

Deadline:	20 th April 2010		
Application Number:	S/2010/0259		
Site Address:	9-11 ST. NICHOLAS ROAD, SALISBURY SP1 2SN		
Proposal:	PROPOSED RE-INSTATEMENT OF TWO MAISONETTES TO LOWER GROUND AND GROUND FLOOR INCLUDING THE INSTALLATION OF FLOOD RESISTANCE AND FLOOD RESILIENCE MEASURES		
Applicant/ Agent:	MR RICHARD GREENWOOD		
Parish:	SALISBURY CITY COUNCIL ST MAR/CATHEDRA		
Grid Reference:	414372 129071		
Type of Application:	FULL		
Conservation Area:	SALISBURY	LB Grade:	II
Case Officer:	Mrs B Jones	Contact Number:	01722 434388

Report

Report Subject: S/2010/259 PROPOSED RE-INSTATEMENT OF TWO MAISONETTES TO LOWER GROUND AND GROUND FLOOR INCLUDING THE INSTALLATION OF FLOOD RESISTANCE AND FLOOD RESILIENCE MEASURES, 9-11 St Nicholas Road Salisbury

Report to: Southern Area Planning Committee

Date: 03/06/2010

Author: Mrs. Becky Jones, Senior Planning Officer

1. Report Summary:

1.1 To update Members on the response from the Environment Agency following Committee's recent resolution to approve the application, subject to consultation with the Flood Group and re-consultation with the Environment Agency.

2. Considerations:

2.1 The background to this report is the previous committee report attached as Appendix 1 to this report. Members resolved that the Area Development Manager should be delegated to approve the development provided that the flood group was consulted, and the Environment Agency withdrew its objection and indicated that it did not intend to refer the matter to the Secretary of State. If these provisos were not met, the matter was to be brought back to committee.

2.2 The Environment Agency has maintained its objection to the development, and the letter is

attached as Appendix 2 below. However, the EA do not intend to refer the application to the Secretary of State.

2.3 No response has been received from the Flood Group to date.

3. Options for consideration:

3.1 Members have a number of options. They could either:

(a) Approve the application, for the reasons set out in the minutes in Appendix 3 and subject to the conditions agreed at the previous meeting, but incorporating the amendment and informative suggested by the Environment Agency. Condition 2 would be amended to read:

2. The development shall be implemented in strict accordance with:

- i) the Flood Risk Assessment and Management Strategy (Feb 2010) including the flood mitigation measures outlined within Sections 4 and 5 of the document, and
- ii) the Construction Method Statement and Schedule of Works (Feb 2010)

before the flats on the ground and lower ground floor are occupied.

Reason: To protect future occupiers against the risk of flooding and to ensure that protected species and the water quality of the River Avon are not harmed during construction.

or,

(b) Refuse the application, for the reasons set out in the previous committee report, on the basis that the Environment Agency has maintained its objection on flood risk grounds.

4. Recommendation:

4.1 It is recommended that option (b) above is accepted.

5. Background Papers:

5.1 The original report to Southern Area Committee on 22nd April 2010 in Appendix 1
Letter from the Environment Agency in Appendix 2
The draft minutes for the 22nd April meeting in Appendix 3.

APPENDIX 1

S/2010/259 9-11 St Nicholas Road, Salisbury PROPOSED RE-INSTAEMENT OF TWO MAISONNETTES TO LOWER GROUND AND GROUND FLOOR INCLUDING THE INSTALLATION OF FLOOD RESISTANCE AND FLOOD RESILIENCE MEASURES

Officer Report

Reason for the application being considered by Committee

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

- Environmental impact (flooding)

1. Purpose of Report

To consider the above application and the recommendation of the case officer to REFUSE planning permission.

