

Schedule Of Planning Applications For Consideration

In The following Order:

Part 1) Applications Recommended For Refusal

Part 2) Applications Recommended for Approval

Part 3) Applications For The Observations of the Area Committee

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

ABBREVIATIONS USED THROUGHOUT THE TEXT

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

LIST OF PLANNING APPLICATIONS TO BE SUBMITTED BEFORE THE FOLLOWING
COMMITTEE
SOUTHERN AREA – 4th DECEMBER 2008

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

Item Page	Application No	Parish/Ward Officer Recommendation Ward Councillors
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	S/2008/1611	ALDERBURY
1 P 4-10	Mr S Rennie	APPROVED WITH CONDITIONS
	LITTLE RIDGE SOUTHAMPTON ROAD ALDERBURY SALISBURY CHANGE OF USE FROM SINGLE DWELLING TO SIX BEDROOM GUEST HOUSE	ALDERBURY & WHITEPARISH WARD Councillor Britton Councillor Randall Councillor Clewer
	S/2008/1795	REDLYNCH
2 P 11-21	Mrs J Wallace	APPROVE SUBJECT TO S106
	FORMER APPLE TREE INN DOWNTON HILL MORGANS VALE SALISBURY SP5 2JF	DOWNTON & REDLYNCH WARD Councillor Ms Launchbury Councillor Luther Councillor Ms Morrison

Agenda Item – Land at the Old Coach House, East Grimstead

Part 1
Applications recommended for Refusal

No Refusals

Part 2

Applications recommended for Approval

1

Application Number:	S/2008/1611		
Applicant/ Agent:	RICHARD WETHERILL AVENTA ARCHITECTS		
Location:	LITTLE RIDGE SOUTHAMPTON ROAD ALDERBURY SALISBURY SP5 3AG		
Proposal:	CHANGE OF USE FROM SINGLE DWELLING TO SIX BEDROOM GUEST HOUSE		
Parish/ Ward	ALDERBURY		
Conservation Area:		LB Grade:	
Date Valid:	19 September 2008	Expiry Date	14 November 2008
Case Officer:	Mr S Rennie	Contact Number:	01722 434 398

REASON FOR REPORT TO MEMBERS

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

SITE AND ITS SURROUNDINGS

The site is occupied by a recently extended detached dwelling that is situated within a large curtilage and is located off the main road (Southampton Road) through the village of Alderbury. The site is situated within an established residential area within the Housing Policy Boundary of Alderbury.

THE PROPOSAL

This application seeks planning permission for a change of use from a residential dwelling to a 6-bed guest house. The submitted plans indicate that the internal layout for the proposed guest house will be the same as that previously approved for the residential property. This includes 5 bedrooms at the first floor level (3 of which have en-suite bathrooms), with a further en-suite bedroom together with kitchen, dining room and lounge on the ground floor. The proposal also includes the provision of 12 on-site parking spaces. Vehicular access to the site is as existing. This current proposal does not include any physical alterations to the external appearance of the existing property.

Further details concerning the proposed operation and management of the guest house have been requested and are currently awaited.

PLANNING HISTORY

- S/2005/2634 An application for an extension to the existing dwelling was withdrawn in February 2006.
- S/2006/0333 Planning permission was granted for an extension to the existing dwelling in April 2006.
- S/2006/1094 In July 2006, planning permission was also approved for an extension to the existing dwelling.
- S/2008/0221 In March 2008, planning permission was granted for the erection of detached garage.

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- S/2008/0222 In March 2008, planning permission was also refused for the retrospective erection of a boundary wall to the highway frontage of the site. This is currently the subject of an enforcement case.
- S/2008/0985 In July 2008, a further planning application for the erection of a boundary wall to the highway frontage of the site was refused.
- S/2008/1915 A planning application has also been submitted that is seeking retrospective planning permission for the installation of 10no air conditioning units to the rear of the property. This application is currently under consideration and is undetermined.

CONSULTATIONS

WCC Highways:

No objection. The County Highway Officer originally advised that it is considered that the development proposed will not have any significant impact on highway safety and therefore there is no highway objection to it.

A further response was subsequently received to provide an explanation to the reasoning for the recommendation of no objection. This further response states:

"Further to my recommendation dated 1st October 2008, I understand that there is local concern that the proposed change of use may lead to vehicles resulting from it parking on nearby public roads against the interests of highway safety.

My highway view is that, on the basis of the change of use applied for, the proposed 12 car parking spaces on the site (13 according to the application form) should adequately accommodate the 6 bedroom guest house which requires a maximum car parking provision of 1 space per bedroom.

