



**LIST OF PLANNING APPLICATIONS AND OTHER PROPOSALS
SUBMITTED UNDER THE PLANNING ACTS TO BE DETERMINED BY
THE DIRECTOR OF ENVIRONMENT AND COMMUNITY SERVICES**

CIRCULATED SCHEDULE NO. 05/17

Date to Members: 03/02/2017

Member's Deadline: 09/02/2017 (5.00pm)

The reports listed over the page form the 'Circulated Schedule' a procedure agreed by the Planning and Transportation Committee on 21 November 1996. The procedure is designed to increase the effectiveness and efficiency of the Development Control Service. Under the arrangement reports are circulated on a weekly basis.

The reports assess the application, consider representations which have been received, and make a recommendation regarding the proposal. The procedure is designed to ensure that Members are aware of any concern expressed by interested parties in their ward and indicate a recommendation.

Having considered the reports, those applications that Councillors feel should be referred to an appropriate Area Development Control Committee must be notified to the Development Control section **by email within five working days of the publication of the schedule (by 5pm)**. If there has been no member request for referral within the time period, the decision notices will be issued in line with the recommendation in this schedule. **Before referring an item to the Committee, Members may wish to speak to an officer about the issue, in order that any problems can perhaps be resolved without the need for referral to a Committee**

PLEASE NOTE: THE CIRCULATED SCHEDULE PROCESS IS ONLY OPEN TO THE ELECTED MEMBERS OF SOUTH GLOUCESTERSHIRE COUNCIL.

NOTES FOR COUNCILLORS - FORMAL ARRANGEMENTS

If any Member requires any of the proposals listed in the Schedule to be considered by the appropriate Development Control Committee, please let the Director of Environment of Community Services know within 5 working days of the date of this Schedule (e.g., if the schedule is published on a Friday, comments have to be received by the end of Thursday) (see cover page for the date).

To refer an application(s) members are asked to email MemberReferral@southglos.gov.uk providing details of

- Application reference and site location
- Indicate whether you have discussed the application(s) with the case officer and/or area planning manager
- Indicate whether you have discussed the application(s) with ward member(s) if the site is outside of your ward
- The reason(s) for the referral

The following types of applications may be determined by this Circulated Schedule procedure:

All applications and related submissions not determined either by the Development Control Committees or under delegated powers including:

- a) Any application submitted by or on behalf of the Council.
- b) Any application requiring either new or a modification to an existing planning agreement, provided that the application is not required to be determined by Committee.
- c) Any footpath diversion required to implement an approved scheme.
- d) Applications, except those where approval is deemed to be granted upon the expiry of a defined period, where a representation contrary to the Officers recommendation are received.
- e) Applications for Certificates of Appropriate Alternative Development where a representation contrary to the Officer's recommendation is received.
- f) Applications for Certificates of Lawful Use of Development

GUIDANCE FOR 'REFERRING' APPLICATIONS

Members are entitled to refer any application for consideration by the relevant DC Committee or Sites Inspection Committee, before a decision has been made. However as call-ins will delay the decision on an application and in the interests of improving the effectiveness and efficiency of the Development Control service, this option should only be exercised after careful consideration. Members are therefore asked to take account of the following advice:

- Before referring an application always speak to the case officer or Area Planning Manager first to see if your concerns can be addressed without the application being referred.
- If you are considering referring in an application outside the ward you represent, as a courtesy, speak to the ward member(s) to see what their views are, before referring the application.
- Always make your referral request as soon as possible, once you have considered all the application details and advice of the case officer. Please do not leave it to the last minute
- Always make your referral request by e-mail to MemberReferral@southglos.gov.uk, where referrals can be picked up quickly by the Development Management Technical Support Team. Please note a copy of your referral e mail will appear on the website. **If in exceptional circumstances, you are unable to e-mail you request, please contact 01454 863519, well in advance of the deadline, to discuss alternative arrangements to ensure your response can be received.**
- When you refer an application, make clear what the planning reasons are for doing so. This will help the case officer and other members give attention to the specific issues you have raised.
- It may also allow officers to seek to negotiate with the applicant to overcome the Member's concerns and therefore removing the need for a Committee determination.

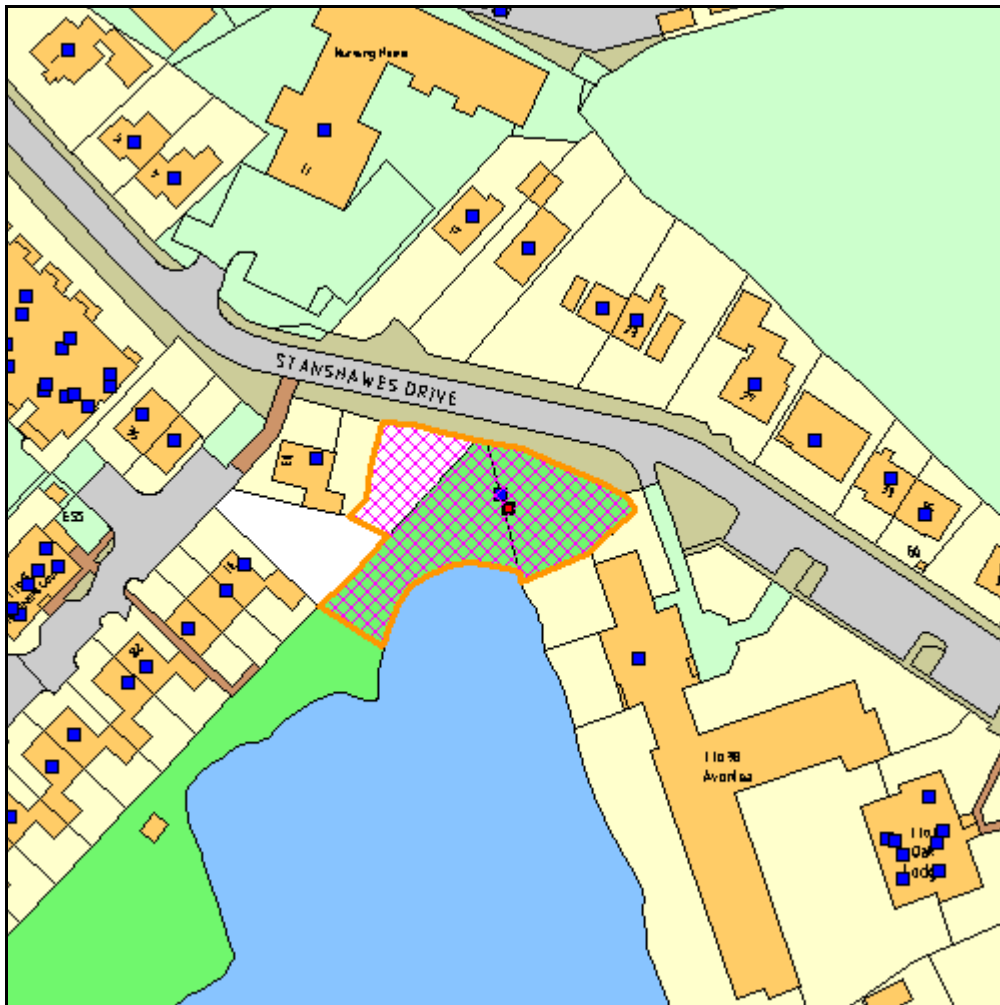
CIRCULATED SCHEDULE 03 February 2017

-

ITEM NO.	APPLICATION NO	RECOMMENDATION	LOCATION	WARD	PARISH
1	PK16/5363/F	Approve with Conditions	14 Stanshawes Drive Yate South Gloucestershire BS37 4ET	Yate Central	Yate Town
2	PK16/6000/F	Approve with Conditions	18 Broad Street Staple Hill South Gloucestershire	Staple Hill	None
3	PK16/6204/RV	Approve with Conditions	7A Oakdale Court Downend South Gloucestershire	Downend	Downend And Bromley Heath Parish Council
4	PK16/6207/LB	Approve with Conditions	7A Oakdale Court Downend South Gloucestershire	Downend	Downend And Bromley Heath Parish Council
5	PK16/6582/FDI	No Objection	The Old Stables Coombes End Old Sodbury South Gloucestershire BS37 6SQ	Cotswold Edge	Sodbury Town Council
6	PK16/6671/AD	Approve with Conditions	Dyrham Park Dyrham Nr Bath South Gloucestershire SN14 8ER	Boyd Valley	Dyrham And Hinton Parish Council
7	PK16/6672/F	Approve with Conditions	Dyrham Park Dyrham Nr Bath South Gloucestershire SN14 8ER	Boyd Valley	Dyrham And Hinton Parish Council
8	PK16/6795/F	Approve with Conditions	80 Emet Grove Emersons Green South Gloucestershire BS16 7EG	Emersons	Emersons Green Town Council
9	PK16/6843/CLP	Approve with Conditions	5 Bromley Drive Downend South Gloucestershire BS16 6JQ	Downend	Downend And Bromley Heath Parish Council
10	PK16/6902/CLP	Approve with Conditions	Bottoms Farm Cottage Bottoms Farm Lane Doynton South Gloucestershire BS30 5TJ	Boyd Valley	Doynton Parish Council
11	PT16/5693/F	Refusal	The Old Post Office Braemar Crescent Filton South Gloucestershire BS7 0TD	Filton	Filton Town Council
12	PT16/6280/F	Approve with Conditions	Maytree Harry Stoke Road Stoke Gifford South Gloucestershire BS34 8QH	Frenchay And Stoke Park	Stoke Gifford Parish Council
13	PT16/6471/F	Approve with Conditions	B & Q Fox Den Road Stoke Gifford South Gloucestershire	Frenchay And Stoke Park	Stoke Gifford Parish Council
14	PT16/6772/CLE	Approve	New Passage Road Pilning South Gloucestershire	Pilning And Severn Beach	Pilning And Severn Beach Parish Council
15	PT16/6773/FDI	No Objection	Land At Post Farm Butt Lane Thornbury South Gloucestershire BS35 1LB	Thornbury North	Thornbury Town Council
16	PT16/6786/CLE	Approve	New Passage Road Pilning South Gloucestershire	Pilning And Severn Beach	Pilning And Severn Beach Parish Council

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PK16/5363/F	Applicant:	Mr Martin Powell
Site:	14 Stanshawes Drive Yate South Gloucestershire BS37 4ET	Date Reg:	29th September 2016
Proposal:	Erection of 1no detached dwelling, garage, access and associated works.	Parish:	Yate Town Council
Map Ref:	370839 182002	Ward:	Yate Central
Application Category:	Minor	Target Date:	22nd November 2016



© South Gloucestershire Council 2007.all rights reserved.

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
100023410, 2008.

N.T.S.

PK16/5363/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application has been submitted to the Council's Circulated Schedule procedure as comments received have been contrary to the Officer's recommendation. As well as this, the application is submitted to the Council's Circulated Schedule as any consent would be subject to a legal agreement.

1. THE PROPOSAL

- 1.1 The application seeks planning permission for the erection of 1no. detached dwelling with access and associated works. The proposed dwelling would be accessed through Stanshawes Drive.
- 1.2 The application site consists of a section of the far eastern corner of the Former Coopers Works Site, which has permission for 48no. dwellings, 44no. elderly persons residential flats, and 1no. office building (PK12/2924/F). The application site is cleared and closed off from public access through gates onto Stanshawes Drive. Planning ref. PK12/2924/F has now been implemented and 'built-out', for clarity Blue Cedar Close forms part of the 'Former Coopers Work Site'.
- 1.3 The application site has an extensive planning history. Planning ref. PK14/1648/F was approved at appeal and granted permission to replace the approved office building with 2no. dwellings (known hereafter as plot A and plot B) (appeal ref. APP/P0119/W/14/3000831). Plot A and plot B have now both been sold meaning they are under different ownership. This planning application effectively seeks planning permission to just erect plot A. Planning permission was granted to erect a dwelling on plot B in May 2016 – planning ref. PK15/3537/F. This permission has been implemented and largely built-out.
- 1.4 As stated the erection of two dwellings, one at plot A and one at plot B, has been established, accordingly, all that is to be assessed under this planning application is the separation of plot A from planning ref. APP/P0119/W/14/3000831 and any subsequent changes made to plot A under this planning application.
- 1.5 The proposed dwelling within this application differs from the approved plot A under planning ref. APP/P0119/W/14/3000831 in the following ways:
 - The materials proposed consists of render, cedar cladding and slate compared to the approved predominantly brick dwelling;
 - The scale of the proposal remains consistent with that of the approved dwelling, but the proposed has a different character largely due to the change in materials and a different form;
 - The proposal has four bedrooms compared to the approved five bedroom dwelling;
 - The proposed dwelling appears to have a larger residential curtilage that originally permitted, extending to the south west and the rear of plot B.

- 1.6 To the east of the application site is a former quarry which is now a lake, this is included within the 'blue-line' of the submitted location plan. No development is proposed within this blue line.
- 1.7 To mitigate the proposal's impact on existing open spaces; monetary contributions are required. Such contributions would be ensured through a section 106 legal agreement.

2. POLICY CONTEXT

2.1 National Guidance

NPPF	National Planning Policy Framework March 2012
PPG	National Planning Practice Guidance

2.2 Development Plans

South Gloucestershire Local Plan Core Strategy (Adopted) December 2013

CS1	High Quality Design
CS2	Green Infrastructure
CS4A	Presumption in Favour of Sustainable Development
CS5	Location of Development
CS6	Infrastructure and Developer Contributions
CS8	Improving Accessibility
CS9	Managing Environment and Heritage
CS12	Safeguarded Areas for Economic Development
CS15	Distribution of Housing
CS16	Housing Density
CS17	Housing Diversity
CS18	Affordable Housing
CS23	Community Infrastructure and Cultural Activity
CS24	Open Space Standards
CS30	Yate and Chipping Sodbury

South Gloucestershire Local Plan (Adopted) January 2006 (saved policies)

L1	Landscape Protection and Enhancement
L9	Protected Species
EP2	Flood Risk and Development
T12	Transportation Development Control Policy

South Gloucestershire Local Plan Proposed Submission Draft: Policies, Sites and Places Plan June 2016

PSP1	Local Distinctiveness
PSP2	Landscape
PSP8	Residential Amenity
PSP11	Transport Impact Management
PSP16	Parking Standards
PSP37	Internal Space and Accessibility Standards for Dwellings
PSP38	Development Within Existing Residential Curtilages, Including Extensions and New Dwellings
PSP42	Custom Build Dwellings
PSP43	Private Amenity Space Standards

The Proposed Submission Draft Policies Sites and Places Plan (PSP plan) is a further document that will eventually form part of the South Gloucestershire Local Plan. The PSP plan will set out new planning policies for South Gloucestershire. Submission and Examination of this plan is taking place in early 2017, with scheduled adoption in late 2017. Accordingly, with regard to the assessment of this planning application limited weight is attached to the policies within the PSP plan at this time – weight grows as the plan progresses.

2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist SPD (Adopted) 2007

Residential Parking Standards SPD (Adopted) 2013

Affordable Housing and Extra Care Housing SPD (Adopted) May 2014

2.4 Concept Statement

Coopers Works, Westerleigh Road, Yate Concept Statement (July 2011) endorsed in principle subject to the points contained within the proposed decision by Executive Councillors (September 2011).

3. RELEVANT PLANNING HISTORY

3.1 PK15/3537/F - Erection of 1no. detached dwelling with access and associated works (Plot B). Approve with Conditions 11th May 2016.

3.2 APP/P0119/W/14/3000831 - Appeal upheld against the Council's refusal of planning ref. PK14/1648/F. 19th May 2015.

3.3 PK14/1648/F - Erection of 2no. detached dwellings and detached double garage with access and associated works. (Resubmission of PK13/4461/F). Refused 01st October 2014.

3.4 PK13/4461/F - Erection of 3 no. dwellings with access and associated works. Withdrawn 31st January 2014

3.5 PK12/4186/ADV - Display of 1no.externally illuminated V Board sign with associated flags. Approved 26th February 2013

3.6 PK12/2924/F - Erection of 48 no dwellings, 44 no. elderly persons residential flats with ancillary accommodation and 1 no office building (Class B1) with access, landscaping and associated works (Resubmission of PK12/0837/F). Approved 24th January 2013

3.7 PK12/0837/F - Erection of 49no. dwellings, 44no. Elderly Person residential flats with ancillary accommodation and 1no. Office building (Class B1) with access, landscaping and associated works. Refused 8th August 2012

- The proposed development by virtue of the height and scale of the proposed retirement living accommodation would have an overbearing impact upon the occupants of residential properties on Stanshawes Drive to the detriment of residential amenity. The proposed development is therefore contrary to Policy D1 and H2 of the South Gloucestershire Local Plan (Adopted) January 2006.

- The proposed office development would result in additional vehicular movements that would conflict with existing users of Stanshawes Drive and its use as a Safe Route to School; to the detriment of highway safety. The proposed development is therefore contrary to policy T12 of the South Gloucestershire Local Plan (Adopted) January 2006.
- In the absence of a section 106 legal agreement to secure on site affordable housing and a financial contribution towards off site affordable housing provision the proposed development is therefore contrary to Policy H6 of the South Gloucestershire Local Plan (Adopted) January 2006
- In the absence of a section 106 legal agreement to secure a financial contribution towards the cost of providing off site provision of Category One, Category Two, Category Three and Informal public open space in the vicinity of the application site the proposed development is contrary to Policy LC8 of the South Gloucestershire Local Plan (Adopted) January 2006.
- In the absence of a section 106 legal agreement to secure a financial contribution towards library services the proposed development is contrary to policy LC1 of the South Gloucestershire Local Plan (Adopted) January 2006.
- In the absence of a section 106 legal agreement to secure a financial contribution towards the cost of mitigation of the traffic impact in the vicinity of the site and public transport the proposed development is contrary to Policy T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

3.8 PK11/1746/PND - Prior notification of the intention to demolish Coopers Works Westerleigh Road. No Objection 23rd June 2011

4. CONSULTATION RESPONSES

4.1 Yate Town Council

Objection:

- Highway safety – parking and turning in road;
- layout and density of building is too high;
- Impact on sheltered housing;
- Loss of trees and hedgerows;
- Encroachment on green space around the lake that is important to the amenity of the area;
- Development is not brown belt land;
- Existing shrubs and planting on the street scene sides should be maintained.

4.2 Transportation

No objection considering the minimal changes from the previously approved development.

4.3 Tree Officer

No objection given the arboricultural information provided.

- 4.4 Ecology Officer
No objection subject to condition requiring bat box enhancement measures, and an informative regarding birds.
- 4.5 Landscape Architect
No objection subject to comments of the arboricultural officer.
- 4.6 New Communities Team
Contributions towards public open space required.
Provision and/or enhancement = £3,338.78
Maintenance = £2,430.20
- 4.7 Archaeology Officer
Modern disturbance during its use as a construction compound has removed any traces of previous activity on the site, therefore there are no objections to this proposal on archaeological grounds.
- 4.8 Lead Local Flood Authority
No objection.
- 4.9 Highway Structures
No comment.

Other Representations

- 4.10 Local Residents
Approximately 10 comments have been received from members of the public with regard to this planning application, these comments were all largely in objection to this application. It should be noted that a number of these comments were submitted by the same member of the public. These comments are summarised below:

Design and Visual Appearance

- Impact of the development on the character of the lake;
- Proposal's design.

Highway Safety

- Highway safety concerns.

Residential Amenity

- Windows in the west elevation are not obscure glazed;
- Privacy issues;
- Loss of amenity to the occupiers of Avon Lea Home;
- Impact of fencing on nearby dwellings;
- Impact on the amenity (outlook, natural light and privacy) of no. 32 Blue Cedar Close;
- Obstruction of views.

Landscape/Arborucltural/Ecological Issues

- Fencing specification is unknown;

- No details of the safeguarding of the lake are provided;
- The proposal does not address wildlife issues regarding the lake – a wildlife haven;
- The ecological survey is out-of-date;
- Concerns regarding boundary treatments;
- Concerns regarding trees;
- Wooden fencing inappropriate.

Other Matters

- The application fails to accord with the original permission;
- The proposal fails to comply with the NPPF;
- No constructional or engineering details have been submitted;
- Comments regarding the management of the site;
- Comments suggesting the applicant will take 'years' to develop the site;
- No drainage scheme has been submitted;
- No contamination details submitted;
- No party wall survey has been commissioned;
- Flood risk;
- The Authority should insure the applicant has appropriate insurance regarding the lake;
- Defamatory comments toward to the applicants;
- Plans are not to scale;
- Covenant on the use of fencing to the rear of Blue Cedar Close.

5. **ANALYSIS OF PROPOSAL**

5.1 Principle of Development

The proposal is acceptable in principle, this was established under planning ref. APP/P0119/W/14/3000831, which remains an extant planning permission. Meaning if this development was refused, the applicant could still build-it out the dwelling permitted under the appeal-decision referenced within this paragraph.

Since this application was determined at appeal, the Council has been found that they could not demonstrate a five year housing land supply, meaning paragraph 49 of the NPPF is engaged. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. The paragraph goes onto suggest that if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites then their relevant policies for the supply of housing should not be considered up-to-date.

Regardless of this, the starting point for any decision-taker is the adopted development plan, but the decision-taker is now also required to consider the guidance set out within paragraph 14 of the NPPF. Paragraph 14 states a presumption in favour of sustainable development, and states that proposals that accord with the development plan should be approved without delay, and where relevant policies are out-of-date planning permission should be granted

unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Accordingly, the assessment of this planning application will just assess the differences this proposal makes when compared to the previously approved dwelling (plot A). These changes will be assessed with regard to whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the proposal.

5.2 Benefits of the Proposal

The proposal would have one clear and tangible benefit; this would be the contribution of one new dwelling to the Council's five year housing land supply.

5.3 Transport

The Council have an adopted minimum residential car parking standard that sets levels of off-street car parking spaces based on the number of the bedrooms within the dwelling. Sufficient space is provided for in excess of two car parking spaces, meaning it is unlikely that this development will result in cars parking in the highway. Accordingly, should planning permission be granted it is recommended that at minimum of two off-street car parking spaces are retained within the curtilage of the site.

The access at the site has been questioned, although it is clear that the principle of the access was accepted at appeal by the previous Inspector. The town council has objected to the access. However, given the access has not materially changed from the one accepted at appeal, officers find no objection to the proposed access.

Adequate cycle parking is provided through the proposed garage.

5.4 Trees and Landscaping

Within the previous application both landscaping and arboricultural issues were very contentious, mainly in connection with plot A which is orientated toward the lake. The proposal does not include the felling of any trees further than that of the previously approved development, apart from perhaps a small oak adjacent to the lake, the details within the previously approved development are unclear regarding this tree. Nonetheless, the removal of this tree is considered to be acceptable. The tree officer has confirmed that acceptability of the submitted tree protection details and as such these will be condition in the event of approval.

The proposed boundary treatments are largely within the application site and are considered acceptable in terms of design.

5.5 Ecology

The original application for the two dwellings was granted subject to a number of conditions, a number of which related to ecological considerations. The proposal would result in the removal of scrub, some poor quality trees and a section of the hedge. The Council's Ecologist is aware of the previous consents at the site and the relevant ecological issues. The Ecologist considers that a condition requiring enhancement through bat boxes is sufficient. Such a condition is recommended. Officers do note the ecological concerns of

residents regarding the lake and site, however, after consulting with the Council's Ecologist, officers are content that no ecological species of interest will be materially harmed by the development.

5.6 Design

Members of the public have commented that the development proposed is not in accordance with the successfully appealed development, this is not a reason in itself to resist the development as this is a new planning application. Officers consider the proposed development to represent an improvement on the previously approved dwellings, the use of cedar cladding will result in a development more in-keeping with its setting. Further to this, the development includes architectural features that more interesting than those approved in the previous development. Accordingly, there are no objections to the proposal's design. A condition will be imposed regarding the use of materials.

5.7 Residential Amenity

The proposal includes a number of slim windows on the western elevation which some members of the public suggest will result in a loss of privacy. Given the distance between the proposed units and no. 33 Blue Cedar Close (approximately 21 metres), officers consider that the development will have an acceptable impact on the residential amenity of the occupiers of no. 33. Comments have also be submitted regarding the proposal's impact on plot B with regard to residential amenity, largely commenting on the relationship between proposed windows and balconies. From reviewing the relationship between the respective dwellings, officers consider that due to the angle at which the proposed dwelling is positioned in comparison to plot B, the proposed unit will not result in a material loss of privacy to the future occupiers of plot B. Similarly, comments have been submitted regarding the proposal's impact on the occupiers of Avon Lea. After reviewing the proposed relationship, offices consider that the development will not materially prejudice the amenity of any of the occupiers within Avon Lea.

The proposal includes the election of a 2 metre fence/wall that will extend across the eastern (rear) boundary of plot B. Plot B does not enjoy the largest of plots, meaning its rear elevation is within approximately 4/5 metres of the boundary. Whilst it is accepted that a 2 metre fence/wall is not the most outlook-friendly boundary treatment for the future occupiers of plot B, officers realise that without the need for express planning permission, a fence or wall, up to 2 metres tall, could be erected in the same position as proposed. As such officer find that such a boundary treatment cannot be resisted. Officers also note the suggestion that there is a covenant in place restricting the construction of boundary treatments. This is a legal agreement separate to planning, and as such is not considered to attract significant weight in this assessment.

Overall, officers have no object to the proposal with regard to residential amenity.

5.8 Public Open Space

As identified within the previously approved application, it is the opinion of the Council that this application, as with the previous application (PK14/1648/F), represents the artificial subdivision of previously approved larger planning

application, application ref. PK12/2924/F. Therefore, in assessing requirements for infrastructure and developer contributions the Council have calculated contributions based on the policy and figures used at the time of application ref. PK12/2924/F (although taking Community Infrastructure into account which was not adopted when the previous appeal decision was decided). Planning ref. PK14/1648/F therefore requested the following contributions toward public open space:

£6,223.71 towards provision of offsite enhancements

£4,310.01 towards future maintenance

These contributions were secured through a Section 106 Unilateral Undertaking, and as such have now been paid. This development however is still accountable with regard to its impact on public open space, this is discussed below.