2. Main Issues

The main issues to consider are :

1. Impact on heritage assets (the character of the listed building and Conservation Area, including adjacent listed buildings).
2. Impact on neighbouring amenities and highway safety
3. Nature conservation
4. Flood Risk and the Continued Use of the Listed Building
5. Public open space

3. Site Description

The site is a Grade II listed, three storey town house situated adjacent to the river. The building is probably 18th century, and is built directly on top of the bastion to the Old Harnham Bridge, which is Grade I listed. The front entrance to the house is level with St Nicholas Road, and the basement area leads into a garden to the rear of the property, adjacent to the river. There are further residential properties to the side and opposite the site. There is no parking for the property.

In the 19th century, Nos 9 and 11 were two separate houses with separate gardens. Approximately 15 years ago, the building was converted to subdivide the upper floor into 2 flats and the lower two floors to create a pair of separate maisonettes. In 1997, permission was

granted to convert the two maisonettes into a five bed dwelling.

The site within the Conservation Area and in the Housing Policy Boundary. The site also lies within an Area of High Ecological Value, and adjacent to the River Avon SSSI in Flood Zone 3.

4. Planning History

S/1991/1604 L/B Application - Enlarging Existing Eastern Doorway To Form New French Windows AC

S/1997/883 Amalgamation of two units via 2no. new internal openings and complete redecoration AC

S/2009/1682 Convert A Four Bedroom Maisonette Into A Pair Of Two Bedroom Maisonettes, Withdrawn

S/2009/1683 Convert A Four Bedroom Maisonette Into A Pair Of Two Bedroom Maisonettes, Listed building application, Withdrawn

5. The Proposal

The applicant is seeking to create two 2 bedroom maisonettes from the existing 5 bedroom maisonette. The two existing 2 bed flats would be retained above. Removable flood barriers are proposed for the French windows and window reveals on the rear elevation. Other works would all be internal, and include flood resilience measures, the filling of two door openings made under the 1997 application. This will involve lathe batons and lime plaster, and in the basement, plasterboard with gypsum. The applicant has also indicated that an Emergency Flood Management Plan will be produced, and could be secured through a S106 Agreement or condition.

6. Planning Policy

The following policies are considered relevant to this proposal including PPSs

G2	General principles for development
H8	Housing Policy Boundary
CN3, CN5	Listed buildings
CN8, CN11	Conservation Areas
C12	SSSI and protected species
C18	River quality and habitats
R2	Public Open Space
PPS5	Planning for the Historic Environment
PPS25	Flooding
	Creating Places SPG
	Flooding and Historic Buildings 2004, English Heritage

7. Consultations

Conservation – no objection

Highways – no objection

Environmental Health – Any flood defence proposal needs to be done in consultation with the Environment Agency

Environment Agency – objection

“The application and supporting Flood Risk Assessment (FRA) do not demonstrate that the proposed scheme, and the additional residential unit that is to be created, will remain safe from flood risk for the life time of the development (taken as 100 years for residential use). This means that we consider part c of the Exception Test could not be passed. We acknowledge the FRA offers flood resistance and resilience measures, clarifies flood warning and evacuation routes from the site and also discusses the unique nature of this listed building. However it fails to demonstrate that the proposed development will remain safe and unaffected by flooding. The flood barriers discussed are not considered to act as a fail safe means of defending the property and are unlikely at this site to prevent water penetration to the interior of the building.

If the applicant would reconsider the internal configuration of the proposal, with the entire lower ground floor being retained by a single property, only one property would be considered to be at risk of internal flooding. Such an alternative configuration would present no worsening over the current arrangement in terms of flood risk.

Although we understand that the listed status of the property and close proximity of the Main River Avon place considerable constraints and limitations on this site and scope to include certain methods of defending the site against flooding, the current proposal is to create an additional dwelling within a flood risk area. As such it is contrary to the guidance offered within PPS25.