It is assumed that any additional use of the site for uses such as conferences, weddings etc., which may attract additional vehicles to the site, would require the benefit of further planning permission when any additional parking needs could be considered".

Environmental Health:

It has been advised that an application for the registration of a food business establishment has been received in respect of this premises and an inspection will be carried out to ensure compliance with current food hygiene and health and safety legislation.

A further response has been received from Environmental Health which states the following: "Further to the above application there is inadequate information for us to be able to comment. Specifically there is no mention on the application of the air conditioning units that serve the property and are located at the rear. There is a significant risk that these could adversely affect the neighbours due to the noise they generate, and as such a noise assessment and report is needed from the applicant to determine what impact they are likely to have. I would also note that these units were not part of the original planning permission and have been fitted without the correct permission in the first place.

In addition to this we have had complaints about light nuisance in the past emanating from this property and I would assume that there will be some kind of permanent illumination for the guest house which is not illustrated on the plan or mentioned in the application. Any details for the provision of external lighting must be forwarded to us for consideration. I would also note that there is no mention of any arrangements for waste storage in the application which should also be covered".

REPRESENTATIONS

Advertisement No

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Site Notice displayed	Yes - Expired 23/10/08
Departure	No
Neighbour notification	Yes - Expired: 10/10/08
Third Party responses	Yes.

15 letters of objection have been received to the proposed development citing the following concerns/objections:

- The inappropriate position of this guest house, being in a residential area;
- Increase in traffic levels generated by the guest house use;
- Over-spill parking to the surrounding residential streets;
- Inappropriate access to the site;
- Overlooking of neighbour properties from guests at the proposed guest house;
- Noise and disturbance caused by increased traffic levels and general guests at the site;
- Odours from the kitchen
- Inappropriate waste storage facilities;
- Noise pollution from the air conditioning units;
- Light pollution caused by external lighting of the guest house;
- The fact that the guest house is already advertised online with some works already occurred;
- Potential for increase in size of guest house with additional signage;

Parish Council: Objects for the following reasons:

1. On looking at consistency with the development plan of the area it is out of place as it is out of place as it was designated for a residential purpose.
2. Traffic and highways – the increase of 13 cars parked and delivery lorries would be an issue on this narrow access.
3. There would be a great loss of privacy to all the neighbours around with various guests looking onto the neighbour's property.
4. On noise, disturbance and smells – there is an issue that no arrangement has been made for extra recycling. The air conditioning units would make a lot of noise.
5. The Council were not pleased to see that the large wall already had a very large crack and would recommend that a Civil Engineer check this out as it could be a health and safety hazard.
6. The Council were displeased that this should be a retrospective application as Little Ridge has already been advertised as a boutique hotel, and has a reception area and tea and coffee making facilities in each of the rooms.

POLICY CONTEXT

Policy T6 of the Adopted Salisbury District Local Plan (June 2003) states that proposals for the change of use of existing buildings to hotels, guest houses, bed and breakfast or self-catering accommodation will be permitted subject to there being no adverse effect on the amenities of other dwellings in the area. The preamble text to this policy also states that these proposals should be considered generally acceptable, though does consider that there needs to be adequate parking provision with no undue disturbance to surrounding neighbours. Policy G2 relates to the general criteria against which proposed developments are routinely considered to ensure that the high quality of both the built and natural environment is maintained and relates to factors such as parking provision, access and impact to neighbour amenities.

MAIN ISSUES

- Appropriateness of Guest House in this Location
- Highway Issues
- Impact to Neighbour Amenities
- Environmental Health Issues Relating to Waste Storage, External Lighting and Noise

PLANNING CONSIDERATIONS

1. Context

The site is a detached residential dwelling that is located within a residential area of the village of Alderbury. The dwelling is set off the main road with access provided via a shared access with Pinewood House to the south. The original dwelling has recently been extended, although there are no alterations to its external appearance proposed with this application. The proposed change of use will create a 6-bed guest house with parking provision to the front of the property where there is an extensive area of hardstanding and a double garage that has recently been built under planning permission S/2008/0985. The wall to the front boundary has been built without planning permission and was applied for retrospectively but this application was refused and therefore this matter is now the subject of an ongoing enforcement case. The proposed change of use does not affect this enforcement case and they can be considered as separate issues.