Open space necessary to make the development acceptable in planning terms: Local Plan Policy LC8 – Open Space and Children’s Play in Conjunction with New Residential Developments sought to secure the provision and or enhancement of open spaces to meet the needs of future occupiers where there is evidence of a local shortfall, (this policy is no longer current but was used at the time of the original application). South Gloucestershire Local Plan: Core Strategy (adopted December 2013) Policies CS2 – Green Infrastructure and CS24 –Green Infrastructure, Sport and Recreation Standards; aim to secure the provision and/or enhancement of open spaces to meet the needs of future occupiers where there is evidence of a local shortfall. South Gloucestershire Local Plan: Core Strategy (adopted December 2013) policy CS1 – High Quality Design promotes shared accessible public realm and play opportunities; improving accessibility, particularly for walking and cycling and opportunities for play across the public realm. The NPPF requires access to high quality open spaces and opportunities for sport and recreation which can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs of open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open spaces, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine the level of open space, sports and recreation provision and/or enhancement required. Plans should also conserve and enhance the natural and historic environment.

The level of requirement sought is informed by Appendix 6 of the Core Strategy and national guidance provided by Fields in Trusts (FIT) and Sport England, and is supported by an assessment of local provision carried out in 2010. The Community Infrastructure Levy encourages charges based on simple formulae which relate the size of the charge to the size and character of the development. Where provision in line with minimum policy standards is not provided on site, the amounts requested towards the provision and/or enhancement of off-site open space and future maintenance are directly in scale with the quantum of open space required to offset the effect of the proposed development on existing provision; this is demonstrated in our

calculations. All calculations are based on the expected future population of the proposed development calculated using Census 2011 data on household size and the net gain and mix of dwellings proposed. The calculator used to give costs for provision/enhancement and maintenance is regularly updated and reflects the type of spaces and facilities that the Council would expect to see delivered based on examples that have been adopted from other new developments, which have taken place within South Gloucestershire. The capital contributions are based on a range of industry costs for the provision of open space facilities, and the maintenance costs are routinely tested through APSE (Association of Public Sector Excellence). They are therefore considered reasonable and fully justified in order to ensure standards of open space meet standards of appropriate national bodies e.g. Sport England, Fields in Trust and material relating to the Green Flag quality award scheme.

Based on the policy and figures used at the time from the development of one additional dwelling the Council would expect the following contributions towards the enhancement of existing open spaces to mitigate for the impact of the development:

Public open space

Provision and/or enhancement: £3,338.78

Maintenance: £2,430.20

As stated, the previous planning application that approved plots A and B secured a similar level of public open space contributions commensurate for two dwellings, as well as libraries contributions. As Community Infrastructure Levy has been adopted by the Council since plots A and B were approved, the Council can no longer request libraries contributions, rather such contributions are considered under Community Infrastructure Levy requirements as libraries are seen as infrastructure.

It has been confirmed that the contributions required for open space under PK14/1648/F secured through a Section 106 Unilateral Undertaking have now been paid, and it would therefore be unreasonable for the Local Planning Authority to request these contributions to be paid again, as effectively, the required contributions to mitigate plot A's impact have been paid for. However, as this proposal effectively subdivides an existing planning permission for the erection of two dwellings which was subject to a legal agreement, this development must still be accountable for the amount of contributions requested. To achieve this a Unilateral Undertaking (UU) is required to effectively link this planning application with the previous Section 106 UU. If this UU is not undertaken then technically the applicant for the previous planning application, who paid the originally requested contributions under the previous Section 106 UU, could request that this sum of money is paid back.

Accordingly, a UU has been prepared, signed and sealed in order to ensure that the correct proportion of the sum already held by South Gloucestershire Council (the payment of £3,338.78 towards provision of offsite enhancements and the payment of £2,430.20 towards future maintenance of public open space) is accounted for against the dwelling subject of this planning application.

This legal agreement ensures compliance with policies CS2 and CS24 of the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013.

5.9 Archaeology

The site lies within an area of archaeological potential on the site of a First World War Prisoner of War camp and an early-mid 20th century brickworks / industrial complex. An archaeological watching brief was originally requested by the Council's Archaeologist, however, after further investigation on site with the applicant, the Archaeologist stated that a watching brief was not required. The reason for this was due to the evidence of modern disturbance during its use as a construction compound that has removed any traces of previous activity on the site.

5.10 Contamination

The historic use of the site as filled ground/ brickworks / military camp may have caused contamination which could give rise to unacceptable risks to the proposed development. Accordingly, the extant planning permission conditioned that contamination studies are undertaken prior to development commencing. Such ground investigations have been undertaken as part of planning ref. PK14/1648/F, these investigations found that the application site did not require any remediation, therefore officers do not consider it appropriate to condition contamination studies are undertaken with regard to this proposal.

5.11 Drainage

Condition 10 of the extant planning permission requires that a surface water drainage scheme and hydrological assessments are undertaken prior to development commencing. This is not considered to be necessary or relevant to the development due to the scale of the development only being one dwelling. This is a view supported by the Lead Local Flood Authority who neither objected nor suggested such a condition.

Members of the public have suggested there may be flood risk issues at the site, the site is within Flood Zone 1, as such officers do not consider that the development would be at risk of flooding.

5.12 Other Matters

Officers have considered removing permitted development rights through condition, however, given the nature of the site and the proposal, officers do not find there to be exceptional circumstances to justify the removal of permitted development rights.

Comments have questioned the absence of constructional or engineering plans, such plans are not required to assess this development, the plans submitted are sufficient. Further to this, members of the public have commented on the management of the site, and suggested that the construction period of the proposed dwelling would be long and unprofessional. Officers do not find such comments to be appropriate or material in relation to this development. Comments regarding the professionalism of the construction period are purely conjectural.

Members of the public have made comments regarding the management of the lake, including whether appropriate insurance measures are in place, and also

requests for safety features to be provided around the lake as a result of this development. Such issues are outside of the realms and scope of this planning application given the scale of the development, and the fact that the proposal does not include any proposal's directly impacting on the lake.

Further to this, comments submitted by members of the public have questioned why no party wall survey has been submitted, officers do not require such a survey to assess this development.

5.13 Planning Balance

Officers can find no material harm associated with the proposed development, and as such the benefit associated with the proposal significantly outweighs the absence of harm associated with the proposal.

6. CONCLUSION

6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.

6.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

7.1 That planning permission is granted subject to:

- the conditions listed below/and on the decision notice; and
- the signed Unilateral Undertaking that ensures that the correct proportion of the sum already held by South Gloucestershire Council (the payment of £3,338.78 towards provision of offsite enhancements and the payment of £2,430.20 towards future maintenance of public open space) is accounted for against the dwelling subject of this planning application (PK16/5363/F). This would be in order to accord with policies CS2 and CS24 of the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013.

Contact Officer: Matthew Bunt
Tel. No. 01454 863131

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 requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

2. A minimum of two off-street car parking spaces, measuring a minimum of 4.8 metres by 2.4 metres, shall be provided within the residential curtilage of the dwelling hereby approved. Such a parking provision shall be then retained as such thereafter.

Reason

To ensure the satisfactory provision of parking facilities and in the interest of highway safety and the amenity of the area, and to accord with Policy CS8 of the South Gloucestershire Local Plan; Core Strategy (Adopted) December 2013; and the South Gloucestershire Residential Parking Standards SPD (Adopted) December 2013.

3. The development shall be carried out in strict accordance with the submitted Tree Protection Plan received by the Council on the 24/11/2016.

Reason

In the interests of the health of the trees at the site, and the amenity of the area, and to accord with Policy L1 of the South Gloucestershire Local Plan (Adopted) January 2006; and Policies CS1 and CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013, and the provisions of the National Planning Policy Framework.

4. Prior to the first occupation of the development hereby approved, a minimum of one bat box shall installed on the building hereby approved, or nearby trees. For the avoidance of doubt, the bat box(es) shall be suitable for pipistrelles.

Reason

To provide enhancement for bats and to accord with Policy CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013; Policy L9 South Gloucestershire Local Plan (Adopted) January 2006; and the provisions of the National Planning Policy Framework.

5. The development hereby approved shall be carried out in strict accordance with the submitted Material Schedule dated 10/11/2016.

Reason

To ensure a satisfactory standard of external appearance and to accord with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013; and the National Planning Policy Framework.

CIRCULATED SCHEDULE NO. 05/17 – 03 FEBRUARY 2017

App No.:	PK16/6000/F	Applicant:	Mr Tim Sperrings
Site:	18 Broad Street Staple Hill Bristol South Gloucestershire BS16 5NX	Date Reg:	14th November 2016
Proposal:	Change of use of ground floor from Retail (Class A1) to Office (Class A2) (retrospective). Installation of new shopfront. Erection of two storey rear extension and installation of replacement front dormer and new rear dormer, to extend the two existing residential units.	Parish:	None
Map Ref:	364957 175896	Ward:	Staple Hill
Application Category:	Minor	Target Date:	6th January 2017



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PK16/6000/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application has been referred to the Circulated Schedule following the receipt of objections from local residents, the concerns raised being contrary to the officer recommendation.

1. THE PROPOSAL

- 1.1 The existing property no.18 Broad Street, is a two storey terraced property that has a front dormer to facilitate a loft conversion. At ground level no.18 until recently was occupied by a printers shop fronting onto Broad Street (Class A1) with ancillary storage to the rear. At first/second floor are 2no. one-bedroom flats.
- 1.2 The applicant seeks full planning permission for the change of use of the ground floor retail unit (Class A1) to an Accountants and Tax Advisory Office (Class A2) together with a new 'shopfront'. The business would employ 5-6 members of staff. The ancillary storage area to the rear would become a communal bin and bicycle store. It is also proposed to erect a two-storey rear extension and to install a new rear dormer and a replacement front dormer in order to extend the two existing flats. The change of use has already taken place and in this respect the application is part retrospective.
- 1.3 The property currently has a two-storey and single-storey rear extension (accommodating the ancillary shop storage) with access to the existing flats from the rear narrow access lane.
- 1.4 The site is located within a defined urban area and within the settlement boundary. The property is recognised as Primary Shopping Frontage within Staple Hill Town Centre. The site falls within a defined Coal Mining Area.

2. POLICY CONTEXT

2.1 National Guidance

The National Planning Policy Framework 27th March 2012.
The National Planning Practice Guidance 2014

2.2 Development Plans

The South Gloucestershire Local Plan Core Strategy (Adopted) 11 Dec. 2013

CS1 - High Quality Design

CS4A – Presumption in Favour of Sustainable Development

CS5 - Location of Development

CS8 - Accessibility

CS14 - Town Centres and Retail

CS17 - Housing Diversity

South Gloucestershire Local Plan (Adopted) January 2006

EP2 - Flood Risk and Development

EP4 - Noise-sensitive development

T7 - Cycle Parking

T12 - Transportation Development Control Policy for New Development
RT9 - Changes of Use of Existing A1 Retail Uses at Ground Floor Level within the Primary Shopping Frontages of Town Centres.
RT12 - Use of Upper Floors in Town/Local Centres

2.3 Supplementary Planning Guidance

The South Gloucestershire Design Check List (SPD) Adopted Aug 2007.
South Gloucestershire Council Residential Parking Standards (SPD) Adopted.
Waste Collection : guidance for new developments. SPD (Adopted) Jan. 2015.

2.4 Emerging Plan

Proposed Submission: Policies, Sites & Places Development Plan March 2015

PSP1 - Local Distinctiveness

PSP8 - Residential Amenity

PSP11 - Development Related Transport Impact Management

PSP16 - Parking Standards

PSP20 - Flood Risk, Surface Water and Watercourses

PSP33 - Shopping Frontages

PSP43 - Private Amenity Space Standards

3. **RELEVANT PLANNING HISTORY**

3.1 PK12/0237/F - Erection of first floor rear extension to form additional living accommodation.
Withdrawn 7 March 2012

3.2 PK12/1719/F - Erection of first floor, two-storey and three storey rear extension to form 2no. self-contained flats with associated works.
Refused 5 Oct. 2012

4. **CONSULTATION RESPONSES**

There have been two rounds of consultations following the submission of revised plans.

4.1 Parish Council
Not a parished area.

4.2 Other Consultees [including internal consultees of the Council]

Transportation D.C.

Any increased travel demand would not be significant. No objection.

Lead Local Flood Authority

No objection

The Coal Authority

No objection

Highway Structures

If the application includes a boundary wall alongside the public highway or open space land then the responsibility for maintenance for this structure will fall to the property owner.

It doesn't include such a wall.

Other Representations

4.3 Local Residents/Proprietors

4no. letters/e-mails of objection were received in total (2no. from the occupier of no. 20a Broad Street). The concerns raised are summarised as follows:

- Lack of parking provision.
- Overdevelopment.
- Loss of view for no. 20a.
- Loss of light and overbearing impact on no.20a.
- Overlooking of rear garden of no.2 Seymour Road.
- Loss of sunlight to rear garden and conservatory of no.2 Seymour Road.

5. ANALYSIS OF PROPOSAL

Principle of Development

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Para. 14 of the NPPF states that decision takers should approve development proposals that accord with the development plan without delay; where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.

5-Year Land Supply

5.2 The Council's Annual Monitoring Review (AMR) reveals that the Council cannot currently demonstrate a 5-year housing land supply. As there is provision for windfall sites in the calculation, this weighs in favour of the proposal, which would make a positive contribution, to the housing supply within South Gloucestershire; as such para. 14 of the NPPF is therefore engaged.

5.3 The Policies, Sites & Places Plan is an emerging plan only. Whilst this plan is a material consideration, only limited weight can currently be given to most of the policies therein.

5.4 In accordance with para.187 of the NPPF, Core Strategy Policy CS4A states that; when considering proposals for sustainable development, the Council will take a positive approach and will work pro-actively with applicants' to find solutions, so that sustainable development can be approved wherever possible. NPPF Para.187 states that, Local Planning Authorities should look for solutions

rather than problems and decision-takers at every level should seek to approve applications for sustainable development where possible.

- 5.5 Chapter 4 of the NPPF promotes sustainable transport and states that development should only be prevented on transport grounds where the residual cumulative impacts of development are 'severe'.
- 5.6 Paragraph 50 of the NPPF sets out the importance of delivering a wide range of residential accommodation. This policy stance is replicated in Policy CS17 of the Core Strategy which makes specific reference to the importance of planning for mixed communities including a variety of housing type and size to accommodate a range of different households, including families, single persons, older persons and low income households; as evidenced by local needs assessments and strategic housing market assessments.
- 5.7 It is noted that the NPPF puts considerable emphasis on delivering sustainable development and not acting as an impediment to sustainable growth, whilst also seeking to ensure a high quality of design and good standard of amenity for all existing and future occupants of land and buildings'. The NPPF encourages efficient use of land and paragraph 47 requires the need to 'boost significantly the supply of housing'.
- 5.8 Core Strategy Policy CS16 seeks efficient use of land for housing. It states that: Housing development is required to make efficient use of land, to conserve resources and maximise the amount of housing supplied, particularly in and around town centres and other locations where there is good pedestrian access to frequent public transport services.
- 5.9 Policy CS1 of the South Gloucestershire Local Plan Core Strategy (Adopted) Dec 2013 seeks to secure good quality designs that are compatible with the character of the site and locality.
- 5.10 At this stage, South Gloucestershire Council cannot demonstrate that it has a five-year supply of deliverable housing land. As such, Paragraph 14 of the NPPF is the starting point for the consideration of this planning application. In this instance, the NPPF makes a presumption in favour of approving sustainable development provided that the benefits of doing so (such as the provision of new housing towards the 5yr HLS) are not significantly and demonstrably outweighed by adverse impacts. Notwithstanding this position, the site is located within the urban area at first floor level within a Town Centre, where such residential development is acceptable in principle and supported by Local Plan Policy RT12.
- 5.11 On this basis, there is a presumption in favour of approving this application. However, it is necessary to consider the benefit of this proposal against any adverse impact such as the loss of the retail unit located within the Primary Shopping Frontage and weigh these factors in the balance with the benefits. The issues for consideration are discussed as follows:

Analysis

- 5.12 The site lies within Staple Hill Town Centre and the ground floor is a retail unit within the Primary Shopping Frontage as defined in the South Gloucestershire Local Plan (Adopted) 6th Jan 2006. Policy RT12 permits the residential use of upper floors of existing premises within Town and Local Centres, provided that it would not have unacceptable environment or transportation effects and would not prejudice residential amenity. The upper floors of no.18 are already in residential use and the proposal in part merely seeks to expand the residential floor space whilst retaining the same number of units.
- 5.13 The supporting text to Policy RT12 para. 9.117 states that ‘the policy identifies residential use as the first choice for new and existing premises above ground floor level within the traditional centres.
- 5.14 As regards the proposed change of use of the ground floor unit, Local Plan Policy RT9 only permits the change of use of existing A1 retail uses at ground floor level within the Primary Shopping Frontages of Town Centres where:
- A. It can be demonstrated that the premises could not be retained in a viable retail use; or
 - B. The proposed use would make a positive and complementary contribution to the vitality and viability of the Centre and would not undermine the retail function of the frontage, or part of it; and
 - C. The proposed use would not result in unacceptable environmental or transportation effects, and would not prejudice residential amenity.
- 5.15 In this case however, the proposal is to change the A1 Retail use to an A2 Financial and Professional Services use. Recent changes to Permitted Development Rights have been introduced whereby under Part 3 Class D of the GPDO the change of use of a building and any land within its curtilage from an A1 (shops) use class to a use class A2 (financial and professional) of the Schedule to the Use Classes Order (6th April 2016) is now permitted development. To all intents and purposes this in effect supersedes Policy RT9 where such a change is proposed and must therefore carry significant weight in the determination of this application.
- 5.16 Notwithstanding this shift in the Policy regime, officers do not consider that the proposed change would significantly undermine the retail function of the frontage which appears to have a high percentage of retail units within it. A fully glazed ‘shop’ window would be retained in the proposed new frontage; only the door would be re-located to reduce draughts. The unit could easily revert back to a retail use should this be required in the future.
- 5.17 On balance the retail viability and vitality of the Town Centre would not be significantly adversely affected. The proposed change of use cannot be resisted. The location is highly sustainable and suitable for the type of enhanced residential accommodation proposed. There is no in-principle objection to the proposal.

Scale and Design

- 5.18 The street frontage on the southern side of Broad Street displays a number of features characteristic of its Victorian origins. The elevations are for most part

faced with natural Pennant Sandstone, with ashlar window surrounds. The individual units are of a uniform width and height with small pitched roof dormers in the roof spaces, all of which provides a pleasing sense of rhythm to the built form and street scene. This rhythm is to some extent interrupted by the occasional presence of box dormers, as is currently the case with no.18. In the revised scheme however, this dormer would be replaced with a small pitched roof dormer to match those either side, which is considered to be a welcome enhancement.

- 5.19 In contrast to the front of the terrace, the rear is an unsightly mixture of both single and two-storey extensions, which have not been planned over the years on a co-ordinated basis; indeed many probably date back to times before the planning system was introduced. Being to the rear of the terrace, these extensions are however not readily visible from the public domain.
- 5.20 Whilst the proposed extension would add further built development to this existing situation, it at least merely extends along existing eaves and roof levels and does not protrude beyond the end elevations of neighbouring extensions. In the context of the existing built development in this location, the scale of the extension proposed is modest. Whilst the proposed box dormer to the rear roof space is not an attractive feature it is seen as an acceptable compromise to the originally proposed scheme where it would have been inserted in the front roof slope.
- 5.21 Whilst the design of the extensions proposed to the rear of no.18 fall somewhat short of the design standards normally required under Core Strategy Policy CS1 and the NPPF, there is little scope for alternatives if the living space within the existing flats is to be enhanced. Given the extent that modern design principles have historically been compromised here and the fact that the development as proposed would not be visible from the public realm, the scheme as revised, is on balance considered acceptable in design terms.

Transportation Issues

- 5.22 The site lies in a highly sustainable Town Centre location. Officers are satisfied that as the unit is located within the existing shopping centre the traffic generation from the enlarged flats would not be likely to materially affect local traffic patterns. There is no parking provision on the site and no land available to provide any, nevertheless this is a common enough situation in Town Centre locations where flats are located on upper floors. Officers do not consider in this case that a condition to secure 1 parking space per flat would be reasonable and as such would not meet the tests for conditions listed in the NPPF. In reaching this conclusion officers are mindful of a recent Appeal Decision APP/P0119/W/16/3155620 which also related to flats in a less sustainable area than this. The change of use from A1 to A2 may encourage some linked trips which would be acceptable in transportation terms. The proposed communal cycle and bin storage facility would be an enhancement.
- 5.23 In the context of paragraph 32 of the NPPF there is no reason to believe that the proposal would lead to a 'severe' residual risk to highway safety. There are therefore no transportation objections.

Impact on Residential Amenity

- 5.24 Internally the units would be subject to current Building Regulations standards for both thermal and acoustic performance. Whilst the flats would have no amenity space, this arrangement would be no different to that existing or for other first floor flats within the town centre and given the highly sustainable location, is considered acceptable. The scheme would enhance the living conditions for future occupants of the flats and also makes the most efficient use of the site for residential purposes.
- 5.25 Officers have taken note of the initial concerns raised by the occupier of adjoining no. 20a and as a result have negotiated revisions to the scheme whereby the rear extension has been 'pulled away' from the neighbouring window and access walkway, thus allowing light to the neighbouring window and retaining the view therefrom, such as it is.
- 5.26 Concerns have been raised by the occupier of no.2 Seymour Road about loss of light and privacy. The garden areas and conservatory of this property are already overlooked by neighbouring windows and the existing lounge window located in the rear elevation of the existing first floor flat at no.18. The distance of these windows from no.2 is currently acceptable and some overlooking of neighbouring property is inevitable in urban areas, especially if the most efficient use of brownfield sites is to be made for residential accommodation as is required by the NPPF. However, the proposed extension would bring no.18's rear kitchen/lounge window some 4m closer to the boundary with no.2 Seymour Rd. where loss of privacy would be much greater. Given that the proposed extended lounge/kitchen would be served by secondary windows and sky lights, a condition to obscurely glaze the rear window is considered both reasonable and justified. A further condition to prevent the insertion of any windows other than those shown on the approved plans is also necessary to retain privacy for adjoining occupiers.
- 5.27 Given that the proposed extension would be considerably lower than the host terrace and lies to the north of no. 2 Seymour Road, any loss of light to no.2 would not be significant. A back lane separates the garden of no.2 from the rear of no.18 so there would be no significant harm from overbearing impact. On balance therefore, the proposal is not considered to have a significant adverse impact on residential amenity.

Environmental Issues

- 5.28 The accommodation would utilise an existing building and is not subject to flood risk. The proposed scheme would have no adverse impacts on the environment. The Coal Authority raises no objection to the proposal. Any disturbance during the development phase can be mitigated by a condition to control working hours. Furthermore a condition to control opening hours of the A2 use is also justified given the residential uses above.

5.29 CIL Matters

The South Gloucestershire Community Infrastructure Levy (CIL) & Section 106 Planning Obligations Guide SPD was adopted March 2015. CIL charging commenced on 1st August 2015 but this development is unlikely to attract a CIL charge.

6. CONCLUSION

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The living conditions for the occupiers of the existing flats would be enhanced. The site is in a highly sustainable location, being within the Town Centre and the scheme makes efficient use of the upper floor units in a shopping frontage, all of which is supported by the NPPF and the Development Plan. The proposal, relating to flats, also accords with the principles of providing mixed and inclusive communities. Furthermore the appearance of the street scene would be enhanced by the replacement front dormer. Whilst the loss of the retail use in the Primary Shopping Frontage is regrettable, this cannot be resisted under current permitted development rights. The proposed A2 use would however provide employment for several people and may encourage linked trips. Notwithstanding some reservations about the appearance of the rear extension and proposed dormer, on balance the scheme is considered to be sustainable development that should be approved.
- 6.3 The recommendation to grant planning permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

- 7.1 That planning permission be GRANTED subject to the condition listed on the Decision Notice.

Contact Officer: Roger Hemming
Tel. No. 01454 863537

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 requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).
2. The hours of working on site during the periods of demolition and construction shall be restricted to 07.30 to 18.00 Mondays to Fridays, and 08.00 to 13.00 Saturdays and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.

Reason

To minimise disturbance to neighbouring properties and to accord with the provisions of the NPPF.

3. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Reason

To ensure a satisfactory standard of external appearance and to accord with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013; and the National Planning Policy Framework.

4. Prior to the use or occupation of the extension hereby permitted, and at all times thereafter, the proposed kitchen window on the rear elevation of the extension hereby approved, shall be glazed with obscure glass to level 3 standard or above with any opening part of the window being above 1.7m above the floor of the room in which it is installed'..

Reason

To protect neighbouring residential amenity and to accord with Policy RT12 of The South Gloucestershire Local Plan and the provisions of the NPPF.

5. No windows other than those shown on the plans hereby approved shall be inserted at any time in the extension hereby approved.

Reason

To protect neighbouring residential amenity and to accord with Policy RT12 of The South Gloucestershire Local Plan and the provisions of the NPPF.