Flood risk cannot be entirely eliminated and is expected to increase over time as a result of climate change. It is the responsibility of the developer to identify and make appropriate provision for flood risk, and to ensure a safe development. Recent flood records infer that the existing property is at risk both from fluvial and ground water flooding. The relationship between the quoted design flood level (45.35mAOD) and internal floor level (44.93mAOD) suggests that there is a considerable risk of flooding even with all openings defended by demountable barriers. We would also emphasise that the design flood level (FRA s.1.4) is not a maximum flood level. The level of 45.35mAOD (Halcrow: Salisbury ABD 2007) has previously been suggested by the EA (our ref: WX/2009/113362/02) as a conservative estimation of the relevant 1:100 year flood level, with suitable allowance for climate change (PPS25).

Sequential Test

As this proposal created an additional unit it should be subject to the Sequential Test in line

with PPS25 requirements. We do not object on this aspect but it is up to your authority to determine whether the Sequential Test is passed. The Sequential Test is a land use tool for determining whether there are sites available in areas of lower flood risk where the additional unit which is being created could be located. Only if you consider this has been passed should you look to the requirements within the Exception Test, but as highlighted above we do not feel the development as currently proposed meets part c of that test.”

8. Publicity

The application was advertised by site notice, press notice and neighbour notification
Expiry date 1st April 2010. No comments received.

9. Planning Considerations

9.1 Impact on heritage assets (the character of the listed building and Conservation Area, including adjacent listed buildings).

PPS5 Policy HE7 states that in decision making relating to an application for listed building consent, LPAs should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal (including by development affecting the setting of the heritage asset,) taking account of the evidence provided with the application and the heritage assets themselves. Heritage assets include listed buildings and Conservation Areas. LPAs should take account of the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, alignment and materials.

Policy HE9 states that there should be a presumption in favour of the conservation of designated heritage assets and the more significant the asset, the greater the presumption should be. Significance can be harmed by development in its setting. HE9 states that where the application will lead to substantial harm, LPAs should refuse unless it can be demonstrated that

- i) the substantial harm is necessary in order to deliver substantial public benefits that outweigh the harm.

Policy HE10 states that in considering proposals that affect the setting of a heritage asset and do not make a positive contribution, LPAs will need to weigh the harm against any benefits of the application. The greater the negative impact, the greater the benefits needed to justify approval.

Policy CN3 and CN5 of the Local Plan seek to ensure that development affecting listed buildings and their settings would not harm that character. New work must respect the character of the building in terms of scale, design and materials, and the historic form of the building must be retained.

Policy CN8 states that in Conservation Areas, only development that preserves or enhances the existing character of the area will be permitted, and special care will be taken to safeguard views into and out of the area (CN11).

PPS5 provides specific guidance on uses for listed buildings in respect of climate change. Policy HE1 states that LPAs should identify opportunities to adapt to the effects of climate change when making decisions relating to the modification of heritage assets (listed buildings) to secure sustainable development. Opportunities to adapt heritage assets include enhancing energy efficiency and improving resilience to the effects of a changing climate. Keeping heritage assets *in use* avoids the consumption of building materials and generation of waste. Where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefits of mitigating the effects of climate change should be weighed against any harm to the significance of the heritage assets.

The Heritage Statement suggests that in the 19th century, Nos 9 and 11 were two separate houses with separate gardens, and the report suggests that the present internal arrangement of the large maisonette confuses the significance and historic context of the listed building. This provides a strong argument in favour of supporting the present application to reinstate the subdivision, in the interests of the historic layout of the listed building.

The proposed internal works are minor, and involve re-filling two entrances made under the 1997 approval. Externally, the two French doors and sitting room window reveals would be fitted with removable flood barriers. The Conservation officer has raised no objection to the proposals which would have no adverse impact on the character or setting of the listed building.

In respect of the front door, this requires approval, preferably by drawings, but officers would be happy to agree this by inspection as the intention is to use a reclaimed door. Unfortunately, specific drawings for the flood resistance measures have not been provided, and these have been requested. However, the use of the flood barriers is acceptable in principle.

9.2 Impact on neighbouring amenities and highway safety

The creation of an additional residential unit is not considered to affect neighbouring amenities, as no external works are proposed to the elevations to cause any overlooking or loss of privacy. There were previously two maisonettes on the ground floor, although the Council has no planning record of the original conversion. The additional unit is therefore unlikely to cause any undue disturbance to neighbours, in terms of noise or disturbance, as the property is detached. No parking is available to the units, and there is no available on street parking in the vicinity. Therefore, the conversion is unlikely to lead to any additional congestion levels in the vicinity of the property.

