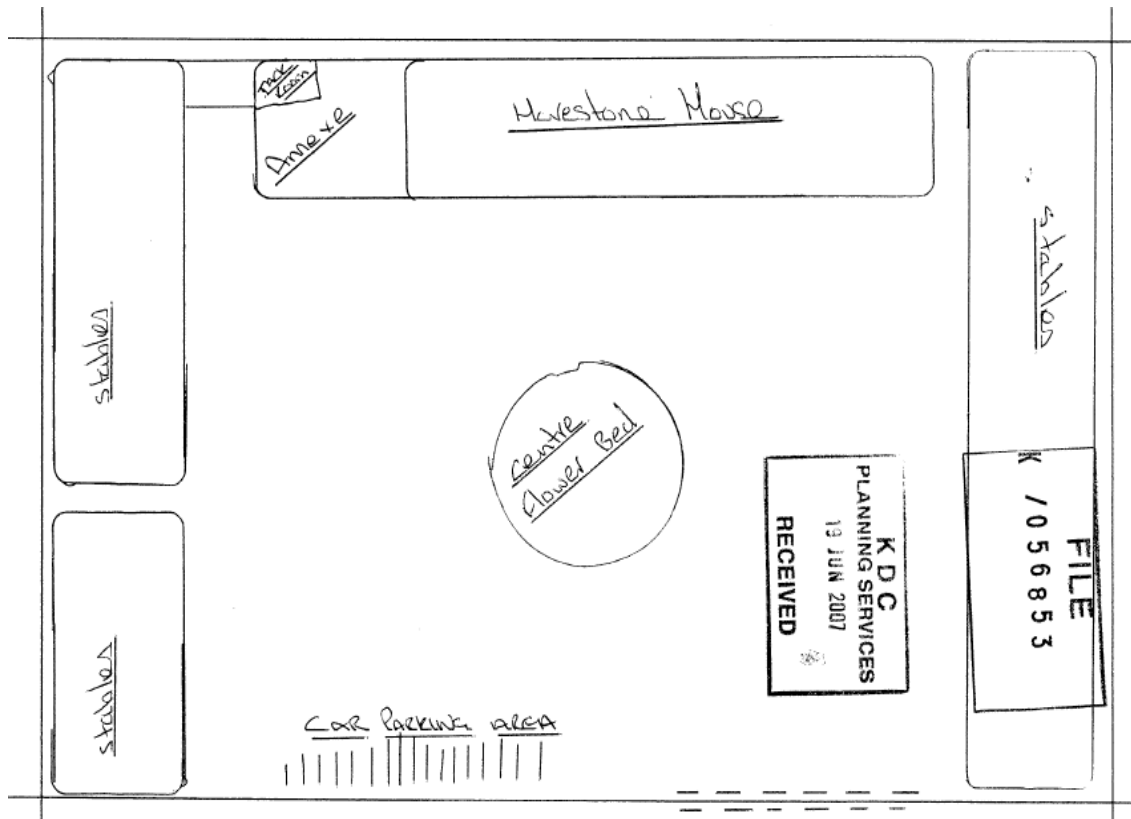
**SITE & LOCATION**

Harestone House is situated on the south-west edge of East Kennett. It is the last property along Church Lane and is located along the north-western side of an enclosed yard used for stables. The use of the building is currently restricted to staff accommodation in association with the equestrian business undertaken at the site.

The site is located within the North Wessex Downs Area of Outstanding Natural Beauty. It also lies on the edge of the designated East Kennet Conservation Area with the house lying outside the Conservation Area.



*Site Location Plan*



Block Plan

#### RELEVANT SITE HISTORY

K/45990 – Planning permission was approved in September 2003 for the conversion of a barn into a managers dwelling to include stable lads accommodation and new loose boxes.

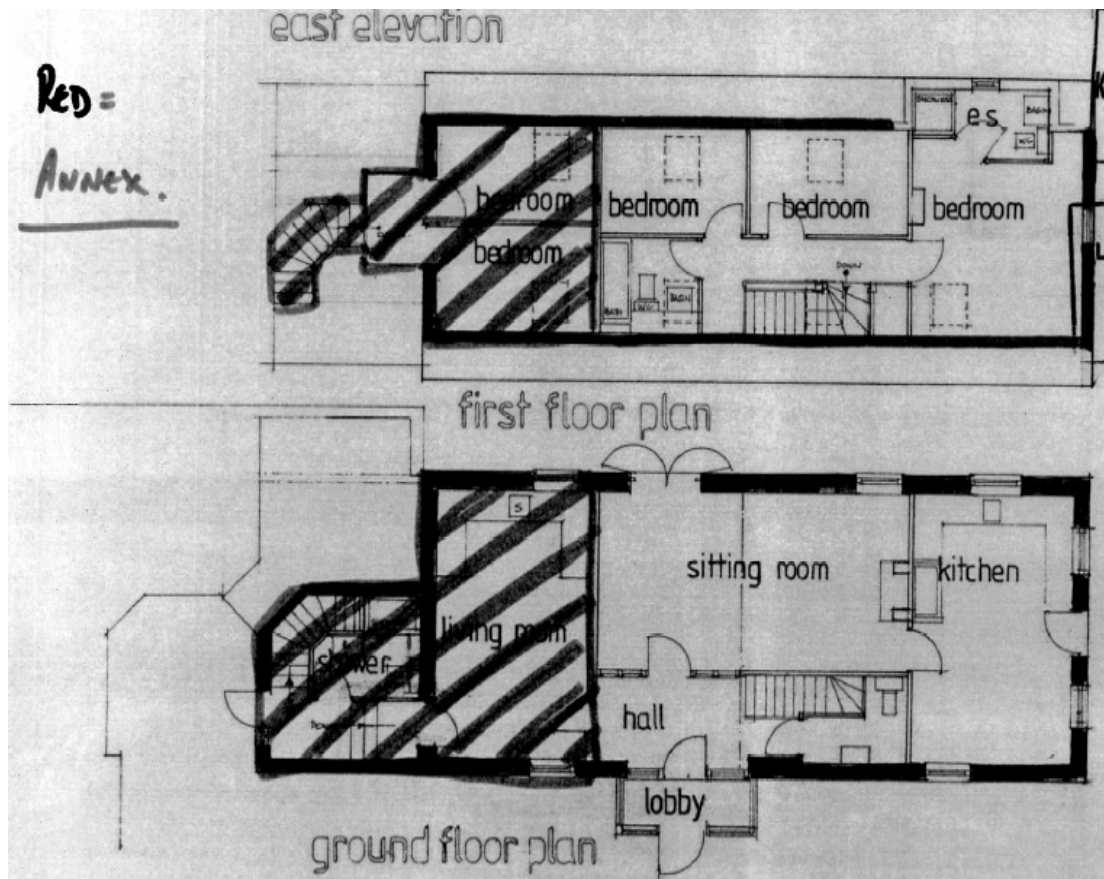
#### DESCRIPTION OF DEVELOPMENT

This is a full planning application for a change of use to an activity centre for people with learning disabilities. The proposed hours are 9am to 4pm Monday to Friday with no activities relating to the activity centre taking place on Saturdays, Sundays or Bank Holidays. Activities would include horse riding, looking after animals, growing of small plants, flowers, fruit and vegetables etc.