2. Appropriateness of use

Policy T6 of the Adopted Salisbury District Local Plan (June 2003) has regard to the change of use of existing buildings to hotel or guest house accommodation. It states that such a change of use will be accepted where there are no undue impacts to the amenities of nearby residents. The preamble of the policy also mentions adequate parking provision being necessary. Therefore, if there is judged to be no significant impact to the neighbours or the village in general as a result of the proposal then the principle is accepted. The application site is located within a residential area, though it is common for small hotels and guest houses to be found in such areas. The site itself is relatively large in terms of its curtilage and building and is considered to be appropriate in terms of its size for a guest house. Alderbury is a village in close proximity to Salisbury, which is in itself a tourist destination and therefore such proposals for a guest house in this location are not considered inappropriate or out of keeping. Though the basic principle is accepted the following sections of this report consider the local impacts, including the highway issues and the impact to neighbour amenities that may be caused by the proposals.

3. Highway Issues

The proposal includes the provision of a total of 12 spaces to the front of the building in the forecourt area with two of these spaces provided by the detached double garage. WCC Highways have advised that this is considered to provide an adequate amount of parking for such a proposal, being more than the minimum requirement of one parking space per room. This should therefore provide more than ample on-site parking provision for the guests and staff at the site, stated to be one full time and one part time employee.

The proposal includes the retention and continued use of the existing vehicular access to the site that is provided via a shared access with Pinewood House to the south off Southampton Road. Although local objections have been received to the proposal on the grounds that the access is inadequate, WCC Highways have not raised any highway safety objection to the continued use of the existing access despite the potential increased intensification of its use arising from the proposed change of use of the premises.

4. Neighbour Amenity

The proposal is for a change of use of the existing property from a residential dwelling to a 6-bed guest house. Therefore, it is necessary to consider any potential overlooking of the neighbouring properties that may arise from the proposed use. In this respect, the submitted plans indicate that the internal layout will not alter from that previously approved for the use of the premises as a residential dwelling. As a result, it is considered that any overlooking that may arise from guests looking out of the first floor bedroom windows towards the neighbouring properties to either side will not be any greater than could exist if the property were occupied as a single dwelling. This relationship has previously been assessed and has been determined to be acceptable.

In relation to the neighbouring properties, it is considered that the most affected dwelling will be Pinewood House given that the boundary between with this property is quite open, other than

the presence of a 1.5 metre (approx.) high fence along this boundary. However, there is a reasonable distance of between 16 to 18 metres between the properties that mitigates against any potential overlooking and also removes any overshadowing or overbearing concerns. The boundary with Rushall to the west is screened to a greater extent due to the existence of high, thick and mature trees and hedging along this boundary. In any case, as mentioned above, there are no new windows proposed with this application and therefore it is considered that any overlooking that may arise from guests looking out of the first floor bedroom windows towards the neighbouring properties to either side will not be any greater than could exist if the property were occupied as a single dwelling which has previously been determined to be acceptable.

5. Waste

Environmental Health have advised that details of the arrangements for waste storage are required in support of this application. These details have been requested and are currently awaited. It is therefore considered appropriate to impose a condition requiring the submission of such details prior to the first commencement of the use in the event of planning permission being approved.

6. Other issues

Concerns have been raised by local residents and Environmental Health regarding the air conditioning units that have been installed on the rear elevation of the property with regards to their possible noise impact. However, the air conditioning units are the subject of a separate planning application that is currently being assessed and therefore this issue is not relevant to the determination of this application. There is no reason to consider that any other aspect of this change of use would cause significant noise and disturbance to the amenities of the occupants of the neighbouring properties. In the event of planning permission being granted for the air conditioning units and there being subsequent problems concerning noise pollution this could be subject to control by Environmental Health under separate legislation.

In addition, objections have been raised concerning the external lighting of the building that currently exists, and particularly if a change of use of the premises to a guest house is permitted. Whilst the external lighting of the property already exists and no details of the external lighting have been submitted with the application, given the concerns of local residents it is considered appropriate to impose a condition on an approval of planning permission requiring details of the level of luminance and the hours of such lighting to be approved.

RECOMMENDATION: Approve for the following reason:

The proposed change of use from a residential dwelling to 6-bed guest house is considered acceptable by reason of its location and size, with adequate parking and access arrangements, with no significant impact to neighbour amenities.

And subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (A07B)

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

2. Prior to the first commencement of the use, hereby approved, the parking spaces as indicated on the approved Block Plan (Drawing No. L.103 Rev B) shall be laid out and shall thereafter be retained and kept available for those purposes at all times.

Reason: To maintain adequate parking provision in the interests of highway safety.