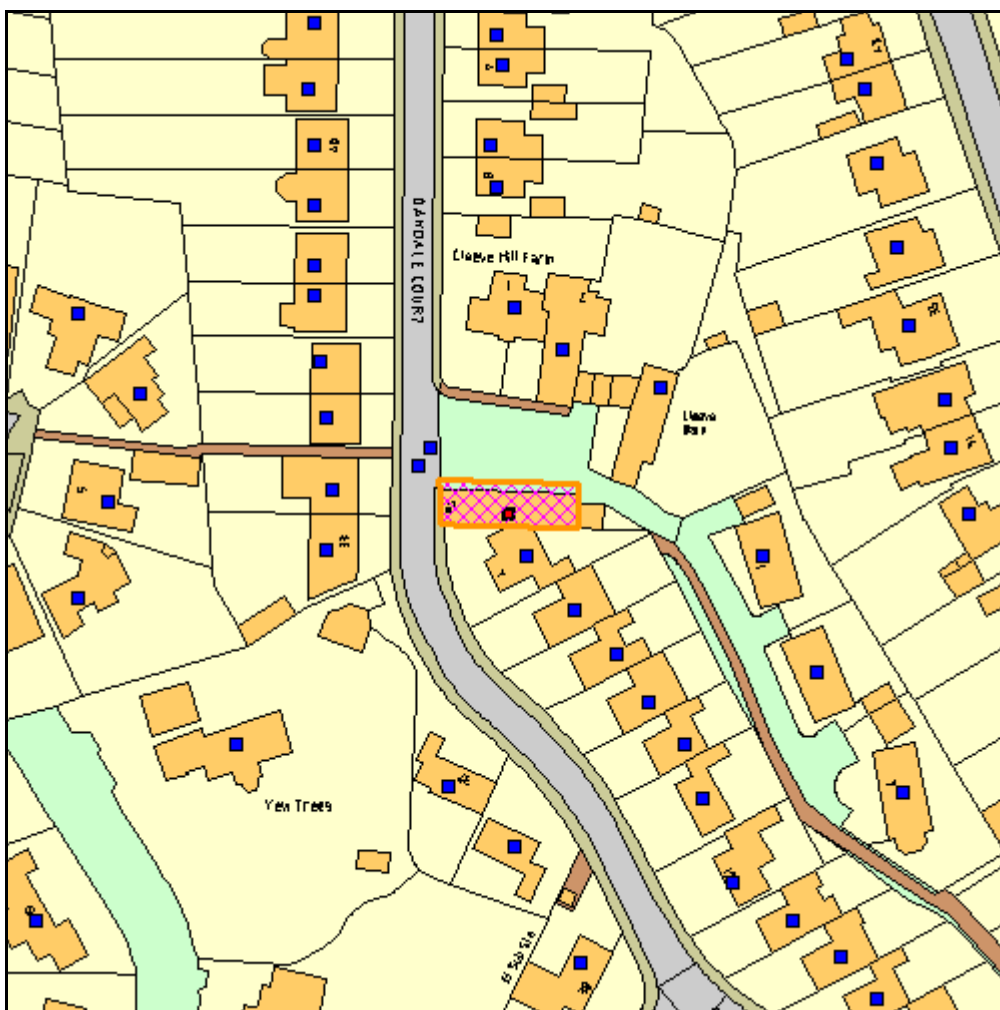
6. The A2 use hereby permitted shall not be open to customers outside the following times 09.00hrs - 17.30 hrs Mon-Sun incl. including Bank Holidays.

Reason

To protect neighbouring residential amenity and to accord with Policy RT9 of The South Gloucestershire Local Plan and the provisions of the NPPF.

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PK16/6204/RVC	Applicant:	Mr Peter Grosvenor
Site:	7A Oakdale Court Downend Bristol South Gloucestershire BS16 6DZ	Date Reg:	15th November 2016
Proposal:	Variation of conditions 3, 4 and 7 attached to planning permission PK06/0385/F to alter windows, bin and cycle store and parking.	Parish:	Downend And Bromley Heath Parish Council
Map Ref:	365013 177420	Ward:	Downend
Application Category:	Minor	Target Date:	5th January 2017



© South Gloucestershire Council 2007. all rights reserved.

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

100023410, 2008.

N.T.S.

PK16/6204/RVC

1. THE PROPOSAL

1.1 The application is for the variation of conditions 3, 4 and 7 of planning application ref PK06/0385/F which granted permission for the 'conversion of a garage block to form 1 no. dwelling with associated works.'

1.2 Condition 3 of PK06/0385/F states:

"No windows other than those shown on the plans hereby approved shall be inserted at any time in the elevations of the property, unless the Local Planning Authority gives consent in writing to any variation.

Reason: To ensure a satisfactory standard of external appearance and to accord with Policy D1 and L13 of the South Gloucestershire Local Plan (Adopted) January 2006."

1.3 Condition 4 of PK06/0385/F states:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or enacting that Order), the garage hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles and ancillary domestic storage without the prior written consent of the Local Planning Authority

Reason: To ensure the garage is available for its prime purpose of providing parking for a domestic vehicle, to ensure that sufficient off-street parking is retained to serve the development in the interests of highway safety and to accord with Policies H5 and T8 of the South Gloucestershire Local Plan (Adopted) January 2006."

1.4 Condition 7 of PK06/0385/F states:

"The cycle parking facilities shown on the plan hereby approved shall be provided before the building is first occupied, and thereafter retained for that purpose.

Reason: To ensure the satisfactory provision of parking facilities and in the interest of highway safety and the amenity of the area, and to accord with Policy T7 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

2. POLICY CONTEXT

2.1 National Guidance
National Planning Policy Framework March 2012

2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013
CS1 High Quality Design

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)

D1 Design
L13 Listed Buildings
H5 Re-Use of Buildings for Residential Purposes
T7
T8
T12

South Gloucestershire Local Plan: Proposed Submission: Policies, Sites and Places Plan June 2016

2.3 Supplementary Planning Guidance

3. RELEVANT PLANNING HISTORY

- 3.1 PK06/0385/F – Conversion of garage block to form 1 no. dwelling with associated works – approved 24.04.2006.
- 3.2 PK16/6207/LB - Internal and external alterations to include balustrades, reconfiguration of dining room and new garage gates – received 10/11/2016 - pending consideration.

4. CONSULTATION RESPONSES

- 4.1 Downend and Bromley Heath Parish Council - No objection but as property is within a listed area discussion has already taken place between developer and South Glos Council, together with the owner.
- 4.2 Pubic Rights of Way – The proposed development is unlikely to affect the nearest public right of way reference MAY.22.10 which runs along the northern border of the development area.
- 4.3 Conservation Officer – Extensive comments were publish online however in summary a slight reduction in rooflight size is suggested and as mitigation for further adding to the domestic character of the building, the rooflights should be set at the same heights within the roof plane and also the flue to the gable elevation should be removed as discussed above. If these issues could be addressed, there would be no objections.

Other Representations

- 4.4 Local Residents – Two objections have been received from members of the public. These raise concerns relating to over occupancy, lack of amenity space and unsympathetic design in relation to the setting of the listed building.

5. ANALYSIS OF PROPOSAL

Principle of Development

- 5.1 The principle of the conversion of the garage block to residential use is not the subject of this application. Permission to grant conversion of the garage block was granted in 2006. No out amenity space was provided.
- 5.2 The proposal is a section 73 application to vary conditions applied to PK06/0385/F.

Design

- 5.3 Condition 3 was originally imposed to protect the external appearance of building. The applicant is proposing to add one additional rooflight in the north elevation. Amended plans were received in response to comments from the Conservation Officer which resulted in the proposed rooflight being reduced in size. It is considered that as a result of the amended plans, the proposed rooflight is modest in size and does not result in the proliferation of rooflights which maintains an appropriate external appearance in accordance with Policy D1 of the South Gloucestershire Local Plan.
- 5.4 The applicant also proposes to insert an additional timber glazed screen in place of existing timber doors. These doors have been in situ for approximately ten years and show clear signs of decay. It is considered that whilst the glazed screen further adds to the domestic nature of the building, the panels are designed to match the existing and do not result in any widening of the opening, retaining present proportions. As a result it is considered that the proposed glazed panel do not significantly detract from the external appearance of the dwelling in accordance with Policy D1 of the South Gloucestershire Local Plan.
- 5.5 Having considered the impact upon design it is recommended that condition 3 is amended to read:

“No windows other than those shown on plan 166/11 Revision A dated 18/10/16 hereby approved shall be inserted at any time in the elevations of the property, unless the Local Planning Authority gives consent in writing to any variation.”

Reason: To ensure a satisfactory standard of external appearance and to accord with Policy D1 and L13 of the South Gloucestershire Local Plan (Adopted) January 2006.”

Highways

- 5.6 Condition 4 was applied to prevent the garage being used for any other purpose than parking or domestic storage to ensure that sufficient off-street parking is retained to serve the development in the interests of highway safety. In apply to vary condition 4, it is proposed to convert the existing garage into part study, part bin and cycle store.

- 5.7 The applicant proposes two parking spaces within a 3m strip to the front of the property which runs the entire length of the property. This is within the applicant's ownership and as a result under their control. The two spaces proposed are appropriate with regard to parking standards under Policy T8 of the South Gloucestershire Local Plan for a property that could potentially provide three bedrooms as this dwelling can. It is therefore considered that as the loss of the garage does not affect the ability of the applicant to provide two parking spaces, no objection is raised to this proposal. It is however considered necessary to vary the existing condition as follows to ensure that the parking proposed is always retained for this purpose in perpetuity.

"The parking areas identified on drawing number 166/10 Revision A dated 18/10/16 shall be retained on site for purposes of providing parking spaces in perpetuity.

Reason: To ensure that sufficient off-street parking is retained to serve the development in the interests of highway safety and to accord with Policies H5 and T8 of the South Gloucestershire Local Plan (Adopted) January 2006."

- 5.8 Condition 7 sought to ensure that bicycle storage and refuse storage was in an allocated position to prevent loss of parking and any adverse impact of the surrounding amenity of the property. It is proposed to convert the existing bin and bike store into a dining room and move the store to a space in front of the proposed study behind timber doors. The doors to the new cycle store are to be replaced like for like which is being considered under PK16/6207/LB. It is considered that as the applicant has provided an area for bicycle and refuse storage which is integral to the dwelling, the original purpose of condition 7 to PK06/0385/F is still retained and highway safety and amenity of the area is retained.

Having had regard to the above, it is recommended that Condition 7 is varied to read: *"The cycle parking, refuse and recycling facilities shown on drawing number 166/10 Revision A dated 18/10/16 hereby approved shall be provided with three months of the date of this decision, and thereafter retained for that purpose.*

Reason: To ensure the satisfactory provision of parking facilities in the interest of highway safety and the amenity of the area, and to accord with Policy T7 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006."

6. CONCLUSION

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy

(Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

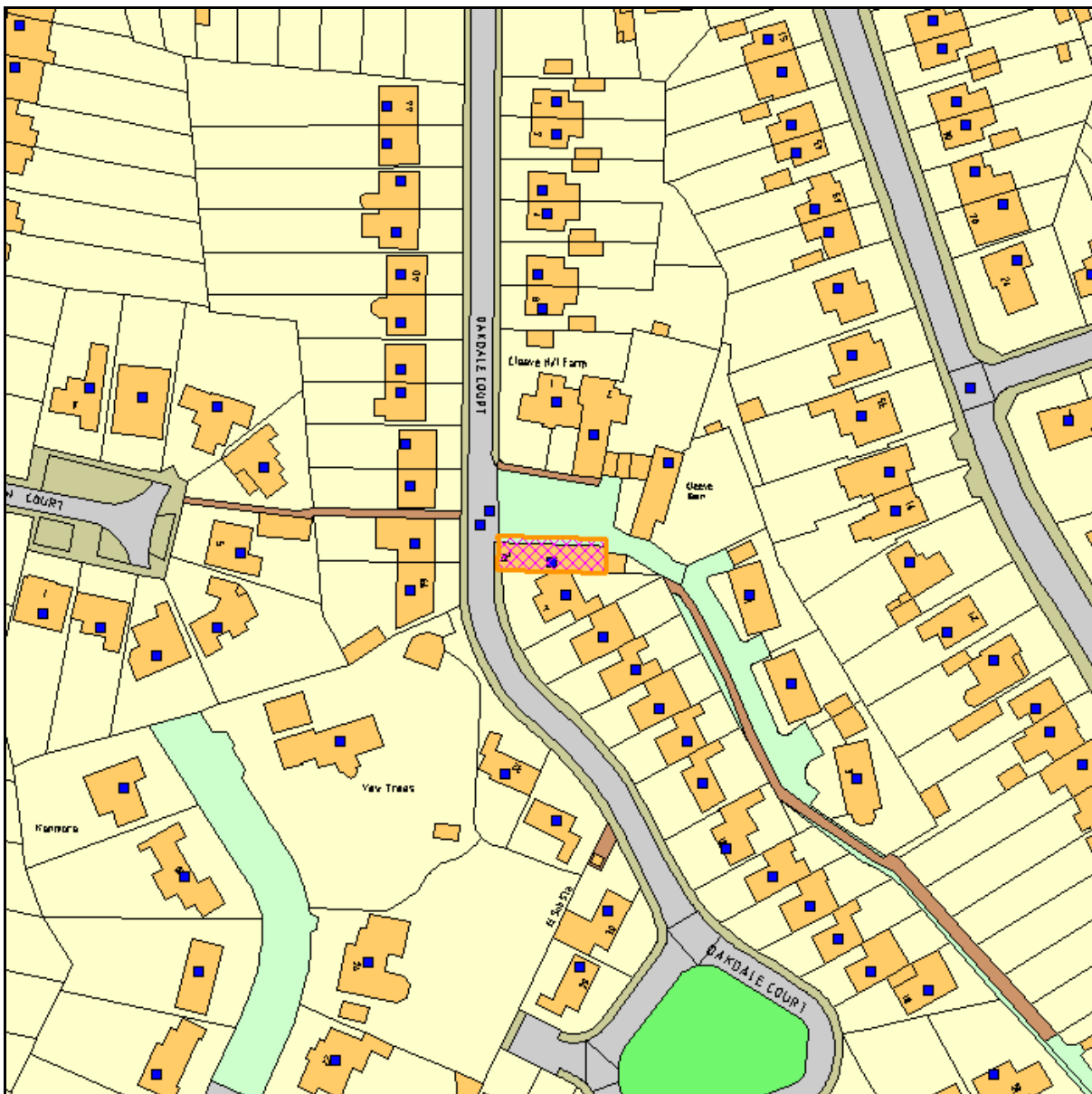
7. RECOMMENDATION

7.1 That conditions 3, 4 and 7 of PK06/0385/F are varied and that planning permission is granted.

Contact Officer: Sarah Jones
Tel. No. 01454 864295

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PK16/6207/LB	Applicant:	Mr Peter Grosvenor
Site:	7A Oakdale Court Downend Bristol South Gloucestershire BS16 6DZ	Date Reg:	14th November 2016
Proposal:	Internal and external alterations to include balustrades, reconfiguration of dining room and new garage gates.	Parish:	Downend And Bromley Heath Parish Council
Map Ref:	365013 177420	Ward:	Downend
Application Category:	Minor	Target Date:	5th January 2017



© South Gloucestershire Council 2007. all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008.

N.T.S.

PK16/6207/LB

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application has been referred to the Circulated Schedule due to objection to the proposed scheme being received from local residents.

1. THE PROPOSAL

- 1.1 This application relates to curtilage listed former stables, previously a garage before being subject to a scheme of residential conversion in 2006. The structure is considered to be within the curtilage of the Grade II listed Cleeve Hill Farmhouse, a traditional vernacular building which dates from the early 17th century with later additions.
- 1.2 The implementation of the consent for the residential conversion failed to comply with the conditions of the consent and deviated from the approval in regard to internal works and structural repairs.
- 1.3 The scheme now proposed seeks listed building consent for the following works:
- Replacement of inappropriate balustrade;
 - Convert bin and cycle store bay (the penultimate bay to the left) which was an open bay into a dining room which would require new front facade to match existing and relocation of bin and cycle storage on end bay, approved as a garage;
 - Replacement of ledge and braced garage gates to end bay;
 - Parking to be relocated to the front of the unit;
 - Insertion of Georgian wire glazed panel to first floor bedroom;
 - Insertion of new rooflight;
 - Internal wall, floor and ceiling finishes to penultimate bay to facilitate conversion to dining room;
 - Reposition of gas flue from prominent gable end to roof; and
 - Redecoration of external joinery.

2. POLICY CONTEXT

2.1 National Guidance
National Planning Policy Framework March 2012

2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013
CS1 High Quality Design

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)
L13 Listed Buildings

South Gloucestershire Local Plan: Proposed Submission: Policies, Sites and Places Plan June 2016
PSP17 Heritage Assets and the Historic Environment

3. RELEVANT PLANNING HISTORY

- 3.1 PK06/0414/LB & PK06/0385/F - Conversion of garage block to form 1no. dwelling with associated works. Approved 05/04/06.

4. CONSULTATION RESPONSES

- 4.1 Downend and Bromley Heath Parish Council
No objection but as the property is within a listed area, discussion has already taken place between the development the South Gloucestershire Council.

- Historic England
4.2 No comment

Other Representations

- 4.3 Local Residents
2no. consultation responses were received which expressed the following summarised objections to the proposals:

- The former garages formed part of a courtyard that was originally the farmyard of Cleeve Hill Farm, which is a listed 17th century farmhouse with an associated listed barn;
- The rear wall is also curtilage listed and forms part of the original pennant orchard of the Cave Estate;
- The former garages were converted 10 years ago and was implemented largely in breach of the approved design and layout and none of the pre-commencement conditions were discharged. The result is an ugly building that is harmful to the character of the locality by virtue of its unsympathetic styling;
- The conversion works also saw the removal of the coping stones and historic tiles;
- The red brick used in the construction of the front elevation (to infill the former garage bays) visually jars with the pennant stone;
- The resulting building also feature an ugly modern window design
- Over-occupancy – the proposals were for a 1no. bed dwellinghouse, but with two “studies”, the building could become a 4no. bed dwellinghouse.
- Lack of utility space

5. ANALYSIS OF PROPOSAL

- 5.1 Principle of Development
This application stands to be assessed against National Planning Policy Framework March 2012 and Planning (Listed Buildings and Conservation Areas) Act 1990.

Analysis

- 5.2 Due largely to the unauthorised nature of its external appearance, the residential conversion of this former stables is not considered to have been complementary to its surroundings, as in particular the design and appearance of the external joinery gives the building an overtly domestic appearance.
- 5.3 Moreover the stained rather than painted finish exacerbates the harm the external joinery has caused. The proposed decoration of all windows and doors to give them a painted finish would help significantly with the assimilation of the building into its context, as it would match the window finish of all surrounding properties.
- 5.4 The external works proposed to reconfigure the two bays at the eastern end will not result in any significant change in the character of the building. Details of the joinery will however be covered by condition, but having to match the existing details will limit the scope to secure enhancement.
- 5.5 The proposed additional rooflight has been reduced since submission. One of the most intrusive elements of the conversion was the crude insertion of a gas flue to the western gable end. Its removal, relocation and blocking up with matching stone will provide for a degree of enhancement.
- 5.6 Internally the existing balustrade to stairs and first floor landing is of a typical suburban design. This is to be replaced with a far more simple or rustic design in keeping with the character of the building.
- 5.7 The finishes to walls and ceilings within the main part of the building were also unauthorised and would not have been specified at approval, as the walls are skimmed plaster finished dry-lining which has been battened off the external wall. The extent however of the battening has left a significant void between the historic stone rear wall and the internal finish. This would help provide for sufficient ventilation so although aesthetically the internal finishes may be inappropriate, they have not compromised the functionality of the existing fabric of what is a curtilage listed wall.
- 5.8 The insertion of the first floor was also not approved and distorts the historic character of the building, but it is difficult to conclude that the harm caused is so great that the significance of this building has been compromised to a point that would sustain an objection at appeal. It is considered that the main significance of the building is derived from its group value, being part of a historic farmstead. Its scale, form and appearance are therefore considered to be of more interest than its fabric or internal character. The works to the roof structure have also been assessed and although far more intervention has been undertaken than considered, the existing purlins were undersized and so have been partnered with additional joists. Importantly however there has been no loss of historic fabric.
- 5.9 In consideration of the further works to extend the living accommodation into the eastern end, the specification of internal finishes and floors is more traditional – lime plasters to walls and ceilings and floors and the proposals would not result in any loss of character.

5.10 The relocation of all parking to an area to the front of the building in principle was a concern, but it can be noted that the character of courtyard is one that already features significant informal parking. The functionality of the garage as a usable parking space is also questionable. Cumulatively there is no objection to this proposal.

5.11 The proposed scheme overall will attempt to reverse a number of the harmful aspects of the initial conversion. The additional proposals will not exacerbate the harm that has been caused to this building, as the materials and design in contrast to the initial scheme are far more considered and appropriate. What will remain though would still be a relatively poor quality conversion but there is not considered to be sufficient basis to object to the proposals. It should however be noted that when the opportunities arise, further schemes of enhancements should be secured.

6. CONCLUSION

6.1 The recommendation to **grant** Listed Building Consent has been taken having regard to the section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Government advice contained in the National Planning Policy Framework.

7. RECOMMENDATION

7.1 Listed building consent to the GRANTED subject to the listed conditions.

Contact Officer: Robert Nicholson
Tel. No. 01454 863536

CONDITIONS

1. The works hereby permitted shall be begun before the expiration of three years from the date of the consent.

Reason

As required by Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) to avoid the accumulation of Listed Building Consents.

2. The application has been approved on the basis of the list of the following submitted documents.

Site plan (dwg no.166/01)
Existing floor plans (dwg no.166/02)
Existing elevation (dwg no.166/03)
Proposed internal door fittings
Glasscrete floor system
Proposed section (dwg no.166/12)
Proposed sections (dwg no.166/13)

Proposed floor plans (dwg no. 166/10 Rev.A)

Proposed elevations (dwg no. 1661/11 Rev.A)
Proposed sections C-C (drg no.166/14 Rev.A)

The development shall proceed exactly in accordance with the above approved documents.

Reason

To ensure that the development is carried out in accordance with the approved plans in order to comply with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and policy CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted December 2013).

3. Prior to the commencement of the relevant works, the detailed design of the following items shall be submitted and approved in writing by the local planning authority.
 - a. All new windows and fixed glazing (including cill, head, reveal and glass details)
 - b. Rooflights
 - c. All new doors (including frames and furniture)
 - d. All internal joinery including the new ballustrade

The details shall be submitted via elevation and section drawings at a scale of 1:10, and the development shall be completed strictly in accordance with the agreed details.

Reason

In light of the above details not being submitted at determination stage for consideration and approval, a pre-commencement condition is necessary in order to ensure that the works serve to preserve the architectural and historic interest of the listed building, in accordance with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, national guidance set out at the NPPF and Policy CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted December 2013).

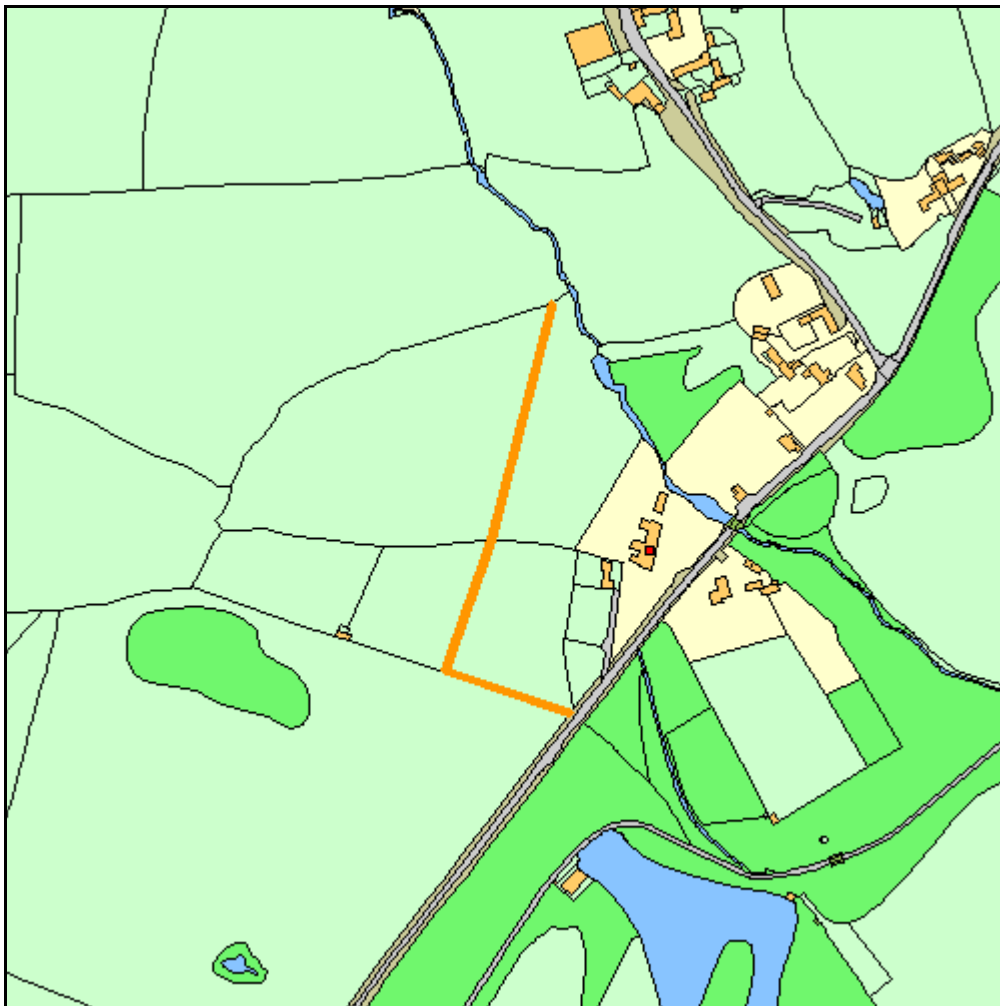
4. The flue pipe should have a permanent proprietary dark finish. Prior to the commencement of the development of the works hereby authorised, details of the finish and colour should be submitted to the Local Planning Authority for written approval. The blocking up of the flue currently located to the western gable elevation shall also be blocked up using stone that match the existing in terms of colour, size, texture, coursing and mortar colour and pointing.