It is proposed that all activities will take place outdoors with the exception of lunches and the recording of events that would be undertaken within the annex part of the existing building on a rotation system. It is important to note that it is only the annex that would be used for this purpose, the remainder of the building being retained in its existing use as staff accommodation in association with the equestrian business undertaken at the site. The proposal is therefore for a mixed use of the site.

It is anticipated that the number of people visiting the site would be between 25 to 50, including carers/supporting staff. In terms of transportation individuals will be transported to and from the site by their carers or parents. It is anticipated that 5 vehicles will remain on site throughout the day although it is noted that more would be required to transport people to the site. Parking would take place within the application site.

No external or internal alterations are required to facilitate the change.



*Floor plans to show annex area of building*

#### ADDITIONAL STATEMENT BY THE APPLICANT

The applicant has submitted accompanying information in support of the application which can be viewed in full on the working file.

The rationale for the use is to provide a different environment for adults with learning difficulties meeting and undertaking activities for enjoyment with an outdoor theme attached outside the home environment. It is hoped that this will complement the already existing day service in Pewsey known as Harlequins.

#### PARISH COUNCIL COMMENTS

No response to the proposed development.

#### CONSULTATIONS

Wiltshire County Highways (Mark Wiltshire) – No objection.

KDC Conservation Officer – Concern that the level of activity could adversely affect the quiet quality of the Conservation Area.

#### REPRESENTATIONS

Five letters of objection have been received to this proposal on the following grounds:

- 1) Increase in traffic. The village can only just cope with the existing traffic load using the stabling facilities at Harestone House but certainly not any additional traffic without seriously putting at risk local residents, including small children, let alone the pollution and parking factors.
- 2) The village already has traffic problems. It is used as a rat run, there is substantial traffic morning and late afternoon because of the village school

- and the road access to the stables is very narrow with no footpaths, additionally there is traffic using the Church.
- 3) The proposed use and additional traffic is inappropriate in the context of the East Kennett Conservation Area Statement which describes East Kennett as “an attractive small village set in a quiet rural area”. The proposed use would change this character.
  - 4) The development would bring an unwelcome commercial intrusion into a predominantly rural environment. Farm and horse traffic are a way of life in Church Lane but any further daily traffic movement along this narrow lane into the village main road would increase the traffic problems which already exist.
  - 5) The proposed increase in traffic movement along Church Lane is contrary to Policy ED14(g) of the Local Plan as it would create more than a modest growth in the daily vehicle movements to and from the site, create an unacceptable increase in traffic in Church Lane, as a minor road, and would form a traffic hazard.
  - 6) Noise and disturbance from the activity centre so near to houses.
  - 7) Concern that the proposal is vague and lacking in detail. It is not possible to make an informed decision without any information on the exact nature of the business

One letter of support has also been received from the immediate neighbour who states that there would be less traffic with the change of use than as a licensed racing yard and trips associated with this including staff, trainers, vets, bedding, food and yard deliveries, service vehicles and owners visiting etc.

#### POLICY CONSIDERATIONS

Kennet Local Plan - policies PD1: Development and Design and ED14: Re-use of Existing Buildings in the Countryside are relevant to the consideration of this application.

#### PLANNING OFFICERS COMMENTS

The main considerations in respect of this proposal are whether the proposed use would create an unacceptable increase in traffic and/or form a traffic hazard; cause harm to the amenity of nearby residents or affect the character of the adjacent conservation area.

The proposed use will result in an increase in traffic to the site from vehicles taking people to and from Harestone House at the beginning and end of activities. Whilst it is appreciated that this is a minor road, the existing road serves a number of residential properties, stables and the village church, and no objection has been raised to the development by county highways. In view of these circumstances it is not considered that the additional traffic associated with the use would cause a traffic hazard or result in such an increase in traffic as to warrant a refusal on highways grounds. The site has more than ample space for parking and turning.

In terms of neighbour amenity, it is not considered that the development would result in any significant harm to the reasonable living standards of nearby residents by reason of noise or disturbance. No objection has been raised to the development by the immediate neighbours, although it should be noted that they own the application site. Beyond this the next nearest residential property is over 60 metres away, and so the application site is not immediately adjacent to other residential properties. The intended days/hours of use are from Monday to Friday, 9am to 4pm, and these are not considered to be unreasonable or anti-social, and can be controlled by condition.

Finally, concern has been raised about the impact of the development on the character of the conservation area. No physical alterations are proposed to accommodate the proposed use and as such no harm will result to the visual character of the village. The conservation area statement does however identify East Kennett as a quiet rural area. It is accepted that the site will be more intensively used, however it is considered that the site can accommodate this level of activity during the days and hours proposed without material harm to the quality of the conservation area.

Members should note that it is intended to use the remainder of Harestone House as existing – that is, as staff accommodation in association with the retained equestrian use. A condition restricting the use of the remaining accommodation is therefore suggested at the end of this report.



*The application site*

## **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 0900 and 1600 from Mondays to Fridays (inclusive). The use shall not take place Saturdays, Sundays or on Bank Holidays.

### **REASON:**

To protect the amenities of this primarily residential area.

3 - The retained residential accommodation shall not be occupied at any time other than for purposes of staff accommodation in association with the equestrian business undertaken within the application site.

### **REASON:**

The accommodation is sited in a position where the local planning authority, having regard to reasonable standards of living accommodation and planning policies pertaining to the area, would not permit separate residential accommodation independent of the equestrian business.

4 - 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 PD1, ED14 and HH5.