3. Prior to the first commencement of the use, hereby approved, a scheme for the external lighting of the existing building/site, to include details of the levels of illuminance and the hours of lighting, shall be submitted to, and approved in writing by, the Local Planning Authority. The external lighting shall thereafter be operated in accordance with the approved details.

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Reason: To enable the Local Planning Authority to exercise control over the level of illumination and hours of lighting in the interests of visual amenity and the amenities of the occupants of the neighbouring properties.

4. Prior to the first commencement of the use, hereby approved, details for the provision of refuse and recycling facilities associated with the use shall be submitted to, and approved in writing by, the Local Planning Authority. The refuse and recycling facilities shall subsequently be implemented in accordance with the approved details and made available for use prior to the first commencement of the use hereby approved and shall thereafter be retained, unless otherwise first agreed in writing by the Local Planning Authority to any variation.

Reason: To ensure that the development is provided with adequate refuse and recycling facilities and in the interests of sustainable development.

INFORMATIVES: - POLICY

This decision has been in accordance with the following policy/policies of the Adopted Salisbury District Local Plan:

Policy G2 - General Criteria of Development

Policy T6 - Change of Use of Buildings to Hotel, Guest House, Bed and Breakfast or Self-Catering Accommodation

Application Number:	S/2008/1795		
Applicant/ Agent:	MR K PARKE		
Location:	SITE OF FORMER APPLE TREE INN DOWNTON HILL MORGANS VALE REDLYNCH SALISBURY SP5 2JG		
Proposal:	ERECTION OF FIVE HOUSES (1 DETACHED AND TERRACE OF 4) INCLUDING OFF STREET PARKING		
Parish/ Ward	REDLYNCH		
Conservation Area:		LB Grade:	
Date Valid:	22 October 2008	Expiry Date	17 December 2008
Case Officer:	Mrs J Wallace	Contact Number:	01722 434687

REASON FOR REPORT TO MEMBERS

Councillor Morrison has requested that this application be determined by Committee due to the public interest shown in the application.

SITE AND ITS SURROUNDINGS

The site is that of the former Apple Tree Inn that has been cleared from the site. The only structure on the site is a single storey garage, though the floor plate and parking area are still identifiable on the site. There is a vehicular access on to the site from the adjacent Downton Hill.

THE PROPOSAL

This full application seeks permission to both, replace the former public house with a terrace of 4 three-bedroomed dwellings, demolish the existing single storey garage and erect a detached three-bedroomed dwelling. The vehicular access off Downton Hill is to continue to be used to access the parking spaces to the rear of the proposed dwellings, with the provision of a total of 12 parking spaces (2 for each dwelling and 2 for visitors). A new footpath in front of the proposed dwellings and a slight widening of the road (Downton Hill) are also incorporated into the scheme.

PLANNING HISTORY

There are various applications connected with the former public house, but the following applications are of relevance to this proposal.

2004/0303 Outline planning permission for 5 dwellings. Refused for the following reason:

"The proposal would result in the loss of a site which has until recently been used as a public house which was considered central to the economic and social life of the settlement of Morgans Vale, and the Local Planning Authority remains to be convinced that the previous public house use or the re-establishment of that facility would no longer be viable. The proposal is therefore considered to be contrary to policy PS3 of the adopted Salisbury District Local Plan".

This application was the subject of an appeal that was dismissed.

2004/2097 Full application for 6 houses including off street parking with vehicular access. Refused for the following reasons:

"Based on the information provided by the applicant, and by the independent consultant commissioned by the Council, the proposal would result in the loss of a facility which was central to the economic and social life of the settlement of Morgans Vale, and which could be viable if rebuilt.

The Local Planning Authority therefore remains to be convinced that the previous public house use or the re-establishment of that facility would no longer be viable. On that basis,
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the proposal is therefore considered to be contrary to policy PS3 of the adopted Salisbury District Local Plan”.

This application was the subject of an appeal that was dismissed.

2008/0025 Erection of 5 houses (1 detached and a terrace of 4) including off street parking.
Withdrawn as Invalid

2008/0109 Erection of 5 houses (1 detached and a terrace of 4) including off street parking.

Refused for the following reasons:

“1) The proposal would result in the loss of a facility which was central to the economic and social life of the settlement of Morgans Vale and in the absence of any information the Local Planning Authority remains to be convinced that the previous public house use or the re-establishment of that facility would no longer be viable. On that basis, the proposal is therefore considered to be contrary to policy PS3 of the adopted Salisbury District Local Plan.

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

Although Members resolved not to pursue this appeal following Counsel’s advice, this application remains the subject of an Inquiry which is due to be heard on 9 December 2008.