Highways consider that the property already offers four potentially separate living units, and the proposal is not deemed detrimental to highway safety, and no objection is raised.

The proposal would therefore comply with Policy G2.

9.3 Nature conservation

The applicant has submitted a construction method statement, which provides safeguards for the river and protected species during the construction works, in accordance with Policy C12 and C18.

9.4 Flood Risk and the Continued Use of the Listed Building

PPS5 provides specific guidance on uses for listed buildings in respect of climate change. Policy HE1 states that LPAs should identify opportunities to adapt to the effects of climate change when making decisions relating to the modification of heritage assets (listed buildings) to secure sustainable development. Opportunities to adapt heritage assets include enhancing energy efficiency and improving resilience to the effects of a changing climate. Keeping heritage assets *in use* avoids the consumption of building materials and generation of waste. Where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefits of mitigating the effects of climate change should be weighed against any harm to the significance of the heritage assets.

The Heritage Statement suggests that in the 19th century, Nos 9 and 11 were two separate houses with separate gardens, and the report suggests that the present internal arrangement of the large maisonette confuses the significance and historic context of the listed building. This provides a strong argument in favour of supporting the present application to reinstate the subdivision, in the interests of the historic layout of the listed building.

In balancing the issues raised by PPS5 and PPS25, the LPA considers that it must be adequately demonstrated that the additional unit of accommodation would be necessary in Flood Zone 3 in order to ensure that the listed building would remain in use. The applicant has submitted evidence from a local estate agent who suggests that the existing five bedroom maisonette would, "Not be very appealing. Demand for a larger property would almost certainly come from families who would expect parking for at least 2 cars, and they would not expect to have two one bedroom flats above them. All these unusual features would make the property difficult to sell, and I would much prefer your original plans in terms of quality of living and saleability. Regarding letting a five bedroom property without any parking, it would be difficult to let other than to sharers, which would only further exasperate the problem as sharers could have as many as ten cars."

Whilst the Agent asserts that the 5 bed maisonette would be difficult to sell/let, the LPA has no evidence of any marketing of the property, and council tax records suggest that the property has had a long period (about 13 years) of non commercial letting by the Trustees of St. Nicholas Hospital.

The listed building lies within Flood Zone 3 which is at high risk of flooding and is immediately adjacent to the River Avon. The EA suggest that the site has flooded twice in the last 10 years. The development, which would create an additional dwelling at basement level, is classed as "more vulnerable" in PPS25. Therefore PPS25 advises that the development should only be

permitted in this zone of the exceptions test can be passed. For the exception test to be passed,

- a) it must be demonstrated that the development provides wider sustainability to the community that outweigh the flood risk
- b) the development should be on previously developed land and
- c) a Flood Risk Assessment (FRA) demonstrate that the development will be safe without increasing flood risk elsewhere and where possible, will reduce flood risk overall.

The EA have considered the FRA (see below) and despite the measures proposed to improve the building's resilience to flooding (including removable barriers, suitable design of internal fixtures, and a proposed Emergency Flood Management Plan following English Heritage's 2004 advice for Flooding and Historic Buildings) they do not consider that the development will be "safe" from flood risk for its lifetime and therefore, it fails part c of the exception test. The EA acknowledges the proposed flood resistance and resilience measures such as the flood barriers, flood warnings and evacuation routes from the site, but they consider that it fails to demonstrate how the development will remain safe and unaffected by flooding. The flood barriers are not considered to act as a fail safe means of defending the property and are unlikely at this site to prevent water penetration to the interior of the building. The EA would prefer to see the entire lower ground floor being used as a single property, so that just one property would be at risk of internal flooding. The EA feel that the property is at, "Considerable risk of flooding even with all openings defended by demountable barriers."