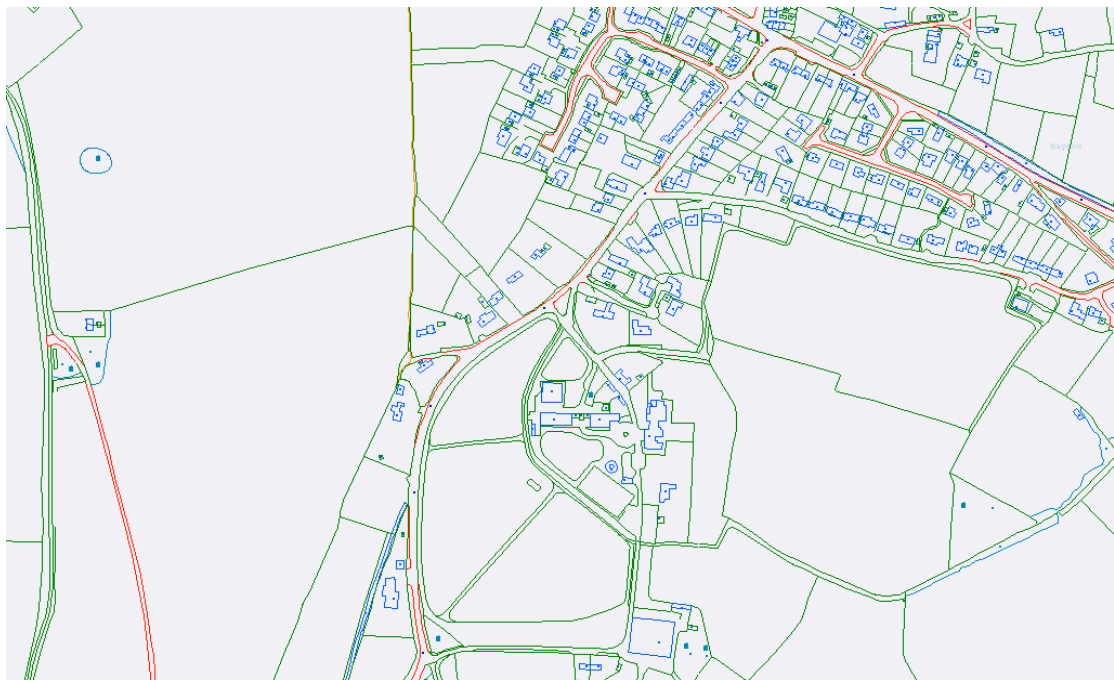
Item 4:

APPLICATION:	K/56971/F
PARISH:	BAYDON
APPLICATION TYPE:	Full Planning Permission
PROPOSAL:	Proposed alterations to existing wall and gateway requiring associated diversion of bridleway 11.
SITE:	Baydon House Baydon Wiltshire
GRID REF:	28030 77607
APPLICANT:	Mr S Crown
AGENT:	HLF Planning
DATE REGISTERED:	12th July 2007
CASE OFFICER:	Mr A Guest

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### SITE & LOCATION

Baydon House is a Grade II listed building positioned in extensive grounds towards the south side of Baydon. The grounds are divided immediately in front of the house by an unclassified no-through road which changes to a bridleway (ref. BAYD11 or BR11) just past the south side of the house. The point of change between the road and bridleway is defined by a five bar gate with walls either side.



*Location Plan*

When entering Baydon from the south turn right at the first junction. This is the no-through road. Continue along the full length of the no-through road until it terminates just to the south of Baydon House. The gate the subject of this planning application is now immediately in front of you.