2008/1723 There is also a current application that seeks outline planning permission to construct a public house (re-instate the Apple Tree Inn) using the existing access and parking area. This application is currently being assessed and is undetermined.

CONSULTATIONS

WCC Highways

No highway objection subject to the following conditions:-

1. Before the start of development, full details of the new 1.5m footway and widened carriageway on Downton Hill shall be submitted for the further approval of the LPA: and the works to provide the new footway and carriageway widening shall be constructed in accordance with the approved details prior to the first occupation of the development.
Reason. In the interests of highway safety.

2. Visibility splays of 2m x 25m shall be provided at the access point in both directions throughout which there shall be no obstruction to visibility and the splays shall be maintained at all times.
Reason. In the interests of highway safety.

3. Before the start of development, details of the boundary treatments adjacent to car parking spaces shall be further submitted for the approval of the LPA.
Reason. In the interests of highway safety.

4. Before the start of development, details of the construction materials forming the shared access courtyard and parking areas shall be submitted for the further approval of the LPA: and the shared access and parking areas shall be constructed in accordance with the approved details prior to first occupation of the development.
Reason. In the interests of highway safety.

And the following informative should be added to any planning consent:-

Informative:

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

Environmental Health

No objection in principle to the above proposal but would ask for the conditions regarding hours of working and the control of dust to be attached to any consent granted.

Wessex Water Authority

There is a public sewer crossing the site. The integrity of Wessex systems must be protected. Wessex Water normally requires a minimum three metre easement width on either side of its apparatus for the purpose of maintenance and repair. Diversion or protection works may need to be agreed. A condition or informative should be placed on any consent to require the developer to protect the integrity of Wessex systems and agree prior to the commencement of works on site, any arrangements for the protection of infrastructure crossing the site. The developer must agree in writing prior to the commencement of works on site, any arrangements for the protection of Wessex Water infrastructure crossing the site. The developer has proposed to dispose of surface water to soakaway. It is advised that SDC should be satisfied with any arrangements for the satisfactory disposal of surface water from the proposal. The proposed development is not in Wessex Water's supply area. Bournemouth and West Hampshire Water Company is responsible for water supply in the area.

Wiltshire Fire and Rescue Services

Comments relating to need for satisfactory access for fire engines, adequate water supplies and appropriate fire safety measures as well as the encouragement for the provision of domestic sprinklers Rescue Services were received on the earlier application S/2008/0109. However, they are relevant to this application as it is an identical application.

REPRESENTATIONS

Advertisement	No
Site Notice displayed	Yes. Expiry date 20/11/08
Departure	No
Neighbour notification	Yes. Expiry date 13/11/08
Third Party response	Yes

14 letters and e-mails of objection have been received to this application, raising the following comments:

1. Serious impact on amenities – overlooking/loss of privacy/loss of light/overbearing.
2. The pub should be rebuilt, not more housing erected.
3. Refuse the housing, allow the proposal to rebuild the pub.
4. Policy PS3's aim is to protect community facilities.
5. The two Inspectors comments are still valid.
6. Turned down housing before, circumstances have not changed.
7. Site was successfully marketed for the 'rebuild of a public house', but owners appear to only want a housing development.
8. Houses not in keeping with the area.
9. Overdevelopment of the site. Should be a maximum of 2 properties only. Any new development should match density of Apple Tree Close.
10. Dwellings should be bungalows so as to not overlook neighbours.
11. Replacement houses are too tall and will dominate all cottages/houses around.
12. Ridge height should relate to former Appletree Inn. The new Plum Tree House is too tall, very overpowering.
13. This is a rural area not an urban one.
14. Increase in traffic from more houses, roads already congested.

15. Service vehicles must be small due to congestion; oil delivery must be by a small tanker, makes difficulties for emergency vehicles.
16. Insufficient parking spaces provided for future residents or their visitors.
17. Cars will be encouraged to park on the street and narrow the road.
18. Development will increase parking problems.
19. A mockery to postulate restricted parking will force inhabitants to use public transport. Public transport is very limited.
20. There are no footways, site is on junction of 3 roads, new houses will increase risk of accidents.
21. Gardens are too small, no where for children to play.
22. No need for this type of property, rebuilt Plum Tree Cottage and 3 at Holmsdale not yet sold or let.
23. Object to more unwanted, unaffordable and un-saleable houses.
24. Yew tree should be retained.
25. Concerns regarding drainage and effect on bungalows below.