Reason

In order that the development serves to preserve the architectural and historic interest and setting of the listed building, in accordance with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and national guidance set out in the NPPF.

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PK16/6582/FDI	Applicant:	Mr And Mrs A And S Wigmore C/o F Batten
Site:	The Old Stables Coombes End Old Sodbury Bristol South Gloucestershire BS37 6SQ	Date Reg:	7th December 2016
Proposal:	Diversion of footpath LDO/44/10 and part LSO/74/10	Parish:	Sodbury Town Council
Map Ref:	375233 180452	Ward:	Cotswold Edge
Application Category:		Target Date:	26th January 2017



© South Gloucestershire Council 2007.all rights reserved.
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
100023410, 2008. N.T.S. PK16/6582/FDI

REASON FOR REPORTING TO THE CIRCULATED SCHEDULE

Under the Council's scheme of delegation, footpath diversion orders are required to be determined through the Circulated Schedule process.

1. THE PROPOSAL

- 1.1 This application is made under Section 257 of the Town and Country Planning Act 1990. Under this application, consent is sought to divert footpath LDO/44/10 and part divert LSO/74/10 to enable development; the development to which the application relates is the conversion of a barn to a residential property.
- 1.2 The diversion will see the footpaths diverted further west to avoid the curtilage of the proposed dwelling.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012
Town and Country Planning Act 1990: Section 257
Circular 01/09: Rights of Way

- 2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013

CS1 High Quality Design
CS9 Managing the Environment and Heritage
CS34 Rural Areas

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)

T12 Transportation
LC12 Recreational Routes

3. RELEVANT PLANNING HISTORY

- 3.1 P92/2154 - Erection of building for housing of tractor and storage of garden equipment and implements.
Refused 16 Sept. 1992

4. CONSULTATION RESPONSES

- 4.1 Dodington Parish Council
Members were consulted about this application earlier in the year - when applicant wrote explaining what his plans were - and would the Parish Council support a planning application if it were to be submitted. Members agreed to support an application - and reiterate this support now that the application has gone live. They would however like to ensure that the new diverted footpath is looked after accordingly so that users are able to access and walk it easily / freely.

- 4.2 Sodbury Town Council
No objection
- 4.3 Landscape Officer
No comment
- 4.4 Public Rights of Way
The proposed realignments satisfy the legal tests of S257 of the Town and Country Planning Act 1990
- 4.5 The Ramblers Association
No response
- 4.6 The Byeways and Bridleways Trust
No response
- 4.7 The British Horse Society
No response
- 4.8 Open Spaces Society
No response

Other Representations

- 4.9 Local Residents
No responses

5. ANALYSIS OF PROPOSAL

- 5.1 This application seeks to divert the route of existing footpaths to facilitate the redevelopment of a barn at The Old Stables, Coombs End, Old Sodbury.
- 5.2 Principle Matters
The diversion of a public right of way is not development as defined in the Town and Country Planning Act. A diversion Order for a public right of way can therefore only be considered through the planning system when the diversion of the right of way is considered necessary to allow the implementation of a planning permission. In considering making a diversion to a right of way, the local planning authority must be satisfied that the proposed alternative route is suitable, that the diversion is reasonably necessary and that the amenity of the right of way is maintained.
- 5.3 Diversion of Right of Way
The proposed footpath diversion is required to enable the development of the barn to take place, however there has been an alternative 'used' route for a few years that would be replaced with the diversion. In order to satisfy the South Gloucestershire Path Diversion order policy the new route must be like for like or an improvement, i.e. any stiles should be replaced with accessible gates, the route must not introduce any additional gradients or steps and the path must be clear of obstructions. The proposal is acceptable as it appears to satisfy the legal tests required and no objections are raised to the proposed diversion

order. The new route is less than 20 % greater in length and gates have been provided. The public are able to use the previous 'used' route still and this should remain open until the new proposed diversion order comes into operation.

5.4 The proposed rerouting has been assessed by the Council's Public Rights of Way team. The officer has concluded that the proposed diversion passes the legal test of Section 257 of the Town and Country Planning Act 1990 and raise no objection to the new alignment.

5.5 The proposed diversion is therefore acceptable.

6. CONCLUSION

6.1 The recommendation to raise no objection to the proposed footpath diversion has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report including Circular 01/09 and Policy LC12.

6.2 The proposal is considered to satisfactorily meet the tests of a footpath diversion and the amenity and utility of the route would be maintained.

7. RECOMMENDATION

7.1 It is recommended that NO OBJECTION be raised to the proposed diversion, as shown on the accompanying plans.

7.2 It is recommended that the Head of Legal and Democratic Services be instructed to and delegated the authority to make an Order under Section 257 of the Town and Country Planning Act 1990 for: the diversion of footpath LDO/44/10 and part diversion of footpath LSO/74/10 as shown on the accompanying plan received by the Council 1 December 2016.

Contact Officer: Roger Hemming
Tel. No. 01454 863537

CIRCULATED SCHEDULE NO. 05/17 – 03 FEBRUARY 2017

App No.: PK16/6671/ADV

Applicant: National Trust

Site: Dyrham Park Dyrham Nr Bath South
Gloucestershire SN14 8ER

Date Reg: 14th December 2016

Proposal: Display of 6no. pay and display
instruction signs

Parish: Dyrham And Hinton
Parish Council

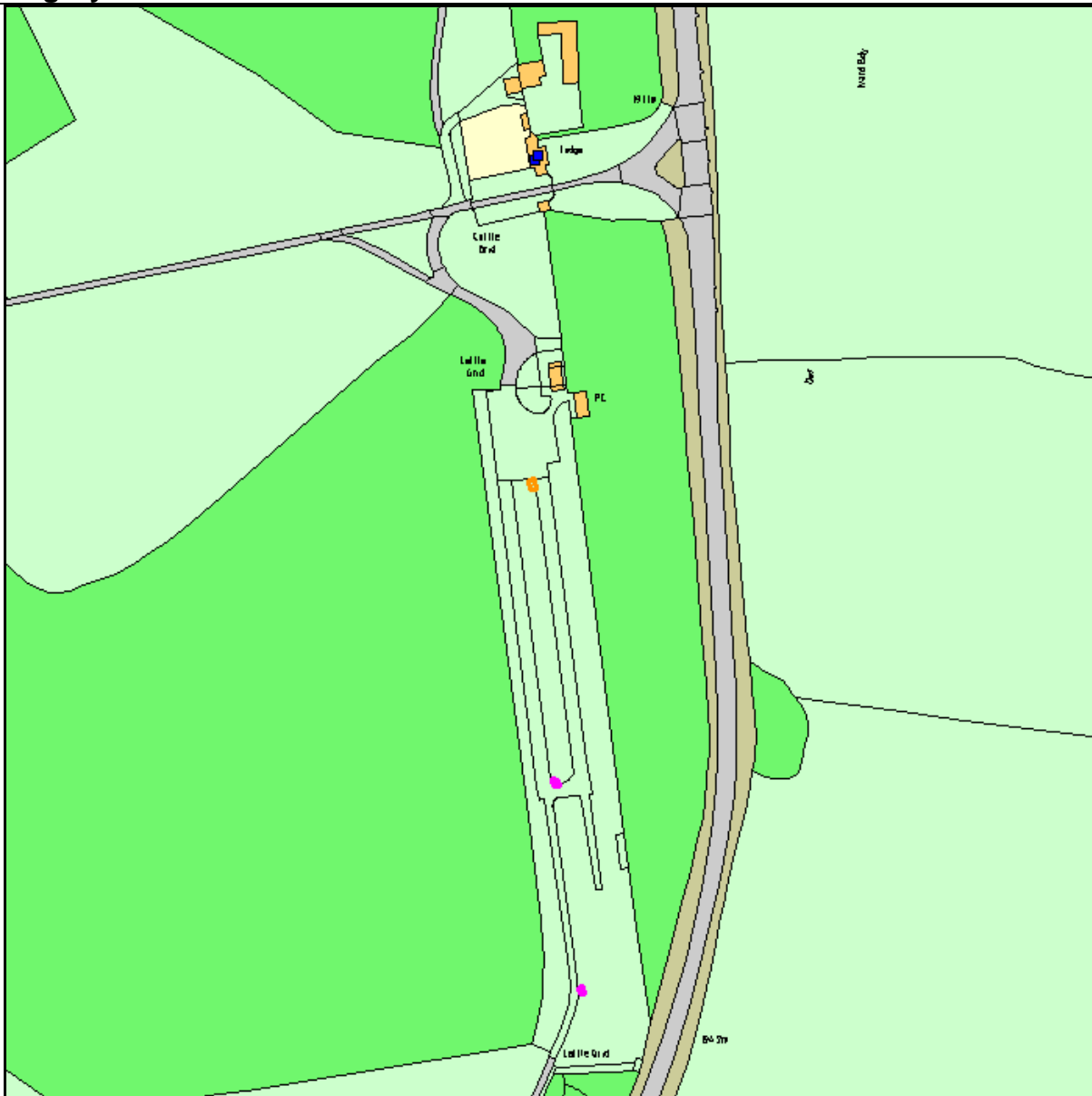
Map Ref: 374178 175771

Ward: Boyd Valley

Application Category: Minor

Target Date: 3rd February 2017

Category:



© South Gloucestershire Council 2007.all rights reserved.
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
100023410, 2008. **N.T.S.** **PK16/6671/ADV**

REASON FOR REPORTING TO CIRCULATED SCHEDULE

The application should be read in conjunction with a Full Planning Application ref. PK16/6672/F, which received objections contrary to officer recommendation. It is felt necessary and for the sake of completeness, to include both application on the circulated schedule as the proposals are linked

1. THE PROPOSAL

- 1.1 The proposal seeks advertisement consent to display 6no pay and display instruction signs at the existing visitor car park of Dyrham Park.
- 1.2 The car park is located off the A46 within part of Dyrham Park; a Grade II* Registered Park and Garden which also contains the Grade I listed Dyrham House, and is within the Cotswold AONB. The machines and posts would be located to the centre of a car park and near to an existing visitor centre at the site which is approximately 700 metres away from Dyrham House.
- 1.3 This application is submitted alongside an full planning application which seeks permission for pay and display machines and timber posts to support the signage (ref. PK16/6672/F)

2. POLICY CONTEXT

2.1 National Guidance

National Planning Policy Framework March 2012

Planning (Listed Buildings and Conservation Areas) Act 1990

The Town and Country Planning (Control of Advertisements) (England) (Amendment) Regulations 2007

2.2 Adopted Development Plans

South Gloucestershire Local Plan (Adopted) January 2006 (saved policies)
T12 Transportation

South Gloucestershire Local Plan Core Strategy Adopted December 2013

CS1 High Quality Design

CS5 Location of Development

CS8 Improving Accessibility

CS9 Managing the Environment and Heritage

2.3 Emerging Development Plan

Proposed Submission South Gloucestershire Policies, Sites and Places Plan (June 2016)

PSP1 Local Distinctiveness

PSP17 Heritage Assets and the Historic Environment

2.4 Supplementary Planning Guidance

Design Checklist SPD (Adopted) August 2007

Shopfronts and Advertisements SPD (Adopted) April 2012

3. RELEVANT PLANNING HISTORY

3.1 No relevant planning history

4. CONSULTATION RESPONSES

4.1 Dyrham and Hinton Parish Council
No comments received

4.2 Sustainable Transport
No objection

Other Representations

4.3 Local Residents
No comments received

5. ANALYSIS OF PROPOSAL

- 5.1 Principle of Development
The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 state that a local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety. The National Planning Policy Framework (NPPF) states that those advertisements which clearly have an appreciable impact on a building or their surroundings should be subject to a local planning authority's detailed assessment. Para. 67 of the NPPF sets out what should form such an assessment, consequently, this application will be considered with regard to amenity and public safety, as well as the advertisements cumulative impact.
- 5.2 Design, Visual Amenity and the Conservation Area
The application would introduce a total of 6no signs; with 2no A4 sized signs installed to 3no timber posts which are to be erected in the visitor car park of Dyrham Park (ref. PK16/6672/F). The signs would provide information to visitors regarding pay and display procedures and National Trust conservation work. They would be of modest dimensions, and would have a design and colour scheme which would be complementary to the surrounding area. With this in mind, it is not considered that the advertisements would result in a detrimental visual impact to the surrounding area.
- 5.3 Public Safety and Residential Amenity
With regard to public safety, a transportation development control officer has been consulted, and has expressed no concerns in relation to transportation. Furthermore, the case officer is mindful that the adverts are of modest scale, located in a car park and are suitable for their use.
- 5.4 The application site is somewhat isolated, and the nearest residential property is approximately 1km from the car park. Accordingly, it is not considered that the proposal would be detrimental to residential amenity, particularly given its scale.

6. CONCLUSION

- 6.1 In accordance with Section 220 of the Town and Country Planning Act 1990 and Regulation 4 of the Advertisement Regulations 1992, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The recommendation to **grant** permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report.

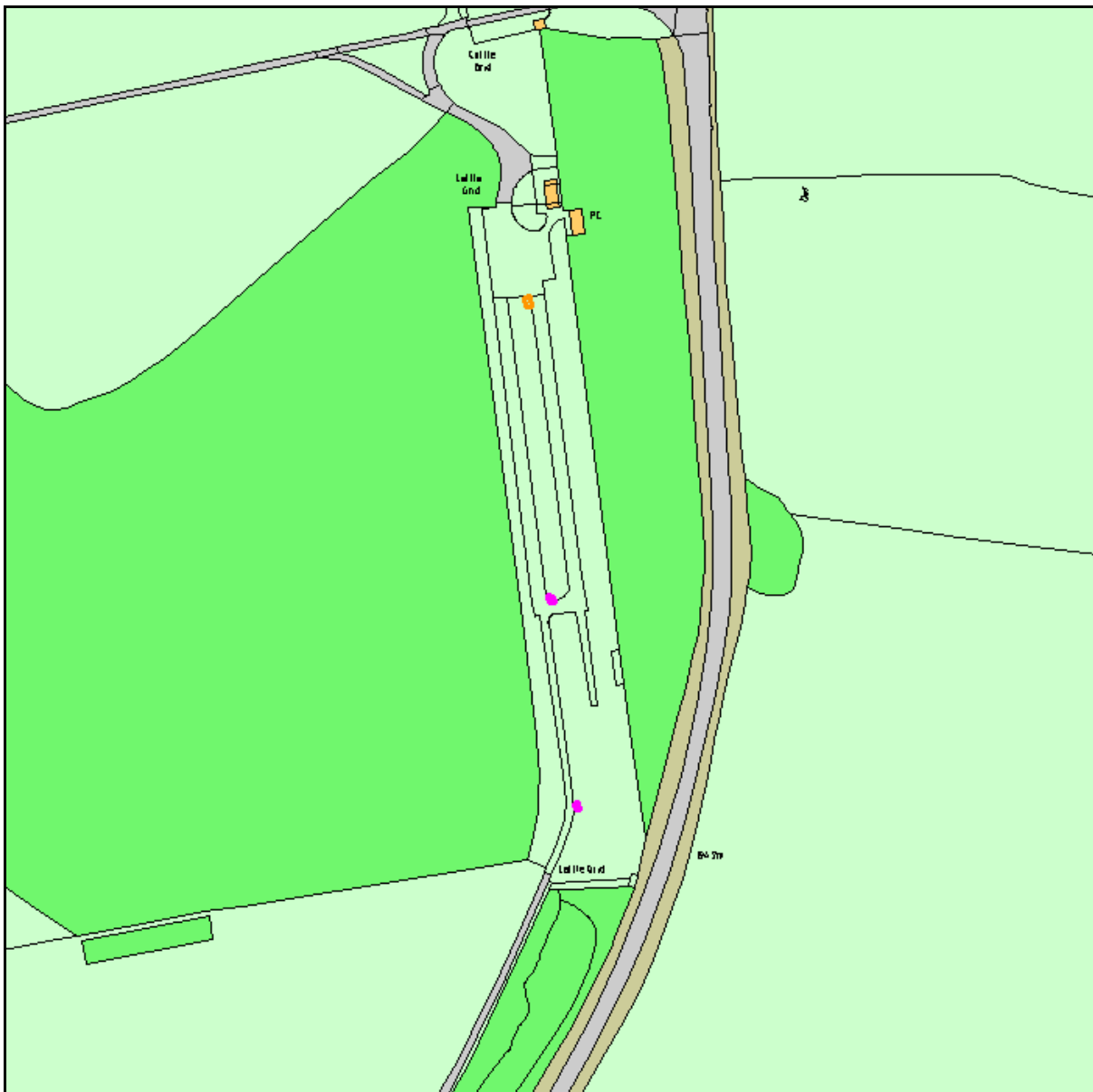
7. RECOMMENDATION

- 7.1 It is recommended that the advertisement consent be **GRANTED** subject to the conditions attached to the decision notice.

Contact Officer: Lucy Paffett
Tel. No. 01454 863436

CIRCULATED SCHEDULE NO. 05/17 – 03 FEBRUARY 2017

App No.:	PK16/6672/F	Applicant:	National Trust
Site:	Dyrham Park Dyrham Nr Bath South Gloucestershire SN14 8ER	Date Reg:	14th December 2016
Proposal:	Installation of 3no. pay and display machines and 3no. timber posts for related signage.	Parish:	Dyrham And Hinton Parish Council
Map Ref:	374178 175771	Ward:	Boyd Valley
Application Category:	Minor	Target Date:	3rd February 2017



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008.

N.T.S.

PK16/6672/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application appears on the Circulated Schedule due to 3no objections from local residents. The application should be read in conjunction with an advertisement consent application PK16/6671/ADV. It is felt necessary and for the sake of completeness, to include both application on the circulated schedule as the proposals are linked.

1. PROPOSAL AND SITE DESCRIPTION

- 1.1 This application seeks full planning permission for the erection of 3no pay and display machines and 3no timber posts to support signage, at the existing visitor car park of Dyrham Park.
- 1.2 The car park is located off the A46 within part of Dyrham Park; a Grade II* Registered Park and Garden which also contains the Grade I listed Dyrham House, and is within the Cotswold AONB. The machines and posts would be located to the centre of a car park and near to an existing visitor centre at the site which is approximately 700 metres away from Dyrham House.
- 1.3 This application is submitted alongside an advertisement consent application relating to signage for the pay and display machines (ref. PK16/6671/ADV).

2. POLICY CONTEXT

2.1 National Guidance

National Planning Policy Framework March 2012
National Planning Policy Guidance 2014

2.2 Adopted Development Plans

South Gloucestershire Local Plan Core Strategy (Adopted December 2013)

CS1 High Quality Design
CS4a Sustainable Development
CS8 Improving Accessibility
CS9 Managing the Environment and Heritage

South Gloucestershire Local Plan (Adopted) January 2006 – Saved Policies

L1 Landscape Protection
L2 Cotswold Area of Outstanding Natural Beauty (AONB)
T12 Transportation

2.3 Emerging Development Plan

South Gloucestershire Local Plan, Proposed Submission: Policies, Sites and Places (PSP) Plan, June 2016

PSP1 Local Distinctiveness
PSP2 Landscape
PSP8 Residential Amenity
PSP17 Heritage Assets and the Historic Environment
PSP38 Development within Existing Residential Curtilages

- 2.4 Supplementary Planning Guidance
South Gloucestershire Design Checklist (Adopted 2007)
Residential Parking Standard SPD (Adopted) December 2013

3. **RELEVANT PLANNING HISTORY**

- 3.1 N3416 Approve with Conditions 12.05.1977
Formation of car park and erection of public convenience: installation of septic tank.
- 3.2 P98/4932/L Listed Building Consent 20.08.1999
Erection of reception building, extension to visitor's toilet block, and widening of existing opening in boundary wall to form new exit.
- 3.3 P98/4936 Approval 20.08.1999
Erection of reception building and extension to visitors toilet block. Extension to existing car park and creation of new exit route.
- 3.4 PK13/1380/F Approve with Conditions 31.05.2013
Erection of timber plant sales shop and associated works.

4. **CONSULTATION RESPONSES**

- 4.1 Dyrham and Hinton Parish Council
No objection

Update

No objection. However, concerns regarding impact of increased parking in Dyrham village.

- 4.2 Archaeology Officer
No objection

- 4.3 Conservation Officer
No objection

- 4.4 Sustainable Transport
No comment.

- 4.5 Highway Structures
No comment

- 4.6 Lead Local Flood Authority
No objection

- 4.7 Avon Gardens Trust
No comments received

- 4.8 Historic England
No comments received

- 4.9 Ecology
No objection

Other Representations

- 4.10 Local Residents
3no objections were received by local residents. Concerns as follows:
- Off-site parking will increase within Dyrham Village
 - No suitable measures could stop additional parking within Dyrham Village
 - The Council should devise plans to control off-site parking as a result of this proposal.

5. ANALYSIS OF PROPOSAL

- 5.1 Principle of Development
CS1 of the Core Strategy seeks that the siting, form, scale, height, massing, detailing, colour and materials of developments are informed by, respect and enhance the character, distinctiveness and amenity of both the application site and its context. It also goes on to state that existing features of landscape and heritage should be safeguarded and enhanced through incorporation into the development. This is similarly reflected in Policies CS9 of the Core Strategy, L2 of the Local Plan and the emerging Policies PSP2 and PSP17, which all seek to conserve and enhance environmental and heritage assets. The proposal accords with the principle of development subject to the consideration below.
- 5.2 Design, Visual amenity and impact on the parkland
The application proposes the installation of 3no modest timber posts and associated 3no pay and display machines, each machine would measure approximately 1.68 metres in height, 0.40 metres in depth, and would have a width of 0.28 metres. The machines would be situated at noticeable positions to the centre of the car park and the applicant has stated that they will be placed next to existing car parking spaces or below trees.
- 5.3 The machines would have a functional appearance, of which their location and design are considered to minimise impact on the landscape and character of the surrounding area. Accordingly, given the above it is not considered that the machines nor timber posts would result in a detrimental impact to their setting or be largely visible to the wider area. The development therefore complies with policies CS1 and CS9 of the Core Strategy, L2 of the Local Plan as well as the emerging PSP1 and PSP2.
- 5.4 Residential Amenity
The application site is isolated with nearest properties approximately 1km away, as such the proposal would not result in any detrimental impact to the residential amenity of nearby occupiers, especially given the scale of the development.
- 5.5 Transport and Parking
Comments received from local residents and the Parish Council raise concerns that the proposal would lead to off-site parking, particularly on narrow lanes within Dyrham Village. Whilst transportation colleagues have no objection to

the proposal, the case officer has since discussed the proposal with Sustainable Transport. It was advised that should this become a problem, the situation would be monitored and appropriate action considered. The case officer is also mindful that, irresponsible or illegal parking on surrounding roads would likely be a civil matter or a matter for the police.

- 5.6 Accordingly, with this in mind, whilst these concerns are understood, no evidence has been provided to demonstrate that the application will be detrimental to highway safety, and no objection is raised to this regard.

6. CONCLUSION

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The recommendation to **grant** permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

- 7.1 That the application be **APPROVED** subject to the conditions attached to the decision notice.

Contact Officer: Lucy Paffett
Tel. No. 01454 863436

CONDITIONS

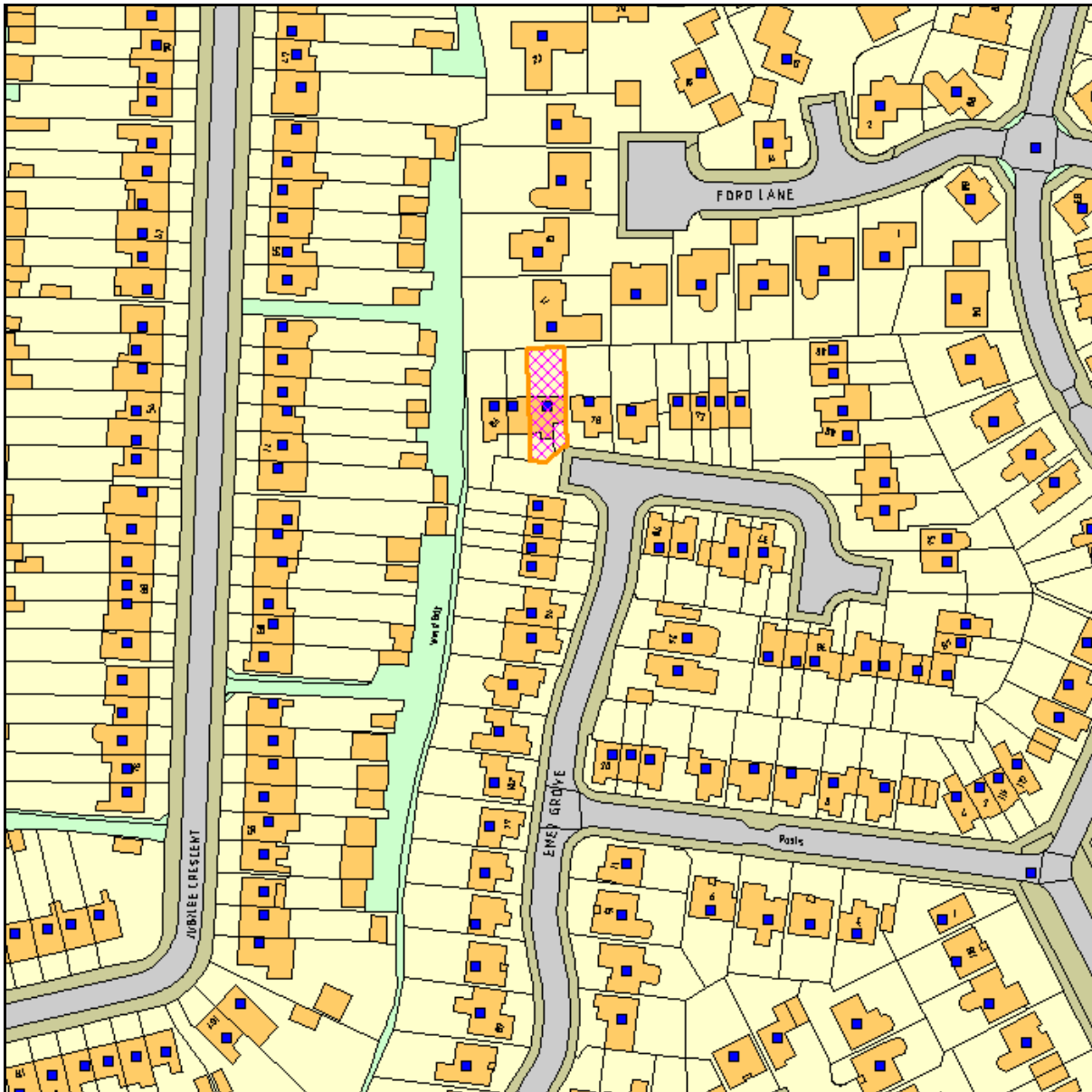
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

CIRCULATED SCHEDULE NO. 05/17 – 03 FEBRUARY 2017

App No.:	PK16/6795/F	Applicant:	Mr And Mrs Ridler
Site:	80 Emet Grove Emersons Green Bristol South Gloucestershire BS16 7EG	Date Reg:	19th December 2016
Proposal:	Erection of first floor side extension to provide additional living accommodation.	Parish:	Emersons Green Town Council
Map Ref:	366547 176919	Ward:	Emersons Green
Application Category:	Householder	Target Date:	8th February 2017



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PK16/6795/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This report appears on the Circulated Schedule following comments from a local resident.