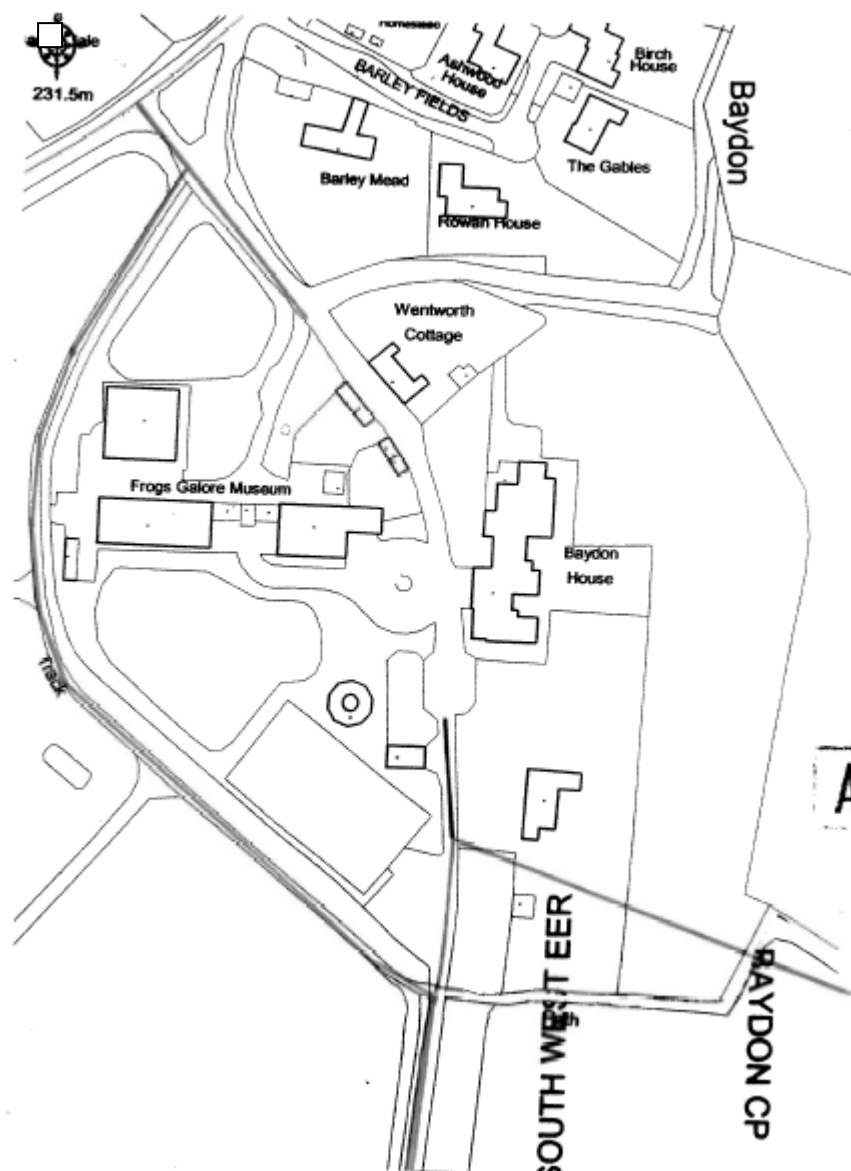
### SITE HISTORY

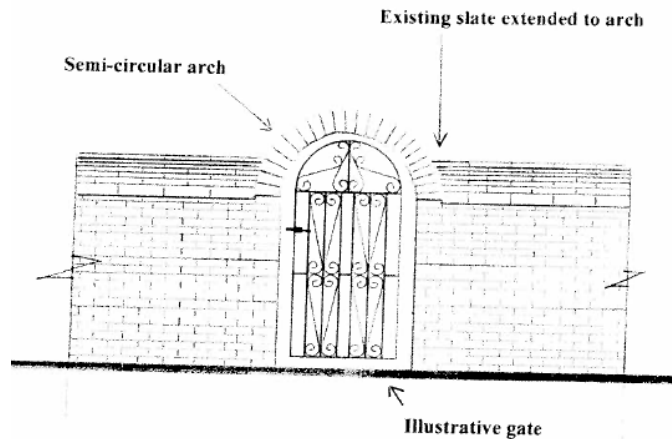
There is no relevant planning history.

## DESCRIPTION OF DEVELOPMENT

The proposal is to replace the five bar gate with an ornamental wrought iron pedestrian gate and brick arch, with the existing walls extended either side (reducing the overall width of the opening).

As a consequence of the proposal the bridleway would no longer be able to fulfil this function and consequently it is also proposed to divert the bridleway to a new route further to the west of the house. The length of bridleway affected is approximately 35m, and is positioned immediately to the south of the gate. The proposed diverted route commences 45m further to the south. It runs to the west in an arc for approximately 290m before rejoining the no-through road close to its junction with Aldbourne Road. The proposed diverted route is around 8m in width, is part grass/part hard-surfaced and is bounded by hedging or post and rail fencing.





#### PRINCIPAL AMENDMENTS MADE FOLLOWING SUBMISSION

The applicant originally proposed to regularise the diverted route of a second bridleway (BR1). However, as it is not necessary to divert this other bridleway to enable the proposed development to be carried out this element of the proposal has been deleted.

#### ADDITIONAL STATEMENT BY THE APPLICANT

The application is accompanied by a Design and Access Statement which can be viewed on the working file. Extracts from the statement are as follows:

“As indicated on the Definitive Map, there exists a curious layout of public rights of way around Baydon House. ... the site is accessed from Aldbourne Road courtesy of an unclassified road. This unclassified road terminates at a gateway just to the south of Baydon House where it turns into BAYD11, or Bridleway 11. Further south BAYD11 then connects with BR1.

The unclassified road is a public right of way and allows both vehicular and pedestrian traffic to access the site. In addition it allows pedestrians (vehicular access terminates at the gate), to access the bridleways to the south by travelling through the heart of the site and directly across the front garden of Baydon House.

It should be pointed out that one of the primary purposes of the proposed alterations is to provide a higher degree of safety and security to the occupiers of Baydon House. The specification of the wrought iron gate to replace the existing low-level wooden gate, together with the fact that the gate will allow access for pedestrians only, means that the security of the site will be improved.

In addition to the above, the existing right of way cuts directly across the existing front garden of Baydon House, separating the house from its front garden and causing an undue nuisance to the residents of the dwelling.

#### PARISH COUNCIL COMMENTS

Baydon Parish Council: Strongly objects and does not support the stopping/diversion of bridleway 11.

- 1) The existing gate is already considered an obstruction of bridleway11. The narrowing of the gateway and the construction of the arch would further restrict access. The land owner should have applied for permission to have a gate going across the bridleway.

- 2) The right of way should remain unchanged to allow access along the unclassified road and to continue onto bridleway 11. The small section affected by the application would in effect stop walkers from continuing past the house and down towards Paynes Farm as they have always done.
- 3) The route is part of the village's heritage and is of historical interest. The buildings along the route are also considered a visual amenity which the Parish Council considers important to retain.
- 4) The existing route is considered to be more convenient for anyone with mobility issues.
- 5) The applicant has not provided any evidence to support the claims of "undue nuisance". In fact, the existence of the alternate path lessens the impact as 'traffic' is split between the two routes.
- 6) Similarly it is not believed that there is any evidence that the existing right of way has a significant negative impact on safety or security.

Although the application has been amended to show the correct route of bridleway 1, the application does still have an effect on rights of way and it is noted that all the other rights of way issues still remain. With this in mind Baydon Parish Council requests that Kennet District Council refuse this planning application and recommends that all rights of way issues (obstruction and diversion of bridleway 11, the rerouting of bridleway 1 and stopping of the road) be amended under the Highways Act first as it is believed to be the more appropriate legislation to apply for resolving these matters than the Town & Country Planning Act.

#### CONSULTATIONS

WCC Rights of Way Officer (Allan Francis): no objection provided legal diversion and satisfactory provision of alternative to our satisfaction is carried out before works begin. It would seem appropriate to divert both BR11 and BR1 under the Highways Act, "in the interest of the owner", and because it could be argued "not substantially less convenient".

WCC Rights of Way Officer (Sally Madgwick): It is correct that KDC should deal with the diversion of BAYD11 under the Town and Country Planning Act as clearly it is necessary to do so before the proposed development can commence. It is possible that the proposed diversion route is already a right of way, public rights having been acquired either by deemed dedication under the Highways Act or under common law. It may be sensible to deal with BAYD1 before BAYD11 under the Highways Act.

Ramblers Association: Objects; the diverted route is less attractive than the current right of way. Furthermore, right of way 1 is currently obstructed.

#### REPRESENTATIONS

Three objection letters have been received from third parties summarised as follows:

- Objection to proposed diversion of right of way. This is an historic right of way that the present occupiers were well aware of when they purchased the property. The right of way has been enjoyed by walkers/horses for many years, always with consideration to the privacy of the occupants;
- The diverted route would do little to increase the safety and security of the occupiers and to increase their enjoyment of their amenity space because the diverted route would still pass close to Baydon House. There are many properties in Baydon with close by rights of way, with no increased fear as to their safety or security, and no complaint about nuisance or loss of privacy;

- Concern that proposed route is too narrow, with potential conflict between horses and walkers;
- Diversion would deny the public views of the very beautiful listed Baydon Manor and surroundings.