CPRE Objects as contrary to policy PS3

CPRE objects on the grounds that the proposal goes against local policy PS3 in that the public house should be retained/rebuilt so long as there is sufficient demand from the local community to make it likely that the enterprise will be viable under good management. PPS3 is not intended to be at the expense of a local community.

CAMRA Objects to the loss of public house

The Salisbury and South Wiltshire Branch of The Campaign for Real Ale (CAMRA) objects strongly to the above application.

The application proposes the replacement by housing of a destroyed public house. As such this application falls directly under Policy PS3 in the adopted Salisbury District Local Plan. This states that 'the change of use of premises within settlements that are currently used, or have been used for retailing, as a public house or to provide a community facility central to the economic and/or social life of the settlement, will only be permitted where the applicant can prove that the current or previous use is no longer viable'.

Morgans Vale is a distinct community with a significant population; it could and should be able to support its own pub. Other public houses do exist in the vicinity but in other communities. However, their use (certainly in the evening) would require the use of a car or a significant walk along significant stretches of unlit road. This is because the area is served poorly by public transport and there is no public transport service whatsoever after 17.56 hours on weekdays (current timetable) or at any time on Sundays or Bank/Public Holidays.

The Apple Tree was destroyed in an unfortunate fire. This application is essentially identical to S/08/0109, which was refused by SDC and is subject to appeal. In various applications, the applicants have stated that they felt a rebuilt pub would no longer be viable (they did state that the old pub was viable). The Appeal Inspector in his letter of 19 Nov. 04 felt the previous applicants' assertion of non-viability had not been proven. This situation still obtains. The basis for that assertion is very important to this application. The financial figures need to be inspected closely and an independent costing for the rebuilding of a public house made to see if this statement does indeed stand up to scrutiny. The simple fact is this the site will be much more valuable to the applicants if developed as proposed than if a public house was rebuilt. This ignores the interests of the local residents. If this application is successful, the decision may send the wrong message to unscrupulous developers by suggesting that change of use can be easily obtained by destruction of the existing building.

Parish Council Response Refuse on grounds of:

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- 1) Contrary to Redlynch Parish Council policy “to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live. (Planning Policy Statement 3 which underpins the Government’s strategic housing policy objectives). In support of and to achieve the above in our Parish, new housing development should:
 - (a) meet a local need for a home
 - (b) be supported by existing and adequate local facilities, services and infrastructure
 - (c) support local employment
 - (d) contribute towards a sustainable community
 - (e) enhance the rural character and environment of our Parish.”
- 2) overcrowding of plot
- 3) access to site very difficult
- 4) overdevelopment of site.

MAIN ISSUES

1. Principle regarding loss of community facilities and planning history
2. Impact on surrounding environs
3. Impact on highway safety
4. Public Open Space - Policy R2

POLICY CONTEXT

Saved policies G1, G2, D2, H16, PS3, TR11 and R2 of Adopted Salisbury District Local Plan (June 2003) are of relevance to this application.

PLANNING CONSIDERATIONS

1. Principles and Planning History

The site lies within an existing housing area and the Housing Policy Boundary (HPB) of Morgans Vale. Therefore, in principle, the development of the site for housing is acceptable, subject to its impact on the surrounding environs.

As mentioned above, two earlier applications were refused and dismissed on appeal and furthermore Members will recall that an application for planning permission for 5 dwellings on this site was again refused in April 2008. At that time Members considered that the public house use had been central to the economic and social life of the settlement and as it had not been shown to not be viable the development was considered to be contrary to policy PS3. Policy PS3 states that:-

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

In October 2008, however, legal advice was received that opined an alternative view. That advice stated that the law had moved on from the position that the previous Inspectors had considered. The High Court decision of *WE Black Ltd v. First Secretary of State* [2007] 1 P&CR 7 now deals specifically with a situation, such as exists here in Morgans Vale. The *W.E. Black* case is clear authority for the proposition that where a building is demolished, the use rights associated with that building cease at the same time. This principle was applied by an Inspector in a recent decision relating to the loss of a pub in Great Missenden. The Inspector confirmed the principle and awarded costs against the local council on the basis that the matter was clear from the case law and it was unreasonable to argue the contrary. The principle was also applied in another decision in Willoughby on the Wolds.

In the case of the Apple Tree Inn, this means that, following the demolition of the pub, there is no remaining lawful pub use on the site. Although the wording of PS3 is slightly different from the policies in the other cases, Counsel’s advice is that the same interpretation will apply. An Inspector (or a court) would be bound to interpret the policy in this way especially in the case of a public house, as such a land use can not operate without a building.