1. THE PROPOSAL

- 1.1 The applicant seeks full planning permission for the erection of a first floor side extension to provide additional living accommodation.
- 1.2 The application sites relates to a modern, two storey, end of terrace dwellinghouse situated within the established settlement of Emersons Green.
- 1.3 During the course of the application revised plans were received to clearly show the proposed parking arrangements.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012
Planning Practice Guidance

- 2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013

- CS1 High Quality Design
- CS4A Presumption in Favour of Sustainable Development
- CS5 Location of Development
- CS8 Improving Accessibility
- CS9 Managing the Environment and Heritage

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)

- H4 Residential Development within Existing Residential Curtilages
- T12 Transportation Development Control Policy for New Development

South Gloucestershire Local Plan: Proposed Submission: Policies, Sites and Places Plan June 2016

- PSP1 Local Distinctiveness
- PSP8 Residential Amenity
- PSP16 Parking Standards
- PSP38 Development within Existing Residential Curtilages

- 2.3 Supplementary Planning Guidance
Design Checklist SPD (Adopted) 2007
Residential Parking Standard SPD (Adopted) 2013

3. RELEVANT PLANNING HISTORY

- 3.1 P97/4487 RM Approved 04/11/1997
Erection of 60No. dwellings, associated garages and works

4. CONSULTATION RESPONSES

4.1 Emersons Green Town Council

No objection, subject to the adequate provision of parking.

4.2 Other Consultees

Sustainable Transport

No detail submitted regarding proposed parking for dwelling.

Update:

Revised block plan submitted. No objection, subject to 3 conditions.

Other Representations

4.3 Local Residents

One local resident, from No. 78 Emet Grove, has commented on this application, summarised as:

- Host dwelling and No. 78 Emet Grove are separated by a metre wide pathway. New paving has recently been laid. Occupiers expect this to be protected and/or replaced by a contractor of their choice, should it or their property be damaged during construction.
- Neighbours would need assistance from host occupiers i.e. to put bins out due to no access to garage door.
- Building work should be carried out in a time frame causing minimum inconvenience.
- Access to driveway needed at all times so it must not be blocked by builders vans or skips.
- Ask that operation hours are kept to 08:30-17:30 and not to include Sundays.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The proposal stands to be assessed against the above listed policies and all material considerations. Of particular relevance is the impact on the existing dwelling and the character of the area in general, the impact on the amenity of the host property and that of its neighbours and the impact on highway safety and on-street parking.

5.2 The proposal is considered to accord with the principle of development and this is discussed in more detail below.

5.3 Design and Visual Amenity

The application site is part of a modern estate within Emersons Green. It is situated in a small cul-de-sac of four houses but surrounded by other residential dwellings. The property benefits from an attached single storey garage to the east side. The proposal would be to introduce a first floor above this existing garage.

- 5.4 The proposed extension would follow the footprint of the garage and would have eaves to match the height of the main dwelling whilst the ridge line would be slightly lower. The roof would be gabled to match the style of the host property. Openings would be in the north and south elevations and materials would be to match the existing property.
- 5.5 In terms of the design, scale, massing and materials that would be to match the existing property, the scheme is considered acceptable and appropriate to the character of the house and the area in general.
- 5.6 Residential Amenity
The proposed extension would be above an existing garage. Openings are proposed in the front and rear elevations only and as such there would be no adverse impact on neighbours directly opposite or to the rear over and above the existing situation. The proposed first floor would be closer to the neighbour at No. 78 but as this neighbour has no openings in the opposing side wall there would be no impact on this property. The proposal would not impact on the amount of garden space serving the property. It is therefore considered that in respect of amenity the proposal is acceptable.
- 5.7 Sustainable Transport
The development proposes to convert the existing garage to provide additional living accommodation. A first floor side extension is also proposed, however, no additional bedrooms are provided and three will remain after development.
- 5.8 Revised plans have been submitted which show that the frontage of the site can accommodate two parking spaces. This level of parking complies with the Council's residential parking standards. There is therefore no transportation objection to the proposed development, subject to 2 conditions securing the parking provision, ensuring they are constructed from a permeable bound surface and limiting any boundary treatment to 0.9 metres.
- 5.9 Other Matters
A next door neighbour is concerned that the work carried out by the occupiers of No. 80 could affect their property, especially during the construction period. This is not part of the planning permission approval process. It is a civil matter between building occupiers.
- 5.10 The same neighbour has put forward suggested working hours for the site. Officers concur that disruption is likely to occur as a result of the building operations and as such, due to the residential nature of the plot, a condition will be attached in order to control of hours of working for noisy operations. However, 07:30 to 18:00 are not considered to be unsociable working hours on weekdays, harmful to residential amenity. The usual hours of operations are, therefore, considered appropriate.

6. CONCLUSION

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in

accordance with the policies of the Development Plan, unless material considerations indicate otherwise.

- 6.2 The recommendation to **grant** permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

- 7.1 It is recommended that planning permission is **GRANTED** subject to the conditions listed below.

Contact Officer: Helen Braine
Tel. No. 01454 863133

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 requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

2. Hours of operation

The hours of working on site during the period of construction shall be restricted to 7:30 to 18:00 Monday to Friday and 8:00 to 13:00 on Saturdays; and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.

Reason

To protect the amenities of the occupiers of nearby dwelling houses, and to accord with saved Policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006; Policy CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted) 2013 and the provisions of the National Planning Policy Framework.

3. Parking

The off-street parking facilities (for all vehicles, including cycles) shown on the Parking Plan (received 12/01/2017) hereby approved shall be provided before the building is first occupied, and thereafter retained for that purpose. The parking area is to be of a permeable bound surface (i.e. no loose stone) and be permanently maintained thereafter.

Reason

To ensure the satisfactory provision of parking facilities and in the interest of highway safety and the amenity of the area, and to accord with Policy CS8 of the South

Gloucestershire Local Plan; Core Strategy (Adopted) December 2013; and the South Gloucestershire Residential Parking Standards SPD (Adopted) December 2013.

4. Front boundary treatment

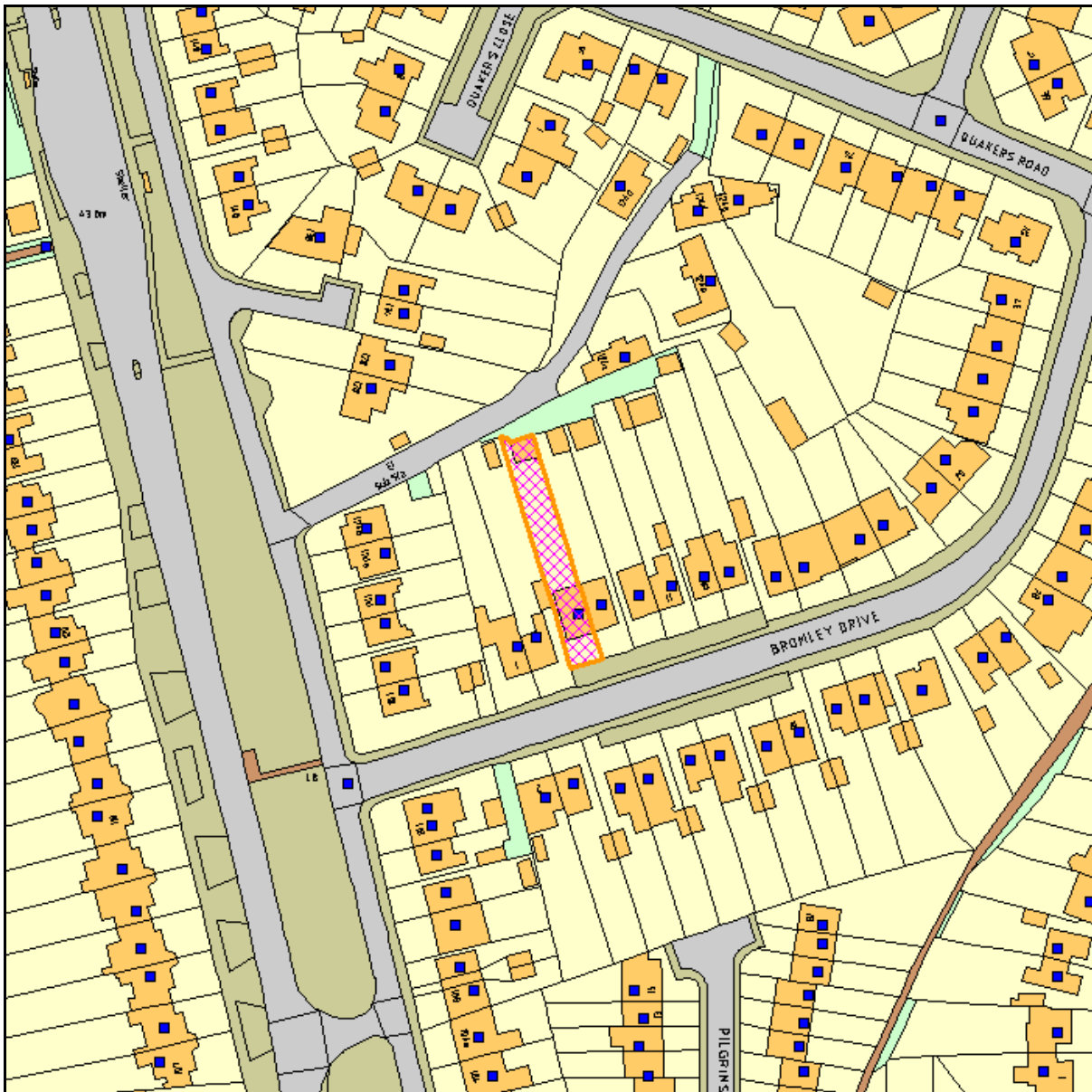
Any boundary treatment to the frontage of the site is to be kept to a maximum height of 0.9 metres and be permanently maintained thereafter.

Reason

In the interests of highway safety, and to accord with Policy CS8 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 and the National Planning Policy Framework.

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PK16/6843/CLP	Applicant:	Mrs Rachel Hall
Site:	5 Bromley Drive Downend Bristol South Gloucestershire BS16 6JQ	Date Reg:	22nd December 2016
Proposal:	Application for a certificate of lawfulness for proposed installation of rear dormer to facilitate loft conversion.	Parish:	Downend And Bromley Heath Parish Council
Map Ref:	364832 177875	Ward:	Downend
Application Category:	Certificate of Lawfulness	Target Date:	14th February 2017



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PK16/6843/CLP

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is for a Certificate of Lawfulness and as such according to the current scheme of delegation it is required to be taken forward under the Circulated Schedule procedure.

1. THE PROPOSAL

- 1.1 The applicant is seeking a formal decision as to whether the proposed erection of a rear dormer at 5 Bromley Drive, Downend would be lawful development. This is based on the assertion that the proposal falls within the permitted development rights normally afforded to householders under the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 1.2 The application is formal way of establishing whether the proposal requires planning permission or not. Accordingly there is no consideration of planning merit, the decision is based on the facts presented.

2. POLICY CONTEXT

2.1 National Guidance

Town and Country Planning Act 1990 (As Amended) 1990 section 192
Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)

The submission is not a full planning application this the Adopted Development Plan is not of relevance to the determination of this application; the decision rests on the evidence that has been submitted. If the evidence submitted demonstrates that the proposed use is lawful on the balance of probabilities, the Local Planning Authority must grant a Certificate confirming the proposed development is lawful against the GPDO.

3. RELEVANT PLANNING HISTORY

No Relevant Planning History

4. CONSULTATION RESPONSES

4.1 Downend and Bromley Heath Parish Council

Objection – Alteration to rear roof line and insertion of Juliet balcony would affect the balance of a pair of semi-detached dwellings.

Other Consultees

No Comments Received

Other Representations

4.2 Local Residents

No Comments Received

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The application for a Certificate of Lawfulness is purely an evidential test and is a formal way of establishing whether or not the proposed development can be implemented lawfully, without the need for planning permission. Accordingly there is no consideration of planning merit, the application is based on the facts presented. This submission is not an application for planning permission and as such the development plan is not of relevance to the determination of this application; the decision rests upon the evidence that has been submitted. If the evidence submitted demonstrates that the proposed use is lawful, on the balance of probabilities, the Local Planning Authority must grant a certificate confirming that the proposed development is lawful. Accordingly any comments received on the application should not affect the outcome of the decision.

5.2 The key issue in this instance is to determine whether the proposal falls within the permitted development rights afforded to the householders under Schedule 2, Part 1 Class B and G of the GPDO (2015).

5.3 The proposed development consists of the introduction of a rear dormer and 2no front rooflights to facilitate a loft conversion. This development would be within Schedule 2, Part 1 Class B of the GPDO (2015), which allows additions etc to the roof of a dwellinghouse provided it meets the criteria detailed below:

B.1 Development is not permitted by Class B if –

(a) Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)

The dwellinghouse was not granted under classes M, N, P or Q of Part 3.

(b) Any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

The proposal would not exceed the height of the highest part of the existing roof.

(c) Any part of the dwellinghouse as a result of the works, extend beyond the plane of any existing roof slope which forms a principle elevation of the dwellinghouse and fronts a highway;

The proposal will be situated to the rear elevation and does not front a highway.

(d) The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than –
(i) 40 cubic metres in the case of a terrace house, or
(ii) 50 cubic metres in any other case

The proposal would be in the region of 25m³.

- (e) It would consist of or include —**
 - (i) the construction or provision of a verandah, balcony or raised platform, or**
 - (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe;**

The proposal includes a 'Juliet Balcony' this, as defined by the 'Permitted Development for Householders Technical Guidance', would not constitute a balcony. The site is not on article 2(3) land and accordingly the extension of the Soil pipe would be in line with the provisions of Schedule 2 Part 1 Class G of the act; so whilst this aspect would not be permitted by Class B, it is permitted by virtue of another class of the GPDO.

- (f) The dwellinghouse is on article 2(3) land.**

The host dwelling is not on article 2(3) land.

B.2 Development is permitted by Class B subject to the following conditions—

- (a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;**

The materials used will be of a similar appearance.

- (b) the enlargement must be constructed so that –**
 - (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension –**
 - (aa) the eaves of the original roof are maintained or reinstated; and**
 - (bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and**
 - (ii) other than in the case of an enlargement which joins the original roof to the roof of a side or rear extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and**

The proposal would be greater than 0.2 metres from the outside edge of the eaves of the original roof and does not protrude beyond the outside face of any external wall of the original dwellinghouse.

- (c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be—**
 - (i) Obscure-glazed, and**

- (ii) **Non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is to be installed.**

The window to the side elevation will be obscured glazed and in excess of 1.7 metres above the floor of the room in which it will be installed.

6. RECOMMENDATION

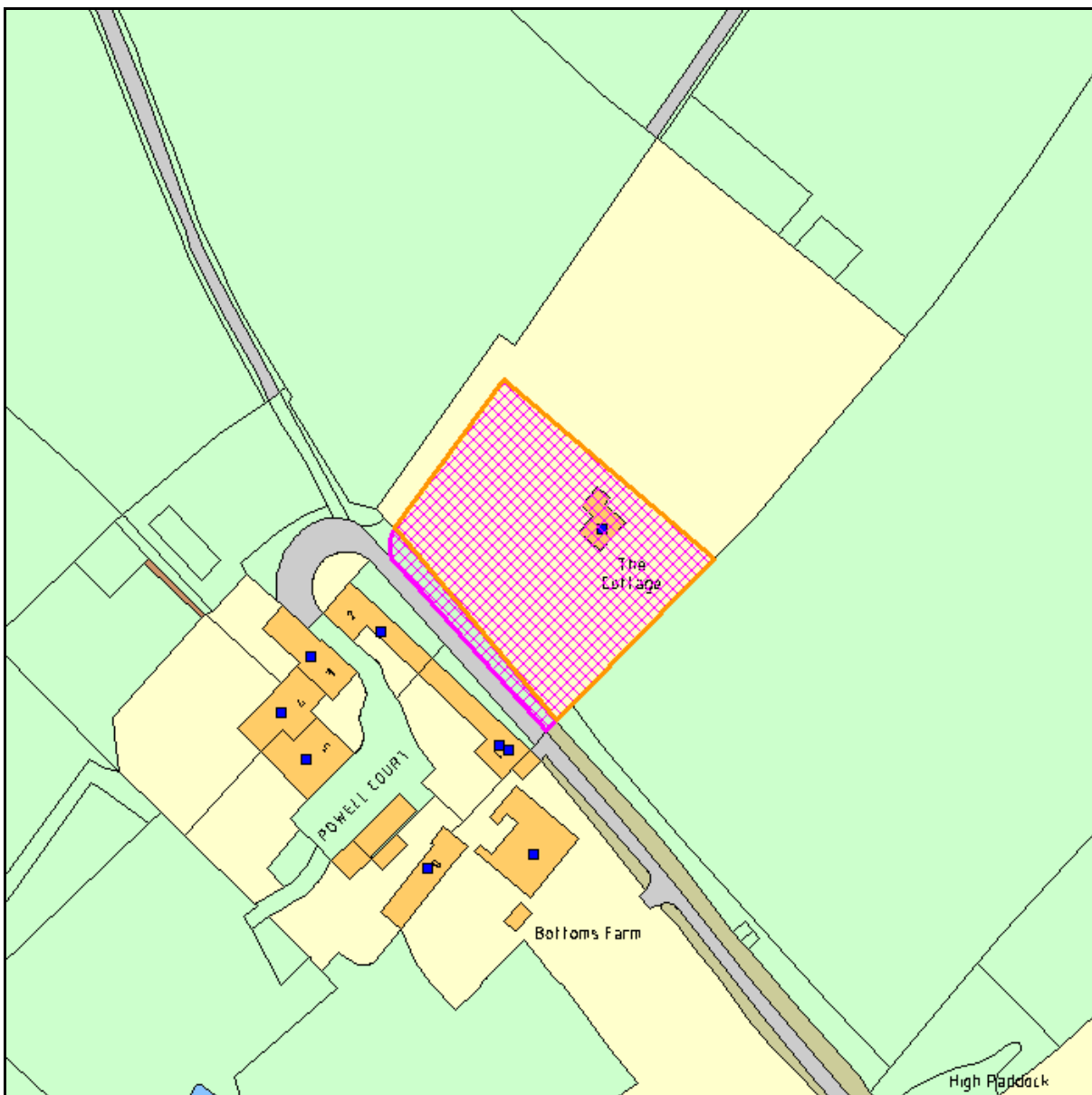
- 7.1 That a certificate of Lawfulness for Proposed Development is **granted** for the following reason:

Evidence has been provided to demonstrate that on the balance of probabilities the proposed extension would within the permitted rights afforded to householders under Schedule 2; Part 1, Class B and G of the Town and Country Planning General Permitted Development Order 2015.

Contact Officer: Hanni Osman
Tel. No. 01454 863787

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PK16/6902/CLP	Applicant:	Mr D Hyde
Site:	Bottoms Farm Cottage Bottoms Farm Lane Doynton South Gloucestershire BS30 5TJ	Date Reg:	23rd December 2016
Proposal:	Application for a Certificate of Lawfulness for the proposed erection of a detached building to form leisure facilities (Class C3). (Resubmission of PK15/4609/CLP)	Parish:	Doynton Parish Council
Map Ref:	371581 174551	Ward:	Boyd Valley
Application Category:	Certificate of Lawfulness	Target Date:	14th February 2017



© South Gloucestershire Council 2007. all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PK16/6902/CLP

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is for a Certificate of Lawfulness, and as such, according to the current scheme of delegation, is required to be taken forward under the Circulated Schedule procedure.

1. THE PROPOSAL

- 1.1 The applicant seeks a formal decision as to whether the proposed erection of a detached outbuilding containing a gym, office, studio, snooker room, pool plant room, changing room with Jacuzzi and a music room together with a 13m by 5m swimming pool would be lawful. The building is proposed as a 'U' shape, five metres wide, with maximum extremities of 20m by 22m, and having ridge height not exceeding 4m. the proposal is located 2.5m from the house This is based on the assertion that the proposal falls within the permitted development rights normally afforded to householders under Class E(a), Part 1 of Schedule II of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 1.2 This application follows a similar application which was refused in 2016. The scheme has evolved with some changes to the internal layout and more detail about the use proposed being shown on the floor plan. The stables and tack room having been removed from eth scheme altogether.
- 1.3 The burden of proof about the proposal rests with the applicant.

2. POLICY CONTEXT

- 2.1 National Guidance
Town and Country Planning (General Permitted Development) (England) Order 2015.

3. RELEVANT PLANNING HISTORY

- 3.1 PK15/4609/CLP Application for a certificate of lawfulness for the proposed erection of a detached building to form stables and leisure facilities and pool. (This contained a gym, shower and changing area, pool service room, snooker room, tack room, four stables and a garden leisure room) Refused for the following reasons:
 - 1 It is concluded that on the balance of probabilities the proposed development could not reasonably be described as for purposes incidental to the enjoyment of the dwellinghouse (Bottom Farm Cottage) due to its scale. The likely uses in relation to the modest size of the dwellinghouse would go beyond that which may be considered incidental. Accordingly, the development would not constitute permitted development within Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.

- 2 The proposal by reason of the height of the building and the height of the eaves level above natural ground level, at the location of the stables, would not remain below 4m and 2.5m respectively. Accordingly, the development would not constitute permitted development within Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.
- 3.2 PK06/0649/F Demolition of existing dwelling. Erection of 1 no new dwelling (Resubmission of PK05/3353/F). Refused 03.04.2006 and appeal dismissed
- 3.3 PK07/1785/F Erection of two and single storey rear extensions with alterations to roof and installation of dormer window to form additional living accommodation. Approved 25.07.2007
- 3.4 PK08/0972/F Erection of two and single storey rear extensions with alterations to roof and installation of dormer window to form additional living accommodation. (Amendment to previously approved scheme PK07/1785/F). Approved 15.05.2008
- This file shows a survey plan with the front door facing the road and the property's drive being to the south of the cottage.
- 3.5 PK09/0270/F Erection of rear conservatory and erection of front porch. Refused 24.03.2009
- 3.6 PK10/1193/F Construction of access track. (Retrospective). Approved 30.07.2010
- 3.7 PK11/2246/F Erection of front porch Refused 26.08.2011 but appeal allowed.
- 3.8 PK12/3344/CLP Application for Certificate of Lawfulness for the proposed erection of a building incidental to the enjoyment of the dwelling house. Approved as it is considered to be permitted development 19.11.2012. (this was in a similar location to the location of the stables in the current building and was significantly smaller)
- 3.9 PK14/0589/F Erection of Alpaca barn in a field to the north of the house Approved 09.06.2014
- 3.10 PK14/3945/F Construction of access track and erection of five bar field gates. Approved 19.12.2014
- 3.11 PK15/1562/F Construction of access track and erection of five bar gate.(Amendment to previously approved scheme PK14/3945/F) Approved 02.06.2015
- 3.12 PK15/1563/F Erection of single storey front extension to form porch and boot room. Approved 15.06.2015

- 3.13 COM/09/5112/BOC Driveway being constructed contrary to approved plans – Closed – Corresponding case

4. CONSULTATION RESPONSES

4.1 Doynton Parish Council

Concerns are reiterated from the previous application.

Concern at its scale and that it would be visible from most of the village.

Concern that it should be a planning application where it is dealt with under normal planning rules not a CLP.

The interpretation of the domestic curtilage of the original cottage used in the application is questionable. We suggest that some of this is land that was added to the garden of the property in recent years. A more realistic view of the domestic curtilage would be the square area immediately around the cottage as marked on the plan by a black line. This would be more appropriate to the size of the original cottage. The proposed development therefore extends outside the domestic curtilage and combined with the dwelling house is also in excess of 50% area of the domestic curtilage. As such it does not meet the criteria for permitted development and requires full planning approval.

We note that the proposed development includes a garden lounge which extends along the full front of the building. Under planning regulations this would clearly be defined as being ancillary use and not incidental use to the dwelling house. Sitting comfortably is something that is done in a normal house. This means that the development does not meet the criteria for permitted development and requires full planning approval.