One letter of support has been received summarised as follows:

- There is a perfectly acceptable alternative route;
- The new route is regularly frequented by walkers and riders;
- The new route is well-constructed and safe (away from traffic);
- The new route provides excellent views;
- The new route is accessible for all – wheelchairs, pushchairs, etc.;
- The new route is of benefit to the village.

#### POLICY CONSIDERATIONS

Kennet Local Plan 2011 - policies PD1, HH8 and AT22 of the Kennet Local Plan 2011 are relevant to this application.

#### PLANNING OFFICERS COMMENTS

The main considerations in this case are the impact of the proposed altered wall and gateway on the character and appearance of the area and the setting of the listed Baydon Manor. Also to be considered is the acceptability in planning terms of the proposed alternative route of bridleway BAYD11 which it would be necessary to divert in the event of planning permission being granted for the wall/gate alterations.

Policy HH8 of the Local Plan states that planning permission will not be granted for any proposal which would harm the historic or architectural qualities of a listed building, its curtilage or setting. Policy AT22 states that planning permission will not be granted for development affecting any public right of way unless the proposal includes either the maintenance or the diversion of the right of way as an alternative route which is no less attractive, safe and convenient for public use.

The proposed alterations to the gateway are minor in nature and would not detract from the character of the area or the setting of the listed building. They are, therefore, acceptable under the terms of Policy HH8. The alterations to the gate do, however, necessitate diversion of bridleway BAYD11 because it could no longer function as a bridleway after the works are carried out. In accordance with Policy AT22 the applicant has, therefore, proposed an alternative route for BAYD11 further to the west.

In terms of the requirements of Policy AT22 the proposed route is considered to be both as safe and as convenient as the original route of the bridleway. Specifically, the existing length of the bridleway and no-through road between the proposed start point and finish point of the proposed route is approximately 260m whereas the proposed route is approximately 290m. An additional 30m is not considered to be so inconvenient to warrant an objection for this reason. Furthermore, the width of the proposed route (approximately 8m), and its surfacing (grass or tarmac for its entire length) are considered both safe and convenient for users.

In terms of its attractiveness, the proposed route does not pass by the front of Baydon House and consequently views of this would not be possible. However, it does pass alongside open countryside, which is considered to be just as interesting, in accordance with Policy AT22. The public no-through road would continue to afford views of the house.

The concerns over the security and safety of the owners of Baydon Manor are a relevant material consideration, although no more so than those of other householders who live adjacent to public rights of way. The existing route of the combined bridleway and no-through road passes very close to the front elevation of the house. However, this is an historic situation which the owners should have been aware of when they purchased the property, and so it is not considered to be an overriding consideration.

Regarding legislation, footpaths and bridleways can be diverted or stopped-up under the terms of Section 257 of the Town and Country Planning Act where this is necessary to enable development which benefits from planning permission to be carried out. Following a grant of planning permission the local planning authority has to make an order which has its own procedures. Before an order can be confirmed or made it must be apparent that there is a conflict between the development and the right of way, such as an obstruction, as in this case. The power contained in Section 257 is only available if the development insofar as it affects the path or way is not substantially completed. Having regard to the nature of the proposal, its impact on the right of way, and the terms of Section 257, it is appropriate for the diversion in this case to be considered under planning legislation.

#### **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 surfaces 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 - Notwithstanding the details set out in the application particulars, the brickwork on the development hereby permitted shall be constructed with the mortar and external face bond to match the existing wall.

#### Reason:

To safeguard the setting of the adjacent listed building.

4 - Prior to commencement of the development hereby approved, large scale (no less than 1:10) drawings of the design of the wrought iron gate shall be submitted to the local planning authority for approval in writing. The development shall be carried out in accordance with the approved details.

#### REASON:

To safeguard the setting of the adjacent listed building.

5 - 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, HH8 and AT2.

6 - INFORMATIVE TO APPLICANT:

Nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site. A separate application under the Town and Country Planning or Highway Acts will be necessary.

Item 5:

APPLICATION:	K/57093/F
PARISH:	SEEND
APPLICATION TYPE:	Full Planning Permission
PROPOSAL:	Proposed conversion and extension to outbuildings to form dwelling.
SITE:	Brookes Farm Bath Road Seend Melksham Wiltshire SN12 6RQ
GRID REF:	93983 62182
APPLICANT:	Mr & Mrs M Moore
AGENT:	Land Development & Planning consultants
DATE REGISTERED:	31st July 2007
CASE OFFICER:	Mrs K Guest

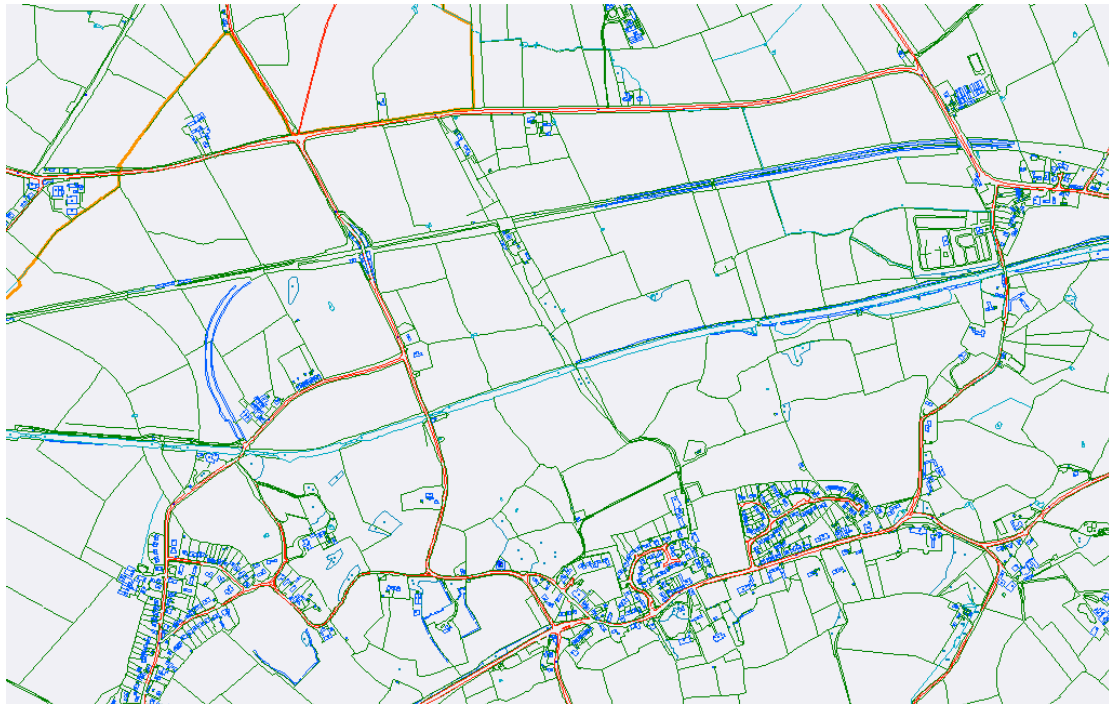
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### BACKGROUND

The application has been brought to committee at the request of the local ward member.