The applicant has argued that the risk of flooding from the River Avon is low, and that the residents can insure against the risk of flooding to the sitting rooms, and advanced notice of flood warnings are available. There are also compelling heritage arguments in favour of the proposal to restore the listed building to two separate dwellings, and the applicant has urged the Council to take a pragmatic approach in balancing the issues. However, the proposal would fail part c of the exceptions test set out in PPS25, and on the basis of the identified risk to future occupiers of the additional unit, officers have recommended the application for refusal.

9.5 Public open space

The applicant has been invited to enter into a Section 106 Agreement in respect of public open space provision. The agreement has been received.

10. Conclusion

Officers consider that the listed property was originally two dwellings, has historically been occupied as two units on the ground and lower ground floor, and the 5 bed maisonette is likely to be difficult to sell or let without parking. However, the proposal would fail part c of the exceptions test set out in PPS25. On the basis of the strength of the representation by the Environment Agency, in the knowledge that the site has flooded twice in the last ten years and given their views on the likelihood of flooding in the future, officers have recommended the application for refusal.

Recommendation:

It is recommended that planning permission is refused for the following reasons:

Reason for Refusal

The proposed development would create an additional residential unit by subdividing an existing maisonette in the ground and lower ground levels of a Grade II listed building, situated in Flood Zone 3. The basement has been flooded twice in the last decade. In applying the sequential test, the proposal fails the vulnerability category in PPS25 for Flood Zone 3, and the exceptions test must be applied. The flood risk assessment has failed to demonstrate that the new unit would be safe (not be at risk from flooding), and the development would therefore fail part c of the exceptions test. Whilst the development would ensure the ongoing occupancy of the listed building, and would restore the former layout as two dwellings on the ground and lower ground floors, occupiers of the additional residential unit would be at risk from flooding, and the development is contrary to the guidance in PPS25.

INFORMATIVE

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

NJH/0018 Sept 09

Existing Plans, Proposed Plans and Door elevations, received 23/2/10

Planning, Design and Access Statement, WGDP, Feb 2010

Marketing Advice, Myddelton and Major letter dated 28/1/10

Construction Method Statement and Schedule of Works, Feb 2010

Independent wall lining solutions by Karma Acoustics

Flood Risk Assessment and Management Strategy, Feb 2010

APPENDIX 2

Mrs Becky Jones
Wiltshire Council

Our ref: WX/2010/114979/01-L01
Your ref: S/2010/259/FULL
Date: 07 May 2010

Dear Mrs Jones

PROPOSED RE-INSTATEMENT OF TWO MAISONETTES TO LOWER GROUND AND GROUND FLOOR INCLUDING THE INSTALLATION OF FLOOD RESISTANCE AND FLOOD RESILIENCE MEASURES, 9-11 ST NICHOLAS ROAD, SALISBURY, WILTS

Thank you for consulting the Environment Agency on the above planning application subsequent to the committee meeting of the 22nd April 2010.

Whilst we acknowledge that both the development and site in question are constrained by other issues, namely the listed status of the property and physical difficulties faced with incorporating a fail safe means of defending the scheme from flood risk, we are obliged to **maintain our previous position** (our ref: WX/2010/114368/01).

The extended details supplied in support of the re-application for planning permission (LPA ref: S/2010/259) do offer significant flood resilience and resistance measures. However, these measures do not ensure that the proposed development and additional residential unit will remain safe from flood risk for the lifetime of the development (taken as 100 years). The development is therefore not in accordance with the requirements of Planning Policy Statement 25 (PPS25) Development and Flood Risk, and we continue to object on this basis.

We note the discussion held over the relevance of other planning guidance, specifically PPS5, and the desire to ensure that this historic property remains viable. Equally we acknowledge that the current proposal is essentially the reinstatement of the previous configuration, but in our role as the statutory consultee on flood risk we are required to maintain our current position in compliance with PPS25.