4.2 Councillors

Cllr Ben Stokes

Concerned that this application is slipping in "under the radar" of the planning process with a re-run of the previous application - which was refused. There does not seem to be material change in size and scale to the previous application. It feels like the application hangs on the grey understanding of what is ancillary to enjoyment. Would we approve if every house with a garden wanted to build in this manner in the Green Belt?

4.3 Legal advice

The cases provided by the applicant do not appear to have been overruled so stand as valid law. Therefore unless their intention indicates anything to the contrary then we should be looking to approve this application.

Other Representations

4.4 Local Residents

Comments from four households, including the Powell Court Management Company were received, opposing the proposal regarding the following matters;

- 1 Do not feel this should be permitted development

- 2 scale is excessive and out of proportion with the existing property which is already extended – it is were placed on the other side of the dwelling its impact would be much reduced
- 3 granting planning permission would set a precedent for similar development in the future
- 4 Concern that leylandii have been planted along the lane, seemingly to screen the development.
- 5 Mature trees will need to be felled
- 6 Visually obtrusive
- 7 Doubtful that it is incidental
- 8 Application simply moved the previous application over a few feet and changed the designation of rooms.
- 9 No in keeping
- 10 Loss of visual amenity.
- 11 the principal elevation of the original dwelling (not that in its current form) was facing Bottoms Farm Lane. If this is recognised it has a material impact on the application. I believe section E1(c) of the Order refers to the 'original dwellinghouse'.

5. **SUMMARY OF EVIDENCE IN SUPPORT OF APPLICATION**

5.1 Plans:

Site Plan 3484 received 20th December 2016
Annotated Floor plan 3484/L2 Rev B
Block plan 3484/L1 Rev B (revised 31/1/2017 to remove erroneous annotation referring to a garden room and gymnasium)

5.2 Supporting document from No.5 Chambers citing cases regarding the interpretation of class E.

The supporting document set out from case law (Secretary of state decision in an appeal decision at [1987] J.P.L. 144), the interpretation of 'purposes incidental to the enjoyment of the dwellinghouse' and finds that the fact that .55(2)(d) refers only to 'incidental' uses is irrelevant. A building in the curtilage may be put to any use which is either a primary use or incidental to such a use.

The supporting document goes on to cite other cases and notes as follows:
In *Uttlesford District Council v Secretary for state for the Environment [1992] JPL 171* – that although the building must be 'required' for the incidental purpose, it is a matter primarily for the occupier to determine what incidental purposes he proposes to enjoy. Whilst a purely commercial purpose would be outside the scope of the permission, a wide range of recreational purposes is within it.

In *Emin v Secretary for state for the Environment [1989] JPL 909* it was held that:

-archery could be a hobby and whilst primarily an outdoor sport, could be practiced in a building and as such, such a building was capable of being incidental to the dwellinghouse

-the Inspector was wrong to find that the large building proposed for archery, billiards and pottery could not be incidental as it provided more accommodation for secondary activities that the dwellinghouse provided for primary activities.

'Objective reasonableness' is raised by citing *Wallington v secretary of State for Wales (1990 62P and CR 150)*, *Holding v First secretary of state [2004 JPL 1405 and the Court of Appeal in Croydon LBC v Gladden[1994] 1 P.L.R.30*.

In *Peche d'or Investiments v secretary of state for the Environment [1995] JPL B63; [1996] JPL311* the High Court held that a curtilage building containing a study or music room, passage, WC and shower facilities was not outside of Class E.

In *Rambridge v Secretary of State for the Environment (1997) 74 R and CR 126* related to use of a building as an annex which was originally sought to be incidental uses. The court expressly rejected the proposition that an owner could build his building for a purpose incidental and then a day later use it for ordinary or primary residential use.

The *Court of Appeal in Secretary of State for the Environment, Transportation and the Regions v Thurrock BC (2002) 2 P.L.R. 43* related to an aircraft hanger which was required for commercial purposes but also for a purpose incidental to the enjoyment of the dwellinghouse as such. This case reiterated the point the development proposed must be required for a purpose or purposes incidental to the enjoyment of the dwellinghouse as such.

The limitations to the class are highlighted and reference is made to article 2(3) land restrictions.

5.3 Supporting document regarding building heights and permitted development rules.

This notes that where the ground is sloping the highest part of the ground next to the building shall be the point of measurement.

5.4 Statement from Mr and Mrs Hyde

This is not made public as it contains personal sensitive information not deemed necessary for public view but the following points were put forward in that statement to support the proposal;

The family of 5 enjoy and pursue all of the interests displayed in their proposed leisure building. They all enjoy being at home together, in privacy and want to enjoy these pursuits in their free time. This layout helps explain how the family fit neatly and sensibly into the proposal how they would like to enjoy their home. They have a large dog and dog walking in a rural area requires a lot of cleaning up after, this is a daily challenge and some of the new facilities will allow this to happen more easily without messing up the house itself.

The drawings show how the rooms will be set out within the building and in relation to the house. They intend to put a pool in that needs the plant room and changing/washing areas.

In addition, the building is designed to wrap around the pool to maintain privacy and also to shield it from cross winds as the site is exposed. The design also encourages and focuses people to sit and socialise around the pool instead of simply being somewhere in the garden.

One of the children has additional needs and learning difficulties, the privacy will also help them relax and enjoy the pursuits which they encourage.

The music room will be extensively used as will the cinema room but they need to keep it away from the house as it might be loud compared to normal TV use and when used by the children it gives them their own space but within the security of the garden of the house. It also allows them to entertain friends and, enjoy social occasions.

The applicant has a creative job and whilst he has a place or work a few miles away a small studio in the leisure building for the family to enjoy and encourage their creativity is desired. There would be no visitors apart from family and friends as this is not desired or necessary for work purposes.

The applicant simply wants to make the most of their home and provide his young family the enjoyment that the leisure building can provide where all of their favourite pursuits can be enjoyed together in privacy.

The applicant states that they have a lot of land, although the house itself is not particular large or spacious beyond the normal everyday things like sleeping, washing and eating. The leisure building simply is part of the enjoyment of the home but using space that they do not have currently.

6. EVALUATION

- 6.1 The application is for a Certificate of Lawfulness for a proposed building and as such is purely an evidential test and a formal way of establishing whether or not the proposed development can be implemented lawfully without the need for planning permission. Accordingly there is no consideration of planning merit. The decision is based on the facts presented as to whether or not the proposal meets the criterion set out in Class E. **The submission is not a planning application and as such the Development Plan (with its polices regarding visual/residential amenity, Green Belt, noise, access) is not of relevance to the determination of this application.** If the evidence submitted demonstrates that the proposed development is lawful, on the balance of probabilities, the Local Planning Authority must grant a certificate confirming this.
- 6.2 Although objection comments have been received, given the type of application, only objections regarding the validity of the application in relation to the legislation Town and Country Planning (General Permitted Development) (England) Order 2015 can be taken into account. There is no consideration of planning merit.

- 6.3 The key issue is to determine whether the proposal falls within the permitted development rights afforded to householders under Class E(a), Part 1 of Schedule II of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 6.4 The plans demonstrate that:
The building is not attached to the house
The area covered is only a small portion of the domestic garden around the house.
No part of the building will be forward of the principal elevation of the original dwelling(1948)
The building will only have one storey and the ridge not exceed 4m.
The building will be further than 2 metres from any domestic curtilage boundary.
- 6.5 The site consists of a dwellinghouse and its curtilage, and there is no evidence to indicate that the permitted development rights have been removed as the house appears to pre-date the introduction of the planning system. Notwithstanding this the land now associated with the dwelling appears to have grown over years since its form in 1991 which is considered later in the report at paragraph 6.19. Officers are satisfied that on the balance of evidence presented the development would take place within the residential curtilage.
- 6.6 For the purposes of Class E the Order identifies that “purposes **incidental** to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.’
- 6.7 Case law relating to matters not considered incidental relates to the overprovision of a particular use such that its function becomes more ancillary to the function of the dwelling or a separate planning unit, rather than an incidental use of the dwelling.
- 6.8 This proposal is for a total of 247.5m² of building with an additional 65m² open air swimming pool. The building is made up as follows: 35m² music room, 50m² snooker room with cinema area, 25m² pool service room, 27.5m² shower/changing facilities and 45m² gym and 40m² studio and storage area and 25.5m² office area included within the garden area. This compares to an extended house footprint of around 127m². As such the proposal is disproportionate to the footprint size of the extended dwelling. In its favour the proposal is located only 2.5 metres from the house and as such is very well related to the original house.
- 6.9 Guidance in the GDPO does not provide a definition of incidental and as such it is right to consider case law. This would suggest that the sheer physical extent of buildings/uses proposed or being carried out while complying with the physical limitations in the GDPO may be considered to take the development out of the definition of “incidental”. The 1989 case *Emin v SOS* concerning buildings that were to be erected providing facilities for archery, table tennis, billiards and pottery. A determination was sought as to whether planning permission was required.

At appeal the SOS had considered that the archery use was not one that could be considered as incidental having the characteristics of a sport and none of the features of a pastime normally conducted within the confines of a dwelling. The sheer size of the buildings, which had a lavish and almost institutional aspect to them, went beyond the type of development envisaged in the Order as being incidental. The High Court agreed that the term "incidental to the enjoyment of the dwelling house" should not rest solely on the unrestrained whim of a householder and there should be some connotation of reasonableness in the circumstances of each case.

6.10 **Analysis to determine whether the proposed out-building can be described as being incidental to the enjoyment of the dwellinghouse.**

In *Emin v Secretary of State for the Environment and Mid-Sussex County Council, QBD, 1989, 58 P&CR* there were two schemes for buildings in the curtilage of a dwellinghouse. The first was to accommodate a utility room and garden/games room. The second was for archery, billiards and pottery. In the judgement Sir Graham Eyre QC refers to the need to address "*the nature of the activities to be carried on in the proposed building to ensure that they are incidental or conducive to the very condition of living in the dwellinghouse.*" He explained that the scale of those activities is an important matter and "*in that context the physical sizes of buildings could be a relevant consideration in that they might represent some indicia as to the nature and scale of the activities.*" "*When a matter is looked at as a whole, size may be an important consideration but not by itself conclusive.*" Whilst it is a matter primarily for the occupier to determine what incidental purposes they propose to enjoy, an objective test of reasonableness should be applied having regard to the circumstances of a particular case. Whether a building is required for a purpose associated with the enjoyment of the dwellinghouse "*cannot rely on the unrestrained whim of he who dwells there.*" **It was considered that the test to be applied is whether the use of the proposed buildings, when considered in the context of the planning unit, are intended to be, and will remain, incidental or subordinate to the main use of the property as a dwellinghouse.**

- 6.11 During the previous application PK15/4609/CLP it is was considered that *Emin* would support the concern in relation to the scale of the proposals at that time which included a 50m² garden lounge, 25m² plant room and 45m² gym without justification as to their scale or reason. In this application the detail set out in the proposal shows how each of the rooms might be laid out and it is considered that this is a reasonable, and not over large expectation of each incidental use.

It is accepted that the uses proposed can reasonably be classed as incidental to the use of the dwellinghouse given the nature of the family and their desire for enjoying the home environment together. Even though the proposed uses of the building might of themselves be classed as being incidental in a more modest building, the test to be applied is whether the use of the proposed buildings, when considered in the context of the planning unit, is intended to be

- or would remain incidental or subordinate to the main use of the property as a dwellinghouse. It is also recognised that the building is located very close to the house and this further establishes the incidental uses proposed by the applicant as part of their home.
- 6.12 At 167 Hempstead Road, Kent (APP/A2280/X/12/2174843) where an Inspector declined to issue a lawful development certificate for an outbuilding, finding that it would go beyond a purpose incidental to the enjoyment of a dwelling. The single-storey outbuilding was proposed to have a footprint of 64 sqm and comprise three rooms consisting of a store for gardening equipment, a room to be used as a children's play area and a workshop. The Council their expressed concern about the layout and the potential for the outbuilding to be used for business purposes. The Inspector was not convinced that such large areas were necessary for workshop and storage purposes and took the view that they went beyond what would be reasonably necessary for a domestic and hobby workshop or for the storage of material and equipment associated with household and garden maintenance. In this current application the layout shows and justifies the scale of the proposed incidental uses.
- 6.13 At Eight Acre, Harpenden (APP/B1930/X/07/2061614) the Inspector allowed an appeal and granted an LDC for an outbuilding to contain a swimming pool, a room for snooker, gym and play area and a bbq area. The building's footprint of 397 square metres would be more than four times larger than the host dwelling. The Inspector found that the proposed uses were typical, every day pursuits. He considered that the building would not be disproportionate to what was required to house the proposed uses. Whilst this case shows that the size of the outbuilding was four times larger than the host dwelling the proposed uses meant that the size was considered necessary. This supports the current proposal given that this proposal shows how or why such room sizes are necessary and each of the uses are also typical every day pursuits.
- 6.14 At Bottoms Farm Cottage there is justification, in this application, as to why such large floor areas are necessary and cumulatively each aspect of the building is explained.
- 6.15 At Longford Lane, Gloucester (APP/U1620/X/11/2160151) the Inspector held that the floorspace of the uses proposed within the outbuilding (gym, Jacuzzi, garage, workshop) were of a size that one would expect to find in a domestic setting and that the activities fell into the category of uses incidental to the enjoyment of the dwellinghouse. The circumstances of that case are considered to be directly applicable to the circumstances of this proposal as the applicants of this case have shown in plan form how such space is necessary.
- 6.16 An appeal decision at 253 Shinfield Road, Reading (APP/X0360/X/08/2064662) explains that a Certificate of Lawfulness was sought for an incidental outbuilding comprising a snooker/gym room, WC and shower and a double garage. The Inspector noted that the resulting building, measuring 184 sqm would double the amount of accommodation in the existing dwelling.

This applicants proposal for similar facilities is more confined and, again justified in terms of the layout of the gym and snooker room. As such this case is not considered to conflict with the current application.

6.17 Conclusion

The cases pointed to by the agent indicate that it is reasonable to take each of the uses as being incidental. The applicant has stated that the facilities proposed are purely intended for the use of the whole family and not for commercial purposes. Cases identified by both the applicant and the officer indicate that whether the proposal is for an incidental purpose, is a matter primarily for the occupier to show and to demonstrate what the needs of that incidental purpose(s) are. This is shown with the detailed layout indicated for each of the rooms and whilst the Council cannot expect it to be set out exactly as such it does demonstrate that the uses require a certain scale of floor space to accommodate such incidental facilities. The application acknowledges that a purely commercial purpose would be outside the scope of the application and in their supporting information it clearly states that the leisure building, including the studio is not for commercial purposes but for the whole family to use. The applicant has no need or desire to bring the public or clients to his home. The applicant has stated that the building is for the enjoyment of the family and based on the reasoning above, it is considered that due to the additional information in written and pictorial form the proposed uses would be incidental and reasonably necessary for each of the proposed uses for the family residing at Bottoms Farm Cottage.

Whilst the resulting building is larger than the footprint of the house's floor plans case law shows that this is not in itself reason to deny a Class E building where the scale of the building is justified by the uses proposed. On the balance of the evidence therefore the proposal is considered to fall within the remit of Class E given that it is accepted that the uses would be incidental to the enjoyment of the dwellinghouse and the rooms sizes for each of the proposed incidental uses area considered reasonable.

6.18 The remainder of the report considered whether the building meets the remaining criteria of Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.

6.19 Permitted Development:

Permitted development Class E(a), Part 1 of Schedule II of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows for the following:

E. The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

Development not permitted

E.1 Development is not permitted by Class E if—

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

The dwelling house is a longstanding house not granted under these parts of the Schedule. Therefore it is entitled to use its permitted development rights.

- (b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

Aerial photography indicates that the original domestic garden may not have included the area fenced off and planted on the Council's aerial photo of 1999. The aerial photo dated 2005 appears overgrown and new planting appears to be protected. At that point in time the curtilage would have been more than enough to accommodate the requirements of (b). Further to this the curtilage of the house was extended by new drive way works as indicated as part of PK08/0972/F, which were previously part of the field to the northeast of the site and by the enclosure of land south of this which has been accepted as part of the domestic curtilage. This was also accepted as curtilage for the previous certificate of lawfulness application PK12/3344/CLP for a smaller incidental building.

In conclusion the 493m² combined footprint of the extended house and the proposed pool and building are easily less than half of the curtilage.

- (c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

The principal elevation of the dwellinghouse changed on the erection of the extension under PK08/0972/F.

The principal elevation of this property is now considered to be that facing northwest over the new drive. This being because the front door faces northwest together with the drive giving access to the road and associated parking area. Paragraph (c) does not refer to the *original principal* elevation of the original dwellinghouse – simply the *principal* elevation of that house. As such the owners benefit from having more domestic curtilage behind the principal elevation.

- (d) the building would have more than a single storey;

The building is only single storey

- (e) the height of the building, enclosure or container would exceed—

- (i) 4 metres in the case of a building with a dual-pitched roof,
- (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
- (iii) 3 metres in any other case;

In the previous application it was considered that the roof height would likely run above four metres high when measured from certain ground points and formed a refusal reason as such. However, it is noted that the April 2016 'Permitted development rights for householders - Technical Guidance' advises that '*references to height ... is the height from ground level. ... Where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building.*'

The agent advises that 'the new roof will not exceed four metres' and provided that this is the case at the highest part of the land then, this meets the criterion (e) above. No objection can be raised in this regard.

- (f) the height of the eaves of the building would exceed 2.5 metres;

For the same reasons as those found in (e) above the height of the eaves is considered to meet the criteria (f). No objection can be raised in this regard.

- (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

The property is not located in the curtilage of a listed building.

- (h) it would include the construction or provision of a verandah, balcony or raised platform;

No verandah, balcony or raised platform is advised

- (i) it relates to a dwelling or a microwave antenna; or

The proposal is not shown to be a dwelling or a microwave antenna

- (j) the capacity of the container would exceed 3,500 litres.

The development is a building not a storage container.

Development is also restricted in an Area of Outstanding Natural Beauty, the Broads, a National Park or a World Heritage Site, but the site does not fall within any of those amenity areas.

6. **RECOMMENDATION**

- 6.1 That a Certificate of Lawfulness for Proposed Development is Approved for the following reason:

On the balance of probabilities the proposed development is for purposes incidental to the enjoyment of the dwellinghouse (Bottom Farm Cottage) and is

reasonably scaled for those activities within a building which meets the criterion of Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.

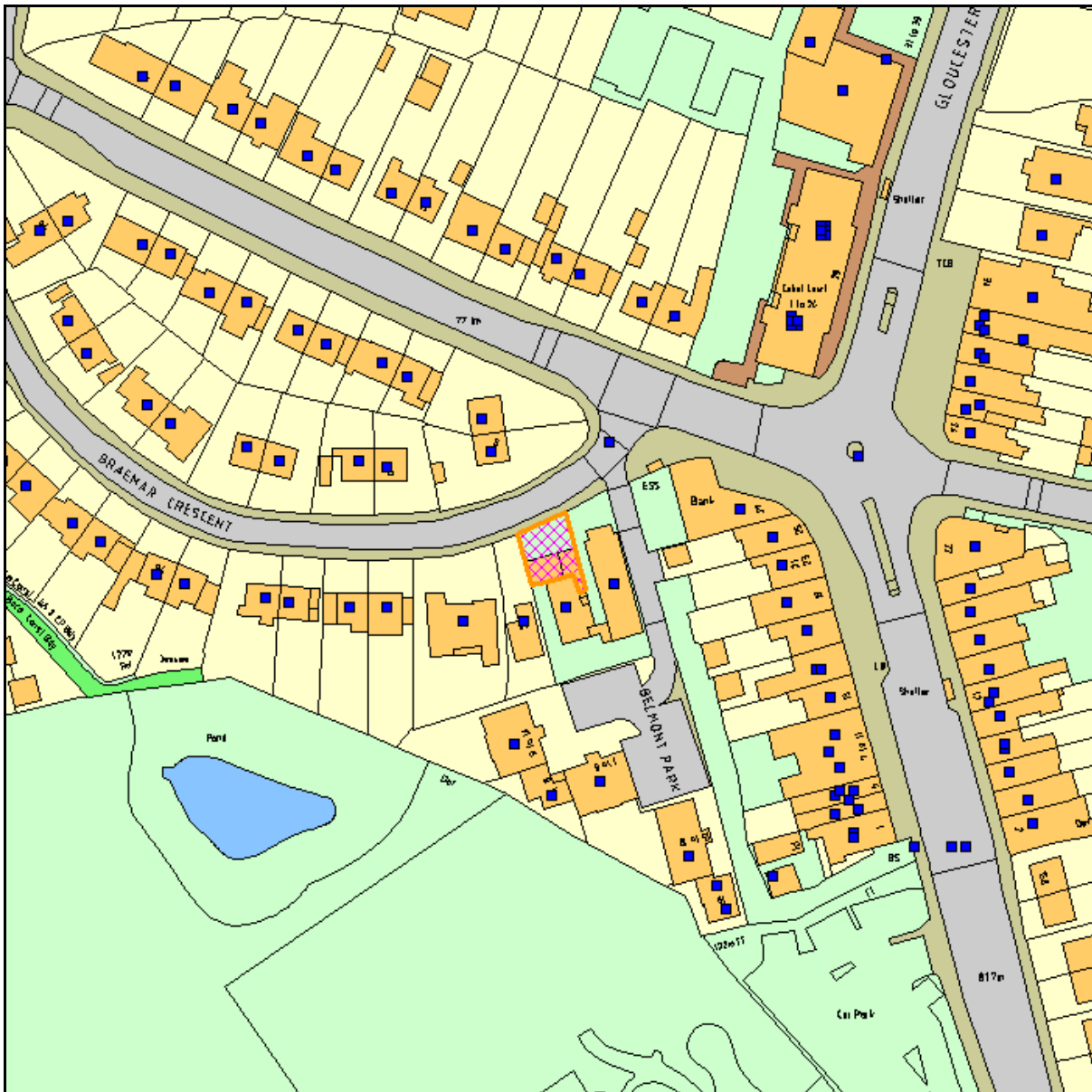
Contact Officer: Karen Hayes
Tel. No. 01454 863472

CONDITIONS

1. Evidence has been provided to demonstrate that on the balance of probabilities the proposed development is for purposes incidental to the enjoyment of the dwellinghouse (Bottom Farm Cottage) and is reasonably scaled for those activities within a building which meets the criterion of Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.

CIRCULATED SCHEDULE NO. 05/17 – 03 FEBRUARY 2017

App No.:	PT16/5693/F	Applicant:	Mr Richard Heal
Site:	The Old Post Office Braemar Crescent Filton Bristol South Gloucestershire BS7 0TD	Date Reg:	8th November 2016
Proposal:	Change of use from hairdressers (use class A1) to MOT for motorcycles (use class B2)	Parish:	Filton Town Council
Map Ref:	359816 178202	Ward:	Filton
Application Category:	Minor	Target Date:	30th December 2016



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PT16/5693/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application appears on the Council's Circulated Schedule list following letters from members of the public which are contrary to the officer recommendation in this report.

1. THE PROPOSAL

- 1.1 This application seeks planning permission to convert a vacant unit known as The Old Post Office on Braemar Crescent, last used as a hairdressers (use class A1), into a motorcycle MOT garage (use class B2).
- 1.2 During the course of the application, the applicant submitted a noise assessment survey to support the application.
- 1.3 The site is situated in an established residential area in the North Bristol Urban Fringe. It is noted that the site is not within a primary or secondary shopping parade. The community hall immediately to the east is a locally listed building.

2. POLICY CONTEXT

2.1 National Guidance

National Planning Policy Framework March 2012
National Planning Practice Guidance

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006(saved policies)

RT8 Small Retail Uses within the Urban Area
RT11 Local Shops and Parades
T7 Cycle Parking
T8 Car Parking
T12 Transport Development Control Policy for New Development.
L15 Locally Listed Building
EP4 Noise Sensitive Development

South Gloucestershire Local Plan Core Strategy adopted December 2013.

CS1 High Quality Design
CS5 Location of Development
CS14 Town Centres and Retail
CS25 Communities of the North Fringe Urban Area
CS9 Environment and Heritage

2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist (Adopted)

3. RELEVANT PLANNING HISTORY

- 3.1 PT08/3028/F Refusal 14/01/2009
Change of use of existing post office to residential use (Re-submission of PT08/0287/F)

Refusal reasons:

1- The proposed development, by reason of the poor standard of building to be converted, proposed design and relationship with the surrounding land uses, would comprise a poor quality layout that would fail to provide adequate privacy and residential amenity to the occupants of the development. The proposal is therefore considered to be contrary to Planning Policies D1, H2 and H5 of the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist (Adopted) Supplementary Planning Document.

2- It is considered that the proposed parking/ bin storage area would appear out of keeping with the other surrounding residential properties and would detract from the visual amenities of the locality. The proposal is therefore considered to be contrary to Planning Policies D1, H2 and H5 of the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist (Adopted) Supplementary Planning Document.

3 - The plans received in respect of this submission contain a number of anomalies which are considered to impact upon the accurate assessment of this proposal. The application is therefore considered to be contrary to Planning Policies D1, H2 and H5 of the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist (Adopted) Supplementary Planning Document.

- 3.2 PT08/0287/F Refusal 06/03/2008
Demolition of existing building to facilitate the erection of 2 no. residential units, creating a flat with maisonette above.

Refusal reasons:

1 - The proposed dwelling units , by reason of their design and external appearance, would be out of keeping with the nearby properties and, if allowed, would have a detrimental effect on visual amenities of the locality. The proposal is therefore considered contrary to Policy H2 and D1 of the South Gloucestershire Local Plan; and the adopted South Gloucestershire Design Guide (SPD).

2 - The proposed dwelling units by virtue of the appearance of the car parking area and bin storage area would detract from the visual appearance of the street scene. The proposal is therefore considered contrary to Policy H2 and D1 of the South Gloucestershire Local Plan; and the adopted South Gloucestershire Design Guide (SPD)

4. CONSULTATION RESPONSES

- 4.1 Filton Town Council
No comment.