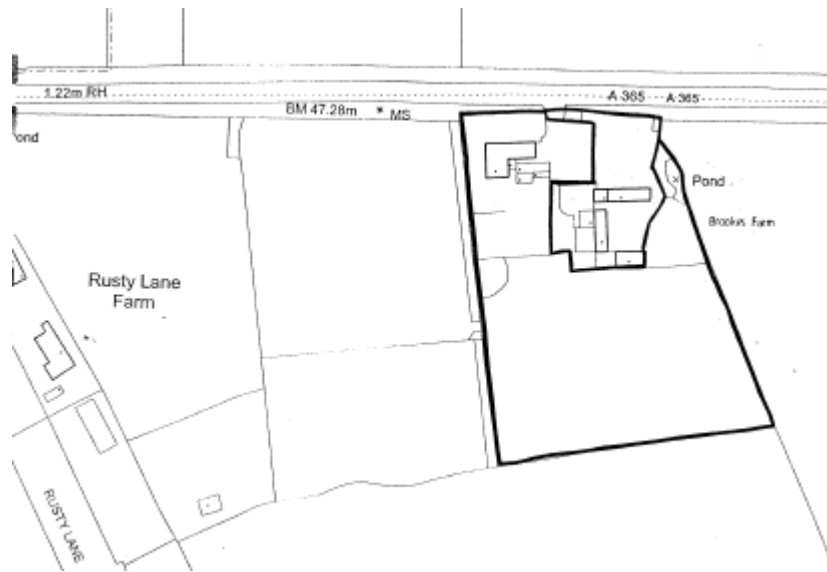
### SITE & LOCATION

The site lies on the south side of the A365 Devizes – Melksham road, approximately 1 kilometre (0.7 miles) west of Sells Green. Upon leaving the settlement in the Melksham direction, the road bends sharply to the left. The site can be seen on the left-hand side of the road, approximately 900 metres further on. It comprises a large detached dwelling and a range of outbuildings.



*Location of Site*





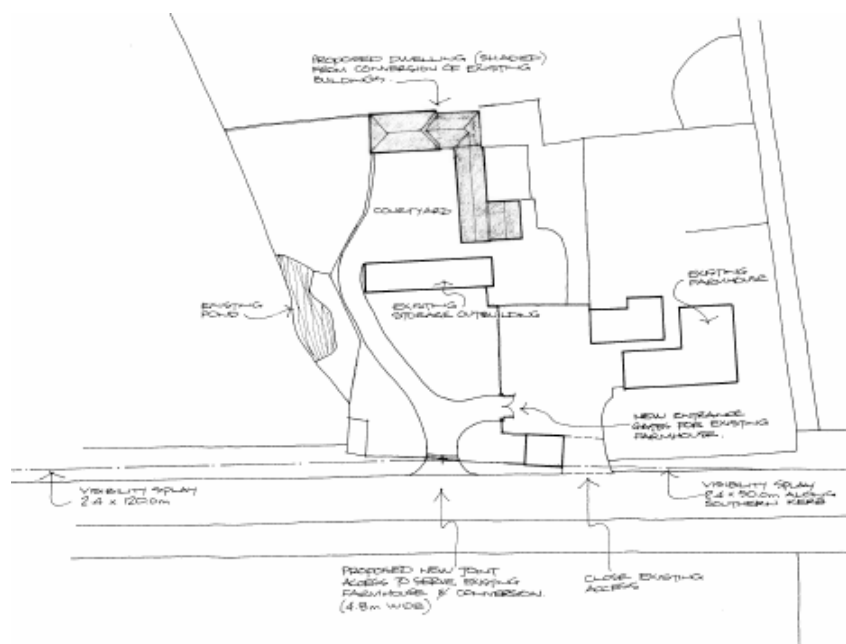
*Position in relation to Bath Road*

**SITE HISTORY**

K/56449/F – planning permission was refused in June 2007 under delegated powers for the conversion and extension of two existing outbuildings to form a dwelling.

**DESCRIPTION OF DEVELOPMENT**

The proposal is identical to the one that was previously refused under reference K/56449/F and would involve the construction of an extension which would effectively link the two domestic outbuildings together and form an L-shaped single-storey dwelling. The new materials would include larch cladding, dark grey natural slate and hardwood joinery. A new access would be formed to the east of the existing access, which would provide joint access for the farmhouse and the proposed dwelling. The existing access would be permanently stopped-up.



*Buildings in relation to existing house*



*Proposed plans*

#### ADDITIONAL STATEMENT BY THE APPLICANT

The applicant's agent has submitted a letter in support of the application, which alleges the following key points: (NB the points about planning policy are not agreed by the Planning Officer and are dealt with in the Planning Officers Comments)

- When the previous application was refused, no consideration was given to the provisions of Policy ED14 and the related advice set out in PPS 7. This element of planning guidance is a material consideration in relation to development in the countryside.
- Policy ED14, which pre-dates the updated national guidance set out in PPS 7, addresses the issue of the re-use of buildings in the countryside for employment purposes. At the time of the adoption of the Kennet Local Plan, the national guidance available to local planning authorities and others in relation to the re-use of buildings was set out in PPG 7, which did not support the option to re-use redundant rural buildings for residential purposes other than holiday accommodation. PPS 7 (issued in August 2005) recognised the option that in certain locations and for certain buildings, residential re-use of buildings would be more appropriate.
- As a result of the failure to address all relevant policies and other material considerations, the determination of the application considered under reference K/56449/F fails to accord with the requirements of Section 38 (6) of the Planning and Compensation Act 2004, which imposes a duty on a planning authority to have regard to material considerations that would clearly include a statement of national policy, which post-dates the adoption of a development plan.
- When consideration is given to this element of the proposal, it is relevant to take account of the second reason given for the refusal of planning permission, namely, the relative remoteness of the site from available services and facilities. Clearly, this would apply if an alternative commercial re-use were sought. When the combination of the character of the buildings, their intended use and their relationship with the neighbouring residential property taken alongside the relative remoteness of the site in terms of relationship with services and facilities, then a proposed use that involves a combination of residential and home working is considered to be the most appropriate means of making practical and economic use of an attractive group of buildings within the countryside.
- The planning authority is requested to review the consideration of the application in the light of the planning policy framework.