Should you approve the proposed development we would request that the following planning condition be added to the relevant decision notice:

Condition

The development permitted by this planning permission shall be carried out in strict accordance with the approved Flood Risk Assessment (WGDP Planning, Design and Access Statement - Appendix 3) dated February 2010, and shall implement the flood mitigation measures outlined within sections 4 and 5 of this document.

Reason

To reduce the impact of flooding on the proposed development and future occupants.

Informative

The applicant should be aware that all works in, under, over or within 8 metres of the adjacent Main River (Avon) will require prior Flood Defence Consent from the Environment Agency, in addition to planning permission. Such consent is required in accordance with the Water Resources Act 1991 and Byelaws legislation. Further guidance in this respect is available from our Development and Flood Risk Officer - Daniel Griffin (01258 483351).

The proposed scheme constitutes non-major development (2 units), and does not in our opinion set a precedent in such matters due to the unique nature of the site and existing property.

Should you or the applicant require any further clarification of our (maintained) position in respect of the flood risk prevailing to this development, they are to be referred to our Development and Flood Risk Engineer in this matter, Gary Cleaver (01258 483434).

Please contact me if you have any queries.

Yours sincerely

Ms Claire Aldridge

Planning Liaison Officer

APPENDIX 3

DRAFT MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 22 APRIL 2010 AT ALAMEIN SUITE, CITY HALL, SALISBURY.

28.2. S/2010/0259/FULL - Proposed Re-Instatement of two maisonettes to lower ground and ground floor including the installation of flood resistance and flood resilience measures

Resolved: Provided that :

- A Subject to consultation with the flood group
- B The Environment Agency withdraws its objection and indicates that it does not intend to refer the matter to the Secretary of State

That the Area Development Manager be delegated to GRANT permission for the following reasons :

The property was originally two dwellings and has historically been occupied as two units on the ground and lower ground floors. The existing five bedroom maisonette is likely to be difficult to sell or let without parking, and presently has no flood resistance measures in place. The site is in a sustainable location, close to the city centre, and the ongoing occupation of the flats would benefit the listed building. The property is likely to be more attractive to occupiers if the five bed unit is subdivided as two flats, and the subdivision would reinstate the historic layout of the building. Flood resistance measures and a flood management scheme have been proposed to protect future occupiers from flooding. The proposals would therefore adapt a heritage asset and improve its resilience to climate change under PPS5. The development would reduce the overall number of habitable rooms from five bedrooms to four, and a means of escape is available to the proposed flats on the ground floor at road level. The development would not detrimentally affect neighbouring amenities or existing highway safety conditions. The proposal would therefore be in accordance with adopted policies G2, H8, CN3, CN5, CN8, CN11, C12, C18 and R2 of the Salisbury District Local Plan and the guidance on heritage assets and climate change in PPS5.

And subject to the following conditions:

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

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

2. The development shall be implemented in accordance with the Flood Risk Assessment and Management Strategy (Feb 2010) and the Construction Method Statement and Schedule of Works (Feb 2010) before the flats on the ground and lower ground floor are occupied.

Reason: To protect future occupiers against the risk of flooding and to ensure that protected species and the water quality of the River Avon are not harmed during construction.

3. No development shall commence until details of a Flood Management Scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals to ensure that all future occupiers of the flats hereby approved are made aware of the scheme before their occupation commences. The development shall be implemented and occupied in accordance with the agreed scheme at all times thereafter.

Reason: To protect future occupiers against the risk from flooding.

4. The development hereby approved shall be in accordance with the following documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council.