4.2 Other Consultees
Environmental Protection
Objection.

Community Enterprise
No comment.

Transport
No objection subject to dropped kerbs being installed.

Listed Building officer
No comment.

Other Representations

4.3 Local Residents
Five letters of objection have been received stating the following:

- Traffic and parking is already a major issue in the area
- Noise, odour and air pollution from a motorcycle MOT shop is not welcome
- Nature of business does not fit in with residential area
- Value of nearby property affected
- High family population in area will be affected
- Window of adjacent house overlooks site
- Most residents are unaware of the proposal and should have been informed
- Negative impact on visual amenity due to prominent position
- Existing motorcycle business is within a few hundred metres
- Adjacent community building is used by pensioners and this local service will be affected
- Support comments do not live in the area
- Why has building work started on this listed building?

Eleven letters of support have been received stating the following:

- Have been a customer for many years, a good honest local business
- Motorcycle MOT service shops are few and far between these days
- This is an existing small local business and not a new one, trading since the 1970s
- The customers have run of the mill motorcycles and it will not be a noisy or unruly stop off
- Would the residents prefer a run down crumbling building, or a residential development instead?

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development
Policy RT11 allows for the change of use of existing retail premises within local shopping parades provided that:

- it does not result in an over concentration of non-shop uses in the centre to the detriment of the vitality, viability, retail and social function of that centre, OR

- there are alternative retail facilities in the locality, OR
 - it can be demonstrated that the premises would be capable of supporting a retail use, AND
 - it would not result in unacceptable environmental or transportation effects, nor would it prejudice residential amenity
- 5.2 The site is adjacent to Gloucester Road North, which has a number of alternative retail units, and considering the location on Braemar Crescent which is primarily residential, it is not considered that there will be any harm to vitality or viability. Furthermore, the building has been empty for some time. The development is therefore acceptable in principle subject to the assessment below.
- 5.3 Design and Heritage
Policy CS1 insists on a high quality design to ensure that development does not harm the visual amenity of an area. The application proposes only a change of use, and no external changes are proposed, and therefore there is no significant impact on the character of the area, nor the adjacent locally listed building. Contrary to a comment received from a local resident, the building proposed to change use is not a listed building. The development is considered to be acceptable in terms of policy CS1 of the Core Strategy and policy L15 of the Local Plan.
- 5.4 Transport
Due to the modest floor space of the building (around 67 square metres) the change of use is unlikely to cause a significant change in travel demand patterns, or parking requirements. The Transport officer does recommend that dropkerbs should be installed to allow for better access to the existing parking area to the front of the building, and this could be conditioned as a Grampian condition on the decision notice. The applicant would need to apply to Street Care separately to drop the kerb. Subject to this condition, there is no objection to the proposed development from a transportation perspective.
- 5.5 Environmental Impacts on Residential Amenity
The application site is in a predominately residential area, with principal windows just metres from the proposed motorcycle MOT testing, which is an industrial process (use class B2). In order to support the application, the applicant has submitted a noise report, however the information provided is rather limited, and does not specifically include noise levels for motorcycle service, repair and testing. The Council's Environmental officer has raised an objection and it is considered that the noise levels expected from motorcycle repair and testing are usually in excess of those detailed within the report, particularly as the motorcycles will vary in size, capacity and age. Comments stating that only standard motorcycles that won't be that noisy will be serviced cannot be enforced once permission is granted. Even short periods of revving can cause significant disturbance, and given the close proximity to residential dwellings, the development is found to be contrary to policy CS1 and CS9 of the Core Strategy, policy EP4 of the Local Plan and the National Planning Policy Framework.

5.6 Other Issues

A number of support comments have been received stating that the business is a local one which should be supported, and that the business has been established since the 1970s. Whilst this is noted, the business has not been established at this site previously, and the introduction of a noise intensive industrial use within the residential area is not policy compliant.

6. CONCLUSION

6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.

6.2 The recommendation to **refuse** permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

7.1 That planning permission is **REFUSED** for the reason(s) on the decision notice.

Contact Officer: Trudy Gallagher

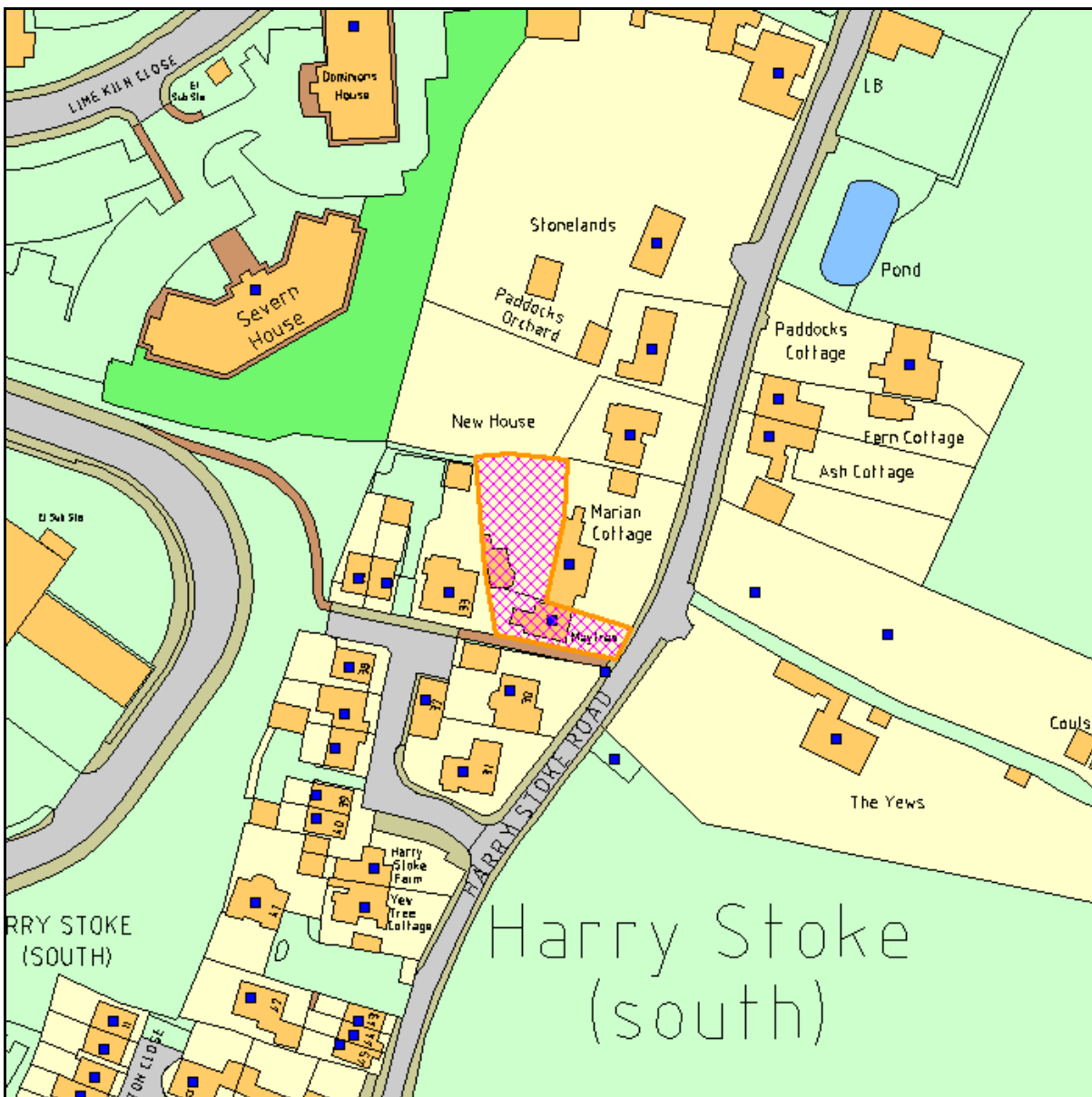
Tel. No. 01454 862217

REFUSAL REASON

1. The proposed development, if approved, would result in a noise intensive industrial use in a predominantly residential area, to the detriment of the residential amenity of the surrounding occupiers. This would be contrary to policy CS1 and CS9 of the South Gloucestershire Core Strategy (Adopted) December 2013, policy EP4 of the Local Plan (Adopted) January 2006 and National Planning Policy Framework.

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PT16/6280/F	Applicant:	Mr Nick Smith
Site:	Maytree Harry Stoke Road Stoke Gifford South Gloucestershire BS34 8QH	Date Reg:	1st December 2016
Proposal:	Conversion of existing outbuildings to form residential annexe ancillary to main dwelling.	Parish:	Stoke Gifford Parish Council
Map Ref:	362070 178883	Ward:	Frenchay And Stoke Park
Application Category:	Householder	Target Date:	23rd January 2017



© South Gloucestershire Council 2007. all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PT16/6280/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is to appear on Circulated Schedule due to a receipt of an objection from Stoke Gifford Parish Council.

1. THE PROPOSAL

- 1.1 This application seeks planning permission for the conversion of existing outbuildings to form residential annexe ancillary to the main dwelling.
- 1.2 The application site relates to a two storey semi-detached cottage, situated on the west side of Harry Stoke Road and in the defined Stoke Gifford settlement boundary. The property benefits from a large L-shaped plot, with a large garden that extends to the north.
- 1.3 There is a large existing outbuilding which has developed over the years, with various additions and alterations. It is proposed to remove the conservatory, 'square-up' the building and slightly increase the ridge height of the roof in order to convert the building into ancillary residential accommodation for an elderly relative who requires additional care and single storey living accommodation.
- 1.4 During the course of the application, the Sustainable Transportation Officer requested additional information in respect of the size of the proposed parking area. The applicant subsequently submitted an additional plan and the Officer has confirmed that the proposed parking area is acceptable, removing their initial objection.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012
National Planning Policy Guidance

- 2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013

- CS1 High Quality Design
- CS4A Presumption in Favour of Sustainable Development
- CS5 Location of Development
- CS8 Improving Accessibility
- CS9 Managing the Environment and Heritage
- CS25 Communities of the North Fringe of Bristol Urban Area

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)

- H4 Residential Development within Existing Residential Curtilages
- T12 Transportation Development Control policy

South Gloucestershire Local Plan: Proposed Submission: Policies, Sites and Places Plan June 2016

- PSP1 Local Distinctiveness

PSP8 Residential Amenity
PSP11 Transport Impact Management
PSP16 Parking Standards
PSP38 Development within Existing Residential Curtilages

- 2.3 Supplementary Planning Guidance
Design Checklist SPD (Adopted) 2007
Residential Parking Standard (Adopted) 2013

3. RELEVANT PLANNING HISTORY

None related to the application site, but a relevant recent application at the attached neighbouring property Marian Cottage:

- 3.1 PT16/4265/F Erection of front and side extensions and alterations to raise the roofline to provide additional living accommodation. Demolition of existing garage and erection of replacement double garage.
Approved

4. CONSULTATION RESPONSES

- 4.1 Stoke Gifford Parish Council
Objection – Parish Council expressed concern that the increased floor area and the incongruous design of the conversion result in an overbearing impact floor on the two adjacent stone cottages. In addition there are concerns about the suitability of additional car parking adjacent to a public right of way and several recent or projected housing developments.
- 4.2 Open Spaces Society
No comment received.
- 4.3 Public Rights of Way
No objection.
- 4.4 Sustainable Transport
No objection.
- 4.5 Tree Officer
No objection.

Other Representations

- 4.6 Local Residents
No comments received.

5. ANALYSIS OF PROPOSAL

- 5.1 Principle of Development
The application seeks planning permission for the conversion of existing outbuildings to form a residential annexe, ancillary to the main dwelling.

Policy H4 of the adopted Local Plan permits this type of development in principle subject to criteria relating to residential amenity, highway safety and design.

5.2 Design/Visual Amenity

The application relates to a modest single storey set of outbuildings that have amalgamated and been altered over time. The application site appears relatively small from the front of the site, but extends to the north providing the property with a large, private rear garden. The outbuilding is not visible from the public realm and borders the western boundary. It is proposed to remove the conservatory element and alter the walls on the front and north elevations, as well as slightly increasing the ridge height and add an in-fill addition to the north elevation.

5.3 The existing outbuilding is used for storage purposes, a study and garden room. The existing outbuildings measure approximately 10.7 metres long by 4.8 metres wide (at its widest point), with a maximum ridge height of 3.1 metres. The proposed converted outbuilding will extend the building slightly to the east to create a larger and squarer building, measuring approximately 10.7 metres in length by 5.3 metres (at its widest point), with a continuous pitched ridge height of 3 metres.

5.4 The proposed layout would include a living room, bedroom with en-suite, with an open plan kitchen and dining area. Concern has been raised by the Parish Council about the proposed floor area; Officers believe this relates to the proposed layout which does include amenities such as a kitchen and bathroom. It is considered, given the location of the outbuilding and that it will be used by an elderly relative, that it will remain ancillary to the host dwelling and a condition restricting its use will be attached.

5.5 The rear elevation would be rendered, with re-used stone facing used in the remaining elevations. Four small roof lights will be inserted on the east elevation, facing the host dwelling. The proposed design and materials would be an improvement on the current outbuilding, which is an odd combination of sheds and conservatory additions. The building would be simple in design, with a low pitched roof and gable ends. It is considered that although the outbuilding would be slightly larger in footprint, the ridge height is not increasing, and the scale and proportions of the outbuilding would remain visually subservient to the host dwelling. Due to the outbuildings simple form, it would not appear adversely incongruous or out of keeping in its setting. The design and scale are therefore considered acceptable and would not harm the character of the site or the locality.

5.6 Impact on Residential Amenity

The application site is bordered to the north and west by residential dwellings. The dwelling to the north is attached to Maytree. They have an unusual relationship in that Marian Cottage has no rear garden, the land to the rear is entirely owned by Maytree hence the L-shaped plot. There is also a boundary fence on the west side, as well as a number of established trees around the garden. There is a public right of way to the south of the dwelling, which links to a small, modern cul-de-sac to the west.

5.7 Given the proposed modest scale of the works to the outbuilding and the proximity of neighbouring dwellings, it is not considered that the proposal will have any negative impact on the existing levels of residential amenity. The outbuilding will remain single storey and will not increase in height and would not have a resulting overbearing impact. The majority of window openings will be located on the west elevation, looking out onto the garden. These are not considered to result in any unacceptable levels of overlooking. There is a single window on the west elevation serving the proposed bedroom which is marked on the plans as frosted glazing, although the outlook would be the boundary fence. Overall, the proposal is not considered to have any harmful impact on the existing levels of residential amenity afforded to the occupants nor the immediate neighbours.

5.8 Transportation/Parking

The applicant seeks to convert an existing outbuilding in the rear garden. The proposal would only increase the number of bedrooms by one. The property currently has a parking area at the front of the house. The space is slightly cramped for two cars, but it is proposed to extend this parking area by removing some of the surrounding flower beds. The area would measure approximately 8.5 metres long by 5.7 metres wide, which would provide two parking spaces as per the Council's adopted Parking Standards SPD. This would result in a much larger and improved off-street parking facility for the property and would ensure that vehicles would not overhang onto the public footpath. As such, there are no transportation or highway safety objections.

6. **CONCLUSION**

6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.

6.2 The recommendation to **APPROVE** permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. **RECOMMENDATION**

7.1 That planning permission is **APPROVED**, subject to the attached conditions.

Contact Officer: Katie Warrington
Tel. No. 01454 864712

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 requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

2. The development hereby approved shall be carried out in accordance with the following plans:

Proposed Block Plan, received by the Council on 16th November 2016.

Existing and Proposed Floor Plan (1), Proposed Elevations (2), Existing and Proposed Roof Plan (3), Existing Elevations (4); received by the Council on 17th November 2016.

Block Plan and Site Location Plan; received by the Council on 28th November 2016.

Reason

To ensure that the development is carried out in accordance with the plans and drawings, as assessed in the application, and in the interests of the visual amenity of the site and the surrounding locality. To accord with Policy CS1 and CS9 of the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013.

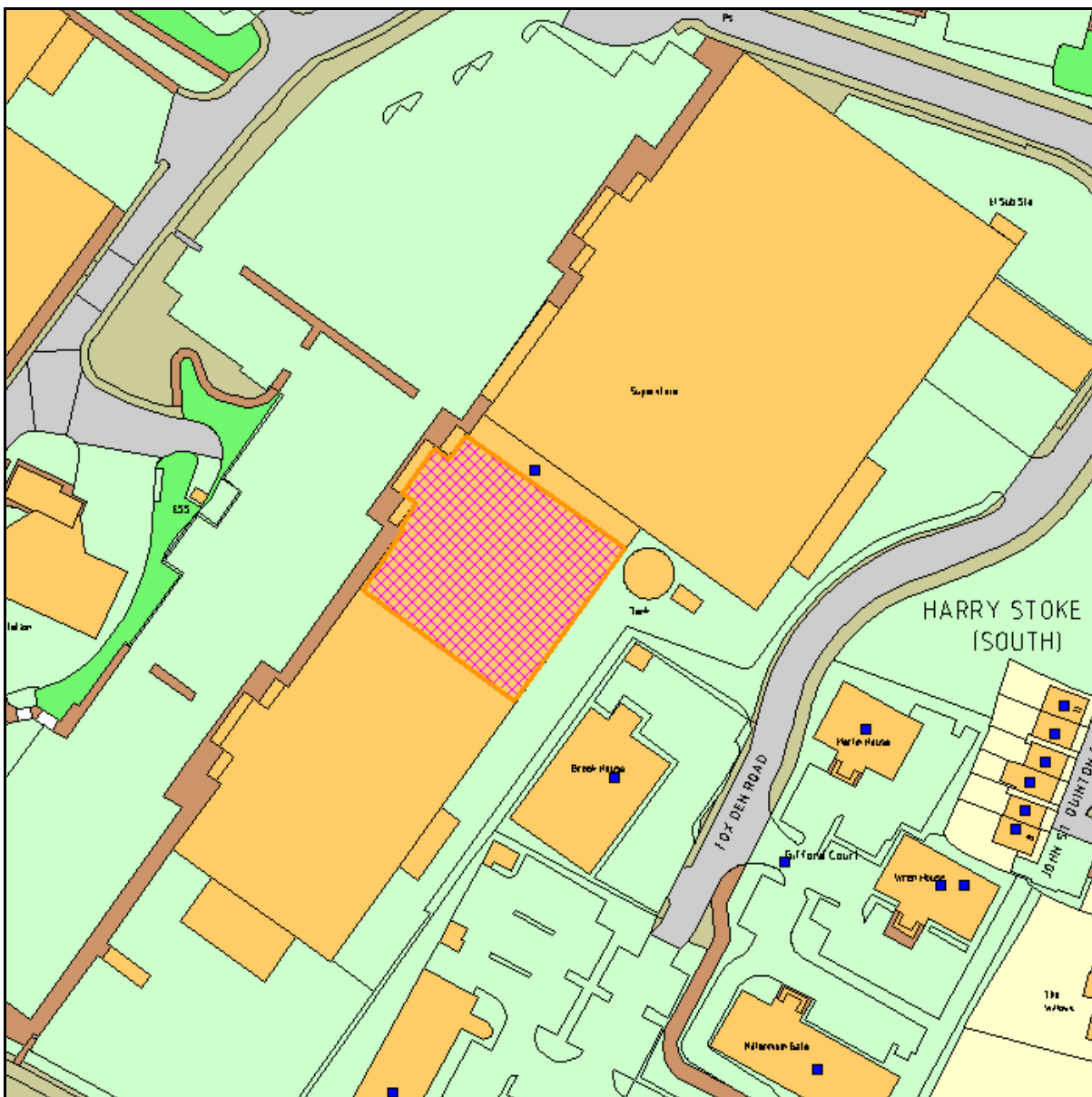
3. The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwellinghouse known as Maytree, Harry Stoke Road, Stoke Gifford, BS37 8QH.

Reason

In order to ensure the Local Planning Authority are provided the opportunity to assess the impact of any future use of the annexe building other than that of an ancillary nature to the main dwellinghouse known as Maytree. To accord with Policy H4 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006 (Saved Policies); Policy CS8 of the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013; and the South Gloucestershire Council Residential Parking Standards SPD (Adopted) December 2013.

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PT16/6471/F	Applicant:	c/o Agent Surplus Property Solutions
Site:	B & Q Fox Den Road Stoke Gifford South Gloucestershire BS34 8SP	Date Reg:	29th November 2016
Proposal:	Installation of mezzanine floor.	Parish:	Stoke Gifford Parish Council
Map Ref:	361865 178848	Ward:	Frenchay And Stoke Park
Application Category:	Major	Target Date:	23rd February 2017



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PT16/6471/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application has been referred to the circulated schedule for determination to take into account the comment of objection received from the parish council. The officer recommendation is one of approval.

1. THE PROPOSAL

- 1.1 This application seeks planning permission for the installation of a mezzanine floor into the former B&Q store in Stoke Gifford. This unit has recently been subdivided into smaller retail units including a food store under PT16/4626/RVC. Planning permission is required as although the proposal is an internal operation, the resulting floor space would exceed 200 square metres and is therefore 'development' as defined in section 55(2A) of the Town and Country Planning Act 1990 as supplemented by regulation 44 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 1.2 The proposed mezzanine floor would be installed entirely within the existing building in the unit identified as '2b'; there are no indicated external changes. The mezzanine would provide 1765 square metres of additional floor space falling within Class A1 as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 1.3 The application site is located within the existing urban area of the north fringe of Bristol. Under policy CS14 Stoke Gifford is identified as a potential 'district centre' (although district centre is defined in neither the Core Strategy nor the NPPF, although reference is made to district centres with the NPPF's definition of a town centre). In the forthcoming Policies Sites and Places Plan, under policy PSP31 Stoke Gifford is again designated as a 'district centre' (and no definition of a district centre provided in the glossary) but a 'town centre' boundary is shown on the proposed proposals maps associated with the plan. A summary of the Stoke Gifford district centre is provided in appendix 3(12). Policy PSP31 also identifies the Stoke Gifford district centre as a site to accommodate 5000 square metres of additional retail floor space. The Policies, Site and Places is not adopted, however, it is due for Examination in Public within the month.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012

- 2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013

CS1	High Quality Design
CS4A	Presumption in Favour of Sustainable Development
CS5	Location of Development
CS8	Improving Accessibility
CS14	Town Centres and Retailing

CS25 Communities of the North Fringe of Bristol

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)

T7 Cycle Parking
T8 Parking Standards
T12 Transportation
RT5 Proposals for Out-of-Centre and Edge-of-Centre Retail

South Gloucestershire Local Plan: Proposed Submission: Policies, Sites and Places Plan June 2016

PSP31 Town Centre Uses
PSP33 Shopping Frontages

3. RELEVANT PLANNING HISTORY

- 3.1 PT16/6859/RVC *Under Consideration*
Variation of condition 4 attached to planning permission PT16/4626/RVC to change delivery times.
- 3.2 PT16/4626/RVC Approve with Conditions 09/12/2016
Installation of full height glazing and sliding double door and creation of trolley bay to facilitate variation of conditions 11 and 16 attached to planning permission PT00/0215/F to allow the subdivision of unit and permit the retail sale of food and drink from 2323 square metres of floorspace.
- 3.3 PT16/0914/F Approve with Conditions 21/04/2016
Change of use of part of building from Class A1 (Retail) to Class D2 (Assembly and Leisure) and associated external alterations and works
- 3.4 PT00/0215/F Approved subject to S106 16/02/2001
Erection of single retail unit with associated garden centre, along with car parking, service area and landscaping.
- 3.5 There is significant planning history on this site which is available on the council's website; only those above are considered relevant.

4. CONSULTATION RESPONSES

- 4.1 Stoke Gifford Parish Council
Objection: application would double the floor area of the retail unit; potential traffic increase and impact upon access roundabout; impact of noise on residential amenity, especially acoustic barriers within the roof space; parking controls required due to proximity to UWE and MOD.
- 4.2 Arts and Development Officer
No comment
- 4.3 Highway Structures
No comment

- 4.4 Lead Local Flood Authority
No objection
- 4.5 Spatial Planning Policy
None received
- 4.6 Sustainable Transport
No objection

Other Representations

- 4.7 Local Residents
None received

5. ANALYSIS OF PROPOSAL

- 5.1 This application seeks planning permission for the installation of a mezzanine floor at a retail unit in Stoke Gifford.
- 5.2 Principle of Development
Under policy CS14, the area in which the site is located is identified as a site for a potential 'district centre', however, no formal allocation was made. Therefore the site remains, at present, out of centre. However, in the forthcoming Policies, Sites and Places Plan, a district centre (formed of a town centre boundary and primary shopping area) are proposed; the application site is situated within the proposed boundary and primary shopping area. The Policies, Sites and Places Plan is yet to be adopted by the local planning authority however it has been submitted for Examination in Public (which is scheduled to take place later this month) and there are no outstanding objections to this policy in relation to defining a designated centre in Stoke Gifford.
- 5.3 Given that the Core Strategy identified that the planning authority intended to bring forward a designated centre in this area and this has been defined in the Policies, Sites and Places Plan, some weight can be given to policy PSP31 albeit that the site at this point time fall within the "out of centre" category.
- 5.4 Guidance in the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses (such as A1 retail as contained within this application) that are not in an existing centre. Further to this, when proposals exceed a certain size threshold, an impact assessment should also be conducted; policy CS14 identifies this threshold to be 1000 square metres.
- 5.5 This application should therefore be determined against the analysis set out below.