The application has been accompanied by two letters from Atwell Martin advising on the suitability or otherwise of using the two former farm buildings for commercial use. These conclude that it would not be worthwhile undertaking any form of marketing, as it would not be commercially viable to consider the two buildings as being suitable for any form of commercial use. The letters are available for viewing on the application file and the Kennet website.

The application has also been accompanied by a protected species survey report, which is available for viewing on the file and the Kennet website. This concludes that the risk of bats roosting within the ridges or under tiles is low enough not to warrant further survey, but that ridge or roof tiles should be carefully removed and that if a bat is found, work should stop immediately. In respect of nesting birds, the report recommends that the clearance of buildings for the start of work is undertaken outside of the bird nesting season so as to avoid disturbing active nests but that if the buildings are to be affected within the bird nesting season, they should be checked for active nests immediately prior to work. With regard to great crested newts, it is recommended that a survey is undertaken if the pond is to be removed.

A report discussing the design principles and the structural integrity of the buildings has also been submitted and is available for viewing on the application file and the Kennet website. This concludes that the buildings have been well-maintained and are currently in a very good condition.

#### PARISH COUNCIL COMMENTS

Seend Parish Council supports the application, as it considers that it is a sensible way of preserving the buildings. It also considers that the site is close to the existing dwelling and services and that because the applicants are a retired couple, they will not be increasing travel or need local employment.

#### CONSULTATIONS

County highways – the application should be refused on the grounds that the proposal, located remote from services, employment opportunities and being unlikely to be well-served by public transport, is contrary to the key aims of PPG 13, which seeks to reduce growth in the length and number of motorised journeys. If planning permission is granted contrary to this advice, conditions should be attached requiring the first 4.5 metres of the access to be properly consolidated and surfaced, the stopping-up of the existing vehicular access to the site and the gradient of the access to be no steeper than 1 in 15.

Wiltshire Fire and Rescue Service – no objection.

#### POLICY CONSIDERATIONS

Kennet Local Plan 2011 - the site lies in a countryside location, outside of any defined settlement boundaries. Policies PD1 and HC26 in the Kennet Local Plan are relevant to the consideration of the application, as is the advice contained in Planning Policy Statement (PPS) 7 and Planning Policy Guidance Note (PPG) 13.

#### PLANNING OFFICERS COMMENTS

The key issue in this application is whether the principle of development is acceptable and in accordance with the policies of the Kennet Local Plan and national guidance in PPS7 which seek to secure sustainable development.

The applicant's agent considers that the previous refusal failed to take account of the provisions of Policy ED14 in the Kennet Local Plan and the related advice set out in PPS7. This is entirely inaccurate. Policy ED14 deals with *economic* development

that supports diversification of employment in the countryside. It makes it clear that proposals that conflict with the housing policy HC26 will not be supported. Policy HC26 in the Kennet Local Plan states that outside of the Limits of Development for the larger villages and outside of the existing built-up area of the smaller villages new residential development will only be permitted in the following circumstances:

- a) To provide accommodation for the essential needs of agriculture or forestry or other employment essential to the countryside;
- b) To provide holiday accommodation from the conversion of an existing building; or
- c) Where the conversion of a listed building to residential use is the only economic means of retaining the historic structure.

The site occupies a countryside location well outside of any village and for this reason, policy HC26 is applicable. As none of the circumstances cited above would apply, the proposal would conflict with Policy HC26 and is therefore unacceptable in principle.

With regard to PPS7, the applicant's agent is again disingenuous in implying that this Government guidance supports the proposal. It clearly does not. The Government's policies are set out in the beginning of this PPS and highlight the core objective to promote more sustainable patterns of development by focussing most development in, or next to existing towns and villages. This is to ensure that important facilities can be easily accessed by walking, cycling and public transport. In PPS7, local planning authorities are advised to strictly control new house building in the countryside away from established settlements and reminded that isolated new houses in the countryside will require special justification. Re-use of buildings in the countryside is encouraged, with preference given to re-use for economic development purposes. Residential re-use is only allowed where the buildings are 'appropriately located and suitably constructed' and where this would meet sustainable development objectives. As the site is not next to or in a village, but is isolated from essential facilities, with transport essentially restricted to access by private car, the proposal does not meet sustainable development objectives and is in conflict with PPS7.

Members should be aware that as part of the Local Development Framework process, the Council has provided Department of Communities and Local Government (DCLG) with a list of policies from the Kennet Local Plan which it would wish to see continue in place beyond September 2007, in accordance with the requirements of the Planning Act of 2004. There was a requirement to provide a justification for the saving of these policies, based on a consideration of advice contained in the PPG's and PPS's. Saved policies will continue to be used in the determination of planning applications pending the emergence of the local development framework, whereas those policies that are not saved would not be relied on. Where policies would be lost, the relevant PPS or PPG would be used as a basis for assessing development proposals. Policy HC26 in the Kennet Local Plan is proposed to be a 'saved policy', hence it is still relevant to the consideration of the application and has not been superseded by PPS 7. The justification for it being a 'saved policy' is that it does not contradict with the advice contained in PPS 7. Members may also wish to note that Policy ED14 is not intended to be a 'saved policy' and therefore should not be relied on in the determination of the application.

For the reasons given above, the proposal is considered to be unacceptable in principle and accordingly, the refusal of planning permission is recommended.

## **RECOMMENDATION**

### **Refuse**

1 - The site lies in a countryside location, where residential development is only permitted in exceptional circumstances, namely where it would provide accommodation for the essential needs of agriculture or forestry; where it would provide holiday accommodation from the conversion of an existing building; or where the conversion of a listed building to residential use is the only economic means of retaining the historic structure. As none of these circumstances are applicable in this case, the proposal would be contrary to Policy HC26 in the Kennet Local Plan.