As regards policy G1, if the site no longer has a lawful use for a public house, the only issue is whether or not housing is acceptable on the site and the Council has accepted that housing is an acceptable use within an HPB.

The two previous Inspector's decisions in the Council's favour on this site are material considerations which any future Inspector would have to take into account. However, the legal position is now quite clear and contrary to that relied on by the previous Inspectors. For all these reasons, the advice reluctantly given by Counsel was that the applicant be invited to resubmit an application for the residential redevelopment of the site.

2. Impact of Proposed Housing on Surrounding Environs

a) Impact on Character of Area

The site of the former Apple Tree Inn is located within an established residential area that is characterised by dwellings of a variety of architectural styles, of various sizes and on various sized plots. Immediately adjacent to the south-east of the site, is a rebuilt cottage whilst to the rear of the site, Appletree Close consists of detached dwellings on more generous plots. However, the properties in the immediate vicinity of the site predominantly consist of smaller dwellings that are arranged in a relatively linear built form, facing the various main roads. It is therefore considered that the proposed linear style development, with the houses opening directly on to the proposed footway, would be in keeping with the character of the surrounding area and the Inspectors comments regarding the previous application agreed that linear development would be in keeping with the area.

With regard to the proposed new dwellings, the submitted plans indicate that they will have a very simple architectural form which would be similar to the existing vernacular in the area and would be in keeping with the existing dwellings in the surrounding area. As there has been a lot of infill development of no particular character in this area, it is considered that the form and scale of the proposed residential development would enhance the character and appearance of the area.

b) Impact on Amenities

The two previous schemes for five and six dwellings which were considered by the Inspectors were not refused on amenity grounds. This application differs from those schemes somewhat, although it is identical to that which Members considered earlier this year and which was not refused on amenity grounds. A terrace of four dwellings is proposed on the site of the former public house, adjacent to the rebuilt Plum Tree Cottage with a further detached house adjacent to the junction with Apple Tree Close.

This scheme proposes five, two storey dwellings on the site. Their main aspects would be north/south. In terms of the impact of the development on the amenities of the surrounding dwellings, it is considered that despite the site being elevated compared to that of the adjacent dwellings to the south and being located close to other adjacent existing dwellings, any impacts in terms of overshadowing would not be so significant as to warrant refusal on this basis alone.

The scheme will change the relationships that adjacent residential properties have with the site. The former public house, with its low ridge, faced mainly into the car park area and apparently did not affect the privacy of adjacent residents. However, the dwellings on the northern side of Downton Hill will now have a number of windows facing directly towards them in particular the windows will face towards the garden area of 'Corner House'. However, whilst the front elevations of plots 1 and 2 will face directly over the garden of 'Corner House', in each case one of the two first floor windows is a bathroom window which could be obscure glazed. Therefore, whilst there would be some loss of privacy caused by the first floor bedroom windows it is considered that this would not be so significant as to warrant refusal.

On the southern side of the site, due to the elevated position of the site, the rear windows of the proposed new houses will overlook the rear of No.9 Apple Tree Close as well as its gardens. However, because of the sloping nature of the land, both dwellings and garden areas are located several metres below the ground level of the site and therefore the rear windows of the

proposed dwellings would have an oblique view and would be unlikely to look down into the existing garden areas.

So, whilst the inter-relationships between the dwellings will alter and the amenities enjoyed by adjacent dwellings will be reduced in comparison with both the existing situation and when the public house occupied the site, it is considered that this would not be so significant as to warrant refusal.

3. Impact on Highway/Parking

As previously, the general public has again raised concerns regarding the highway aspects of the proposal. It is accepted that the existing highway network around the site is narrow and restricted, and recent housing developments in the area have served to heighten neighbours' concerns.

The scheme reuses the former access to the public house off Downton Hill though it is proposed to create a footpath and widen the narrow highway by setting the dwellings further into the site. WCC Highways considers that this improves the situation locally. The scheme provides a total of 12 off road parking spaces, with two parking spaces for each dwelling as well as two spaces for visitors.

Members will be aware that all the previous applications were not refused on highway grounds and though this scheme proposes five dwellings to replace the Apple Tree Inn, WCC Highways has indicated that twelve parking spaces is adequate, as this exceeds the guidelines in the Adopted Local Plan. Those standards are 2 spaces per unit and 1 extra space per 5 units.

The Inspectors comments at both Appeals indicate that their views were that there would be no highway danger and that the parking provision was adequate. WCC Highways has indicated that there are no objections to the scheme, and as the scheme has provided more than 2 parking spaces per dwelling, so the scheme complies with current standards

4. Public Open Space – Policy R2

A contribution towards public open space will be required in pursuance of Policy R2. The applicant has indicated his willingness to comply with this policy as a cheque for the relevant monies has been received though as yet no signed agreement has been received.