NJH/0018 Sept 09

Proposed Plans dated April 2010

Door elevations, received 23/2/10

Planning, Design, Heritage and Access Statement, WGDP, Feb 2010

Flood Risk Assessment and Management Strategy (Feb 2010)

Construction Method Statement and Schedule of Works, Feb 2010

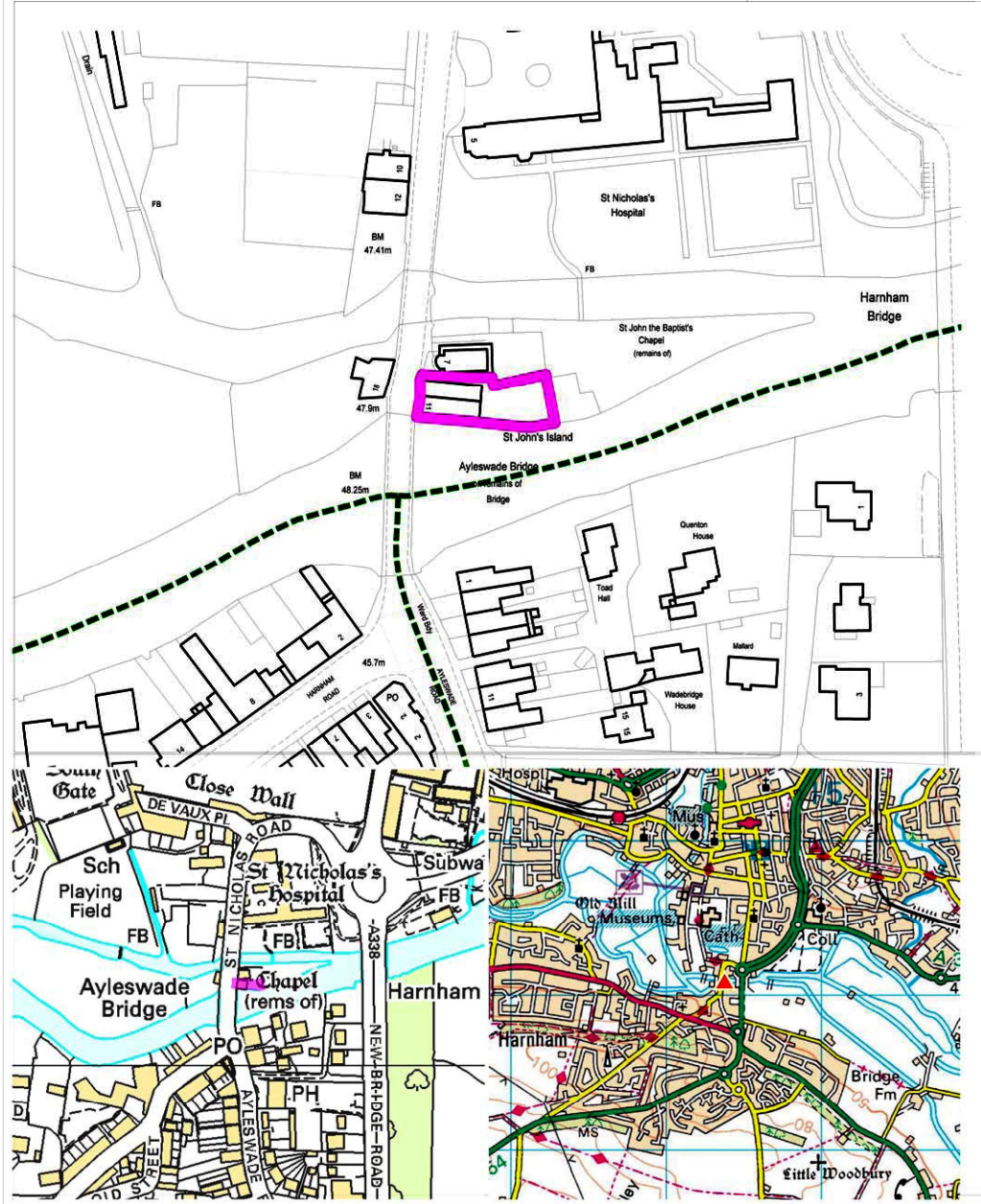
Independent wall lining solutions by Karma Acoustics

Reason: For the avoidance of doubt

If provisos A and B are not met, that the matter be brought back to the Southern Area Planning Committee for a decision.

Site Visit: No data

S/2010/259



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9-11 ST. NICHOLAS ROAD SALISBURY SP1 2SN

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