2 - The proposed dwelling would occupy a location that is remote from services and employment opportunities. This would be unsustainable in that it would increase the need to travel, especially by car. The proposal would therefore conflict with Planning Policy Guidance Note 13: Transport.

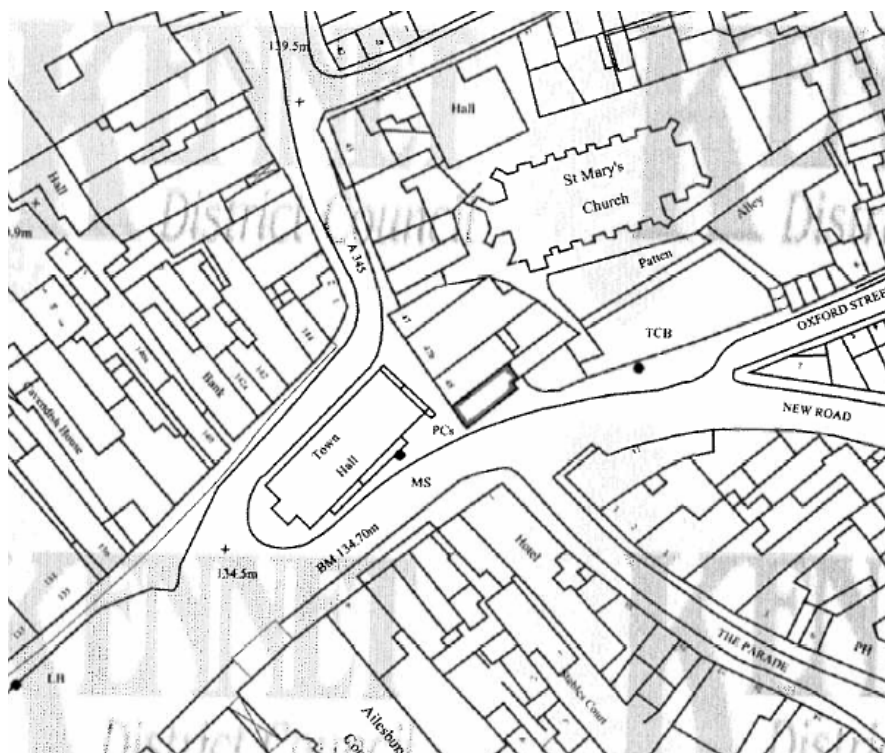
Item 6:

APPLICATION: K/57130/LBC  
PARISH: MARLBOROUGH  
APPLICATION TYPE: Listed Building Consent  
PROPOSAL: Safe installation, alteration to modern WC access, revision to shop front boxing and installation of 2 security screens  
SITE: 48A Kingsbury Street, Marlborough SN8 1JE  
APPLICANT: J Ferrer  
DATE REGISTERED: 7th August 2007  
CASE OFFICER: Miss G Salisbury

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SITE & LOCATION

48a Kingsbury Street is a grade II listed building situated at the end of a group of historic three storey buildings on the corner of Kingsbury Street and New Road, behind the town hall.



*Location Plan*

SITE HISTORY

K/36429/L – Listed building consent was granted in November 1998 to enlarge an existing small window to match the adjoining larger window and tile the mono-pitch roof to the rear.

K/55519 – Listed building consent was granted January 2007 to reposition the toilet and close off partition door.

## DESCRIPTION OF DEVELOPMENT

This application for listed building consent covers the following proposed works:

- 1) the installation of a safe on a brick plinth within the basement;
- 2) alter the access to the modern WC
- 3) a revision to the south shop front boxing, and
- 4) the installation of two security shutter screens internally under the down-stand beams to the south and west shop fronts. The screens are sliding collapsible gates that draw to the sides when out of use. It is proposed for the screens to be set back 700mm behind the existing shop fronts.



*Existing building – the shutters would be set back from the shopfronts*

## ADDITIONAL STATEMENT BY THE APPLICANT

The screens are an insurance requirement for the jewellery shop and without the screens there would be no shop. The applicant is open to any reasonable colour requirements for the screen finish.

## TOWN COUNCIL COMMENTS

Marlborough Town Council object to the proposed installation of security shutters within this grade II listed building.

## CONSULTATIONS

KDC Conservation Officer (Helen Garside) – No objection. The alterations to allow the installation of the safe, WC access and window display area are minor in nature and should not have any significant permanent impact on the fabric or features of the protected building. As regards the shutters, the Conservation Officer has no objection subject to conditions to ensure the shutters are dark in colour and are retracted when the shop is open.

## POLICY CONSIDERATIONS

Government guidance contained in Planning Policy Guidance Note 15: Planning and the Historic Environment is relevant to the consideration of this application.

## PLANNING OFFICERS COMMENTS

The main issue with this application is the impact that the installation of two security shutters behind the south and west shop fronts would have on the appearance of the listed building.

Whilst the site occupies a prominent location, the proposed shutters are to be located internally within the building some 700mm behind the existing shop fronts. The applicant has also agreed to a dark finish to the shutters. The location of the shutters behind the shop front and dark colouration will significantly reduce their visibility and as a result it is not considered that the shutters, which would only be drawn-to outside of trading hours would be significantly detrimental to the appearance of the listed building.

Placing of security shutters within listed buildings is the approach favoured by Council Officers in negotiation within shop owners, as against the alternative option of external shutters. It balances the legitimate security concerns of retailers with the need to protect the appearance of historic buildings. It was the approach taken in Devizes in The Brittox where the Council approved internal security shutters on a shop in the conservation area after successfully pursuing enforcement action against unauthorised external shutters.

No concerns have been raised over the other works proposed in this application which will not have any adverse impact on features of special architectural or historic interest within the building.

## RECOMMENDATION

Approve with Conditions

1 - The works for which listed building consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

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

2 - Notwithstanding the submitted details, the security shutters to be installed in the building shall have a black finish and shall be maintained as such thereafter unless otherwise agreed in writing by the local planning authority.

REASON: To safeguard the appearance of this building of special architectural and historic interest.

3 - The security shutters hereby permitted shall only be closed outside of the trading hours of the business run from 48a Kingsbury Street, Marlborough.

REASON: To safeguard the appearance of this building of special architectural and historic interest.

4 - INFORMATIVE TO APPLICANT:

The Council is required to give a summary of the reasons for this decision. These are set out below:

The proposed works will not be detrimental to the character of the building.