CONCLUSION

The two Appeal Inspectors considered that the public house use had been central to the economic/social life of the settlement and that there was a reasonable possibility that the public house use would be viable and hence dismissed the appeals. But, in this case, following the most recent refusal of planning permission earlier this year, for the redevelopment of the site with an identical scheme to that now proposed, Counsel has advised that there is 'nil' land use on this site, and therefore, notwithstanding the loss of a community facility, Policy PS3 does not apply.

The only consideration is therefore whether the current scheme is acceptable on this site. The scheme is identical to that determined in April and Members determined at that time; to not refuse the proposal on grounds of amenity and highway impacts relating to the housing development.

RECOMMENDATION: APPROVE

APPROVE SUBJECT TO S106

Reasons for approval

The site currently has a 'nil' use but is in the built-up area of Morgans Vale and within the Housing Policy Boundary. Taking into account both the objectives of national planning policy statements and the objectives of Local Plan policies, it is considered that the scheme for the redevelopment of this site for housing is acceptable.

SUBJECT TO

The applicant and any other relevant parties undertake, under Section 106 of the principal act to pay a commuted sum towards open space then this authority is minded to grant planning permission to the above application subject to the following conditions:

And subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (A07B)

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

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

Reason (2) To secure a harmonious form of development.

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

Reason (3) To ensure adequate privacy for the occupants of neighbouring premises.

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

Reason (4) To enable the Local Planning Authority to retain control over the development in the interests of neighbouring amenities and the character of the area.

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

Reason (5) In the interests of the amenity and the environment of the development

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

Reason (6) To ensure the satisfactory establishment of the approved scheme for the landscaping of the site.

7. During construction works, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site other than between the hours of 0800 to

1800 on Mondays to Fridays, 0900 to 1300 on Saturdays and at no time on Sundays, Bank and Public Holidays.

Reason (7) To minimise the disturbance which noise during construction of the proposed development could otherwise have on the amenities of nearby residential dwellings.

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

Reason (8) In order to limit the impact on the narrow Downton Hill.

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

Reason (9) In the interests of sustainable development. Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development" promotes the prudent use of natural resources. It is necessary to minimise the local demand for water to protect future supplies.

10. No development shall take place until full details of the new 1.5m footway and widened carriageway on Downton Hill have been submitted to, and approved in writing by, the Local Planning Authority. The works to provide the new footway and carriageway widening shall be constructed in accordance with the approved details prior to the first occupation of the development.

Reason(10) In the interests of highway safety.

11. Visibility splays of 2m x 25m shall be provided at the access point in both directions throughout which there shall be no obstruction to visibility and the splays shall be maintained at all times.

Reason(11) In the interests of highway safety.

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

Reason (12). In the interests of highway safety.

13. No development shall take place until details of the construction materials forming the shared access courtyard and parking areas has been submitted to, and approved in writing by, the Local Planning Authority. The shared access and parking areas shall be constructed in accordance with the approved details prior to first occupation of the development.

Reason (13) In the interests of highway safety.

14. No demolition and/or construction works shall take place until such time that a scheme for the control of airborne emissions of dust arising from the demolition and/or construction works has been submitted to, and approved in writing by, the Local Planning Authority. Any protocols or measures which form part of the approved scheme shall be fully implemented prior to the commencement of any demolition or construction works and shall remain in place throughout the works, unless otherwise agreed in writing by the Local Planning Authority to any variation.

Reason (14) In the interests of the amenities of nearby residents.

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

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Reason (15): To ensure that the development is provided with a satisfactory means of surface water disposal.

INFORMATIVES:

Informative: 1 Policy

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

Saved Policy	Purpose
G1	General Aims of the Local Plan
G2	General Criteria for Development
D2	Design of Infill Development
H16	Housing Policy Boundary
PS3	Community facilities
R2	Public Open Space
TR11	Off-street car parking provision

Informative: 2 Highways

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

Informative: 3 Wessex Water

A public foul sewer crosses the site. A minimum three metre easement width on either side of this apparatus is normally required for the purpose of maintenance and repair and it may be necessary to divert or protect this infrastructure.

Prior to the commencement of works on site, any arrangements for the diversion or protection of the public infrastructure crossing the site, shall be agreed in writing.

Part 3
Applications recommended for the Observations of the
Area Committee

No Observations