Sequential Test and Impact Assessment

- 5.6 The aim of the sequential test is to direct main town centre uses to existing town centres. When there are no available sites, edge of centre should be considered more preferable to out of centre.
- 5.7 With the development at hand there are two factors which influence the application of the sequential test. The proposed additional floor space is located within an existing retail unit. There has been to some degree a loss of comparison floor space in this unit. Under PT16/0914/F planning permission was granted for the change of use of 2448 square metres of floor space from A1 to D2 to be used as a gym and under PT164626/RVC a further 2323 square metres of floor space changed from comparison A1 to convenience A1 as food sales were permitted. It should also be noted that should PSP31 be adopted, the proposed district centre in Stoke Gifford would be subject to an allocation of 5000 square metres of additional floor space. Given these factors, the proposed mezzanine would not lead to the formation of additional A1 retail floor space over and above that previously in the building.
- 5.8 Notwithstanding the above, the applicant has indicated that a sequential approach was taken in their covering letter. This covered sites in Filton Town Centre, Gloucester Road Town Centre (within the administrative area of Bristol City Council), Bradley Stoke District Centre, and Southmead District Centre (again, within Bristol). It is concluded that none of these centres could provide for the proposed floor space and there are no edge of centre alternatives. The local planning authority does not disagree with this conclusion.
- 5.9 As the proposed mezzanine would off-set an earlier loss of class A1 floor space it is not considered that there would be a significant impact should planning permission be granted. A condition should be imposed to prevent the sale of food from the mezzanine to ensure that any future change to the sales from the unit can be adequately managed.
- 5.10 In light of the above analysis, the principle of development is acceptable.
- 5.11 Highways Impacts
Concern has been raised by the parish council in relation to the highway impacts of the proposed development. A transport statement has been prepared by the applicant and submitted for assessment. This included traffic survey data which is used to inform the projected increase in traffic arising from the development.
- 5.12 In relation to the Fox Den Road roundabout, the data suggests that the increase would at its maximum equate to an additional 2% on Fridays and 7% on Saturdays. The apparently larger increase experienced on a Saturday appears to be predominantly a result of the smaller base flows present on that day. This figure should not therefore be greeted with alarm. Overall the projected traffic increase is not considered to be significant and would not have a severe impact on the efficient operation of the highway or highway safety.

- 5.13 Parking could be another area of concern. Policy T8 applies to all non-residential developments and sets a maximum parking standard with the aim of promoting sustainable transport patterns. Therefore, unless it would result in a severe highway safety impact, development that provides fewer than the maximum standard may well be permitted.
- 5.14 The provision of car parking across the wider former B&Q site is not subject to significant change. The level of parking is therefore understood to comply with the requirements of policy T8 which sets a maximum standard rather than a minimum one. Therefore, no objection can be raised with regard to the provision of adequate vehicular parking. The proximity of the site to UWE and MOD is noted. However, it would be a matter for the operators of the site to manage parking within the car park that was not associated with the site itself, as indeed would the case at present.
- 5.15 In summary, the development would not lead to a severe highway impact and whilst the concerns of the parish are noted, the increase in vehicular movements in reality is modest.
- 5.16 Residential Amenity
To the west of the site stand residential properties. The amenity these properties enjoy should be protected from prejudicial harm. As stated earlier in this report, the mezzanine would be contained wholly within the existing building and no external alterations are proposed. It is not considered, therefore, that the development would lead to a direct impact on the residential amenities of nearby properties.
- 5.17 As the proposed retail unit would be contained within the existing building, the protections afforded to residential amenity by conditions on PT00/0215/F, PT16/4626/RVC and whatever conditions may be applied through PT16/6859/RVC (should planning permission be granted) would still apply to the retail unit.
- 5.18 It is therefore concluded that residential amenity is adequately protected and would not suffer from a prejudicial impact should the mezzanine floor be permitted.

6. CONCLUSION

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

7.1 It is recommended that planning permission is GRANTED subject to the conditions listed below.

Contact Officer: Griff Bunce
Tel. No. 01454 863438

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 requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).

2. The mezzanine floor hereby approved shall not be used for the sale of food and drink goods.

Reason

To protect the viability of nearby centres and to accord with policy RT5 of the South Gloucestershire Local Plan (Adopted) January 2006 (Saved Policies) and the provisions of the National Planning Policy Framework.

3. The hours of working on site during the period of construction shall be restricted to 0730 to 1800 Monday to Friday, 0800 to 1300 Saturdays, and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.

Reason

To protect the amenity of nearby residents during installation and to accord with policy RT5 of the South Gloucestershire Local Plan (Adopted) January 2006 (Saved Policies) and the provisions of the National Planning Policy Framework.

4. The development shall be carried out in accordance with the following plans: 15*-238/Brist/12 Proposed Mezzanine, 15*-238/Brist/13 Existing Layout, and 16-01 Site Location Plan, received by the Council 23 November 2016.

Reason

For the avoidance of doubt and in the interests of proper planning.

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PT16/6772/CLE	Applicant:	Mr C J Evans
Site:	New Passage Road Pilning Bristol South Gloucestershire BS35 4LZ	Date Reg:	29th December 2016
Proposal:	Application for a Certificate of Lawfulness for establishing the existing building (building A) as having been in existence for over 4 years and used for purposes falling within Class B8, as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)	Parish:	Pilning And Severn Beach Parish Council
Map Ref:	354610 186154	Ward:	Pilning And Severn Beach
Application Category:	Certificate of Lawfulness	Target Date:	15th February 2017



© South Gloucestershire Council 2007. all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. N.T.S. PT16/6772/CLE

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application has been referred to the circulated schedule for determination in accordance with the scheme of delegation. This is because it is an application for a certificate of lawfulness.

1 THE PROPOSAL

- 1.1 This application seeks a certificate of lawfulness for the erection of 'building A' at Dean Farm on New Passage Road in Pilning. This building was erected without planning permission and therefore would represent a breach of planning control unless the building had stood for the requisite period of time and no enforcement action had been taken. In such circumstances the building would be immune from enforcement action and, by implication, lawful. The building has been used for uses falling within Class B8 as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 1.2 To elude on the above, the certificate of lawfulness is sought on the basis that the building has been erected for a period in excess of 4 years and is therefore is immune from enforcement action under section 171B(1) of the Town and Country Planning Act 1990 ("the Act") and therefore, in accordance with section 191(2), the building and its use is lawful.
- 1.3 There are 2 buildings on the site which are subject to assessment. This application applies to 'building A'. A second application for a certificate of lawfulness (PT16/6786/CLE) has been submitted for 'building B'.

2 POLICY CONTEXT

- 2.1 National Guidance
 - i. Town and Country Planning Act 1990: s171B and s191
 - ii. Town and Country Planning (Development Management Procedure) (England) Order 2015
 - iii. National Planning Practice Guidance: 17c (06.03.2014)

3 RELEVANT PLANNING HISTORY

- 3.1 PT16/4180/F Withdrawn 05/09/2016
Change of use of 2 no. agricultural buildings to (Class B8) storage as defined in the Town and Country Planning (Use Classes) Order 1985 (as amended) (retrospective)

4 SUMMARY OF EVIDENCE IN SUPPORT OF THE APPLICATION

- 4.1 This application is supported by a statutory declaration by Colin John Evans dated 9 December 2016 which is accompanied by receipts and invoices. To summarise the evidence:

Building A

- Construction of building A commenced in 2011 by erecting a new steel frame over the existing building

- Livestock was removed from the existing building in spring 2011
- Original building was removed from the inside of the new building in May 2011
- Electricity supply provided to building in June 2011
- Concrete floor laid and building completed June 2011

Building B

- Livestock removed from original building spring 2012
- Concrete floor laid for new building July 2012
- Steel frame for new building erected September 2012
- Original building removed September 2012
- Building completed October 2012

5 SUMMARY OF OTHER EVIDENCE

- 5.1 Aerial photographs held by the Council are available of the site. The 2008 photograph shows the original buildings. By the 2014 photograph the new buildings are evident on site. There are no aerial photographs of the site available between these dates.
- 5.2 A planning enforcement investigation of the site was undertaken in December 2012. The notes of the site visit indicate that a building (although it is not explicit if it is building A or B) was on the site at this time.
- 5.3 No further evidence has been submitted by any third party.

6 OTHER REPRESENTATIONS RECEIVED

- 6.1 Pilning and Severn Beach Parish Council
 “Pilning and Severn Beach parish council object to this application because this was an agricultural building and was changed to business use less than 10 years ago without consent. This is unlawful development and [t]his certificate of lawfulness cannot be granted”
- 6.2 Local Residents
 One comment from a local resident has been received. This comment does not provide evidence either to support or contradict the application. The comment raises a number of matters which are beyond the scope of an assessment for a certificate of lawfulness.

7 EVALUATION

- 7.1 An application for a certificate of lawfulness is not a planning application: it is purely an evidential test and therefore should not be determined against planning policy or on planning merit. The test to be applied is whether the application has demonstrated, through precise and unambiguous evidence, that (in this instance) ‘building A’ is lawful.

7.2 Breach of Planning Control

From a review of the planning history of the site, it is clear that the express planning permission of the local planning authority has not been granted for the building subject to this application.

7.3 Therefore a breach of planning control consisting of the unauthorised erection of a building has occurred.

7.4 Section 171B of the Act introduces statutory time limits in which enforcement action against breaches of planning control should be taken. If the breach has occurred continuously for the period stated in this section it would become immune from enforcement action.

7.5 Certificates of lawfulness for existing uses are covered in section 191 of the Act. Section 191(2) states:

*For the purposes of this Act uses and operations are lawful at any time if -
(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); [...]*

7.6 The applicant is claiming that the building subject to this application was completed in October 2012. This would constitute *the carrying out of building [...] operations in, on, over or under land* and therefore in accordance with section 171B(1) of the Act, the development would become lawful at the end of a period of 4 years beginning with the date of the breach

7.7 Assessment of Lawfulness

From the evidence submitted by the applicant in the form of a statutory declaration, the following dates are of importance:

Building A

- Construction of building A commenced in 2011 by erecting a new steel frame over the existing building
- Livestock was removed from the existing building in spring 2011
- Original building was removed from the inside of the new building in May 2011
- Electricity supply provided to building in June 2011
- Concrete floor laid and building completed June 2011

7.8 To be found lawful, the evidence must demonstrate that the building has been on the land for a period in excess of 4 years. As a minimum this would therefore be since 29 December 2012 (as that is the date on which the application for the certificate of lawfulness was submitted to the local planning authority for consideration).

- 7.9 Aerial photographs held by the local planning authority clearly show that the building was in place by 2014 but was not in place in 2008. Therefore the evidence held by the planning authority itself is ambiguous as to the precise date on which the buildings were erected.
- 7.10 However, the planning authority does hold records from a planning enforcement investigation of unauthorised development on the site. Included within this is an email from the enforcement officer dated 11 January 2013. The email refers to a site visit undertaken on 21 December 2012 and includes the line 'it is clear that a new building has been erected'. It is not clear as to whether this refers to building 'A' or 'B'. Notwithstanding that, it is clear that a building was on site before 21 December 2012.
- 7.11 To accompany the application, the applicant has prepared a statutory declaration. When making an assessment of, on the balance of probability, the lawfulness of a particular development statutory instruments are given significant weight. This is because it is an offence to knowingly include information within it that is inaccurate.
- 7.12 The statutory declaration states that 'building A' was completed in June 2011. As this is within a statutory declaration, significant weight must be attached to this as evidence.
- 7.13 Neither evidence held by the local planning authority nor presented by a third party contradicts the date of completion provided by the applicant. Based on the above, it is considered, on the balance of probability that the building has been on the land since December 2012.
- 7.14 There is no evidence that the use of the building has changed since it was first constructed. The applicant has confirmed that the use of the building has been one which falls within Class B8 of the Use Classes Order.
- 7.15 Summary
It has been found that there was a breach of planning control and that this breach occurred in the summer of 2011. From the evidence held by the local planning authority it is likely that the building was on the site before 21 December of 2012. From the applicant's statutory declaration, evidence is presented that the building was on the land by June 2011.
- 7.16 There is no evidence that is sufficiently robust to counter the account of the applicant.
- 7.17 Paragraph 17c-006-20140306 of the National Planning Policy Guidance states:
In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability

7.18 It is therefore concluded that the building (used for purposes falling within Class B8 as defined in the Town and Country Planning (Use Classes) Order 1987 as amended) would be immune from enforcement action by virtue of section 171B(1) of the Act and under section 191(2) a certificate of lawfulness should be granted.

8 RECOMMENDATION

8.1 It is recommended that a Certificate of Lawfulness is GRANTED for the reason listed below.

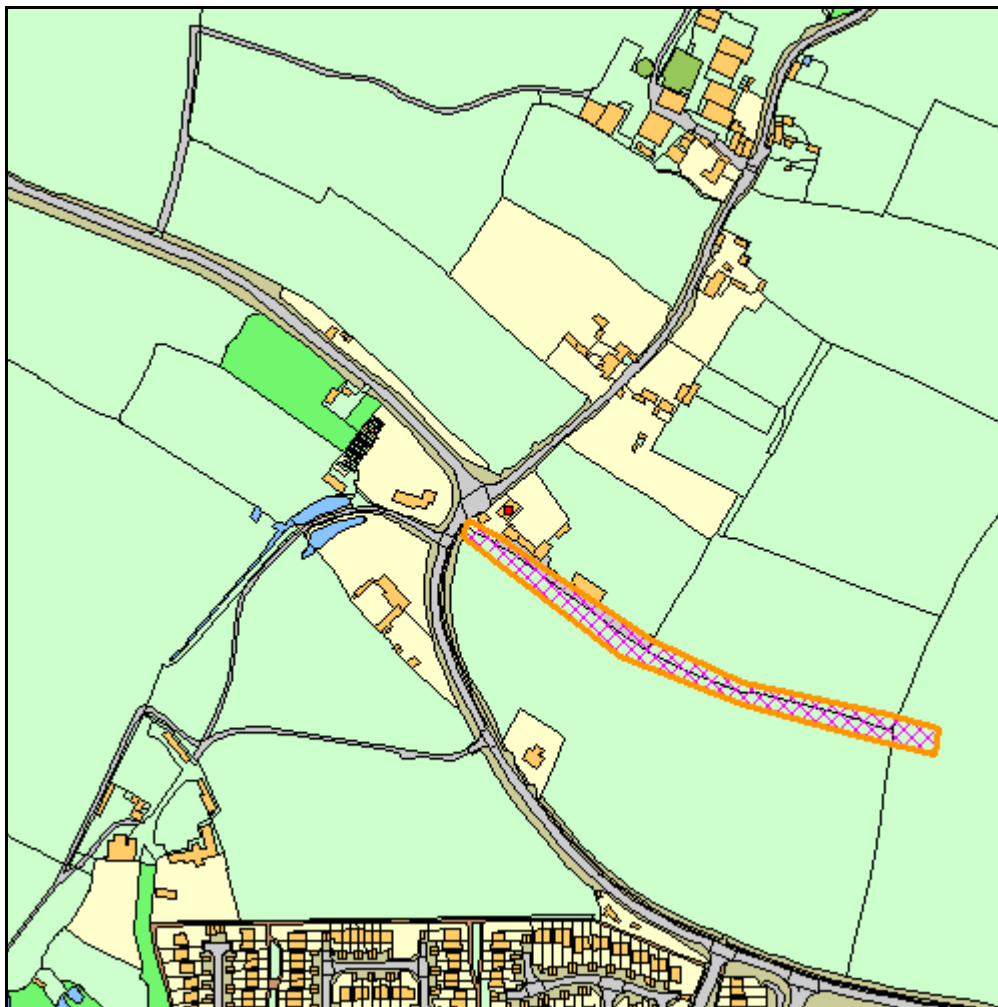
Contact Officer: Griff Bunce
Tel. No. 01454 863438

REASON FOR GRANT

Evidence has been submitted which proves, on the balance of probability, the building subject to this application on the land for a period in excess of 4 years and there has been no subsequent change of use. The building and its use as described above is immune from enforcement action by virtue of section 171B(1) of the Town and Country Planning Act 1990 therefore considered to be lawful by virtue of Section 191(2) of the abovementioned Act.

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PT16/6773/FDI	Applicant:	Linden Homes Western Ltd
Site:	Land At Post Farm Butt Lane Thornbury Bristol South Gloucestershire BS35 1LB	Date Reg:	21st December 2016
Proposal:	Diversion of footpath OTH/67 and OTH/68.	Parish:	Thornbury Town Council
Map Ref:	364085 191619	Ward:	Thornbury North
Application Category:		Target Date:	8th February 2017



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
 100023410, 2008. **N.T.S.** **PT16/6773/FDI**

REASON FOR REPORTING TO CIRCULATED SCHEDULE

Under the current scheme of delegation all footpath diversion orders are required to be determined by the circulated schedule process.

1. THE PROPOSAL

- 1.1 The application is made under Section 257 of the Town and Country Planning Act 1990 (as amended) for the diversion of footpaths OTH/67 and OTH/68.
- 1.2 The application seeks consent to divert the footpaths from their existing route, on the North side of the hedge which runs along the Southern boundary of Post Farm through the existing farm boundary wall and is intersected by 2 hedges on its current course. The existing route runs A to C on Footpath Diversion Plan L410/21 (received by the Council on 14th December 2016). This plan shows the diverted route from points D to G, this would change the course of the footpaths through the existing gate at point D and down the southern side of the hedge boundary, which runs along the Southern boundary edge of Post Farm, to meet the existing Footpath route at point C.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012
Circular 01/2009

- 2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013

CS1 High Quality Design

CS8 Improving Accessibility

CS9 Environmental Resources and Built Heritage

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)

LC12 Recreational Routes

3. RELEVANT PLANNING HISTORY

- 3.1 PT15/2917/O, Residential development of up to 125no. dwellings on 6.6 hectares with public open space and associated infrastructure. Outline application including access with all other matters reserved. Permission granted with conditions, 19.05.2016.
- 3.2 PT16/4055/RM, Demolition of existing buildings and Erection of 125no. dwellings with public open space and associated infrastructure. Discharge of conditions 1 (submission of RM), 2 (implementation of RMs), 6 (landscaping), 7 (northern edge treatments etc), 12 (access), 17 (LEMP), 19 (light spillage ecology), 20 (Hedgehog Mitigation) and 26 (public art). (Approval of Reserved Matters (appearance, layout, landscaping and scale) to be read in conjunction with outline application PT15/2917/O). Application pending consideration.

4. CONSULTATION RESPONSES

4.1 Thornbury Town Council
No objection.

4.2 Avon and Somerset Police
Having viewed the information as submitted we find the design to be in order and complies appropriately with the crime prevention through environmental design principles. No objection.

Other Representations

4.3 Public Rights of Way Officer
This diversion will reflect the walked route on the ground, which has been used on a permissive basis because the legal path through the farm buildings has not been available. We have no objection to this diversion order. No objection.

4.4 Tree Officer
There are no objections to the footpath diversion as it should not affect any existing trees on the site.

4.5 Transport Officer
No objection.

4.6 Local Residents
No letters of objection or support were received.

5. ANALYSIS OF PROPOSAL

5.1 Principle Matters
The diversion of a Public Right of Way is not development as defined in the Town and Country Planning Act. As such a diversion order can only be considered within planning legislation when the diversion of the footpath is required in order to allow the implementation of a planning permission. The nature of the assessment should consider the proposed route and its suitability in terms of the amenity of the public right of way and whether or not the diversion is reasonably necessary in respect of the planning permission it relates to.

5.2 The Proposal
The Council's public rights of way team has no objection to the diversion of these footpaths. This diversion will reflect the walked route on the ground, which has been used on a permissive basis because the legal path through the farm buildings has not been available. The proposed routes will be incorporated into the new development at Post Farm and will provide a straight link between the two ends of the existing footpath OTH/67 and OTH/68.

5.3 In light of the above, it is considered that the proposal is suitable and provides an acceptable diversion of the route that will not negatively impact the amenity of users or the residential amenity of surrounding properties. The diversions

are also considered necessary given the existing outline planning permission on the site for residential development of up to 125 dwellings (PT15/2917/O).

6. CONCLUSION

- 6.1 The recommendation to raise no objection has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.
- 6.2 The proposal is considered to satisfactorily comply with Circular 01/09, Policy LC12 of the South Gloucestershire Local Plan (Adopted) 6th January 2006 and Policies CS1, CS8 and CS9 of the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 as the utility and amenity of the route would be retained and accessibility of the development site would be improved.

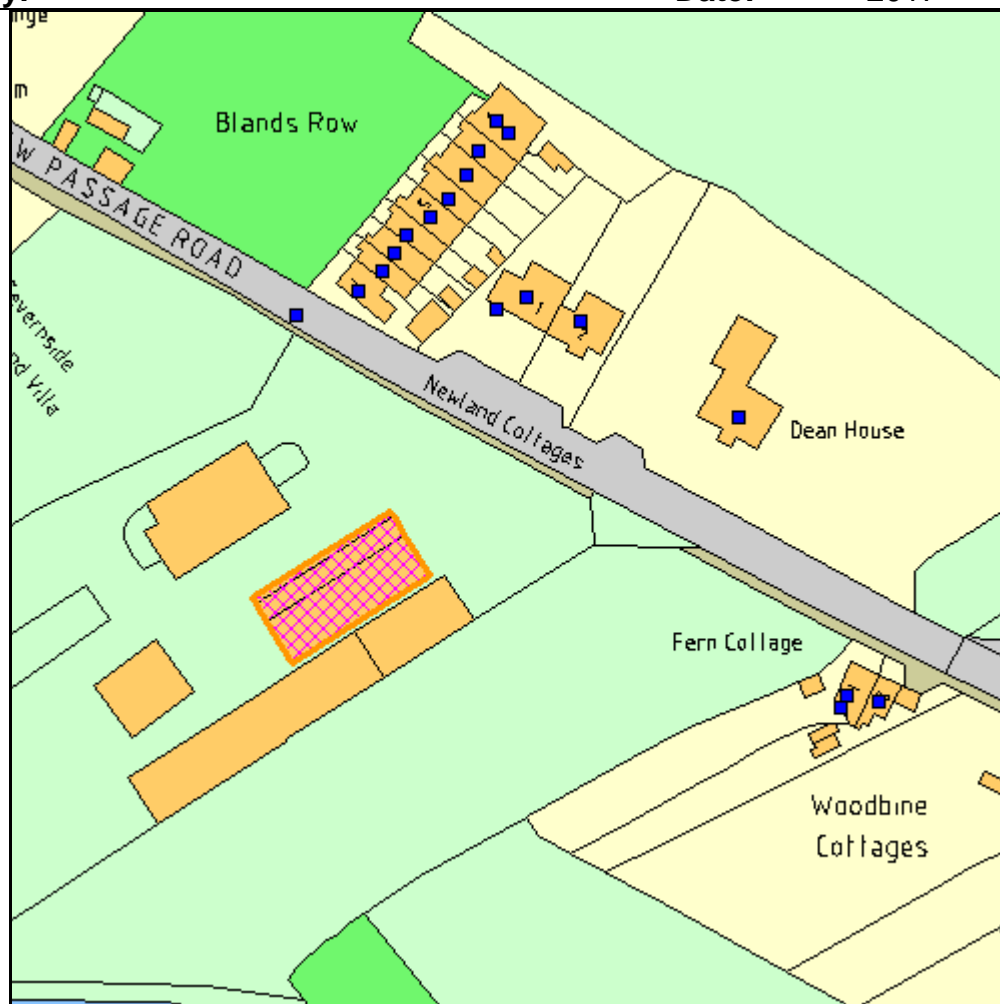
7. RECOMMENDATION

- 7.1 That no objection be raised to the proposed diversion of footpaths OTH/67 and OTH/68 and that the Head of Legal and Democratic Services be instructed and authorised to make an Order under Section 257 of the Town and Country Planning Act 1990 for the diversion of footpaths OTH/67 and OTH/68 as illustrated on plan reference Footpath Diversion Plan L410/21 received by the Council on 14th December 2016.

Contact Officer: Catherine Loveday
Tel. No. 01454 868150

CIRCULATED SCHEDULE NO. 05/17 – 3 FEBRUARY 2017

App No.:	PT16/6786/CLE	Applicant:	Mr C J Evans
Site:	New Passage Road Pilning Bristol South Gloucestershire BS35 4LZ	Date Reg:	29th December 2016
Proposal:	Application for a Certificate of Lawfulness for establishing the existing building (building B) as having been in existence for over 4 years and used for purposes falling within Class B8, as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)	Parish:	Pilning And Severn Beach Parish Council
Map Ref:	354735 186077	Ward:	Pilning And Severn Beach
Application Category:		Target Date:	15th February 2017



© South Gloucestershire Council 2007.all rights reserved.

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

100023410, 2008.

N.T.S.

PT16/6786/CLE

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application has been referred to the circulated schedule for determination in accordance with the scheme of delegation. This is because it is an application for a certificate of lawfulness.

1 THE PROPOSAL

- 1.1 This application seeks a certificate of lawfulness for the erection of 'building B' at Dean Farm on New Passage Road in Pilning. This building was erected without planning permission and therefore would represent a breach of planning control unless the building had stood for the requisite period of time and no enforcement action had been taken. In such circumstances the building would be immune from enforcement action and, by implication, lawful. The building has been used for uses falling within Class B8 as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 1.2 To elude on the above, the certificate of lawfulness is sought on the basis that the building has been erected for a period in excess of 4 years and is therefore is immune from enforcement action under section 171B(1) of the Town and Country Planning Act 1990 ("the Act") and therefore, in accordance with section 191(2), the building and its use is lawful.
- 1.3 There are 2 buildings on the site which are subject to assessment. This application applies to 'building B'. A second application for a certificate of lawfulness (PT16/6772/CLE) has been submitted for 'building A'.

2 POLICY CONTEXT

- 2.1 National Guidance
 - i. Town and Country Planning Act 1990: s171B and s191
 - ii. Town and Country Planning (Development Management Procedure) (England) Order 2015
 - iii. National Planning Practice Guidance: 17c (06.03.2014)

3 RELEVANT PLANNING HISTORY

- 3.1 PT16/4180/F Withdrawn 05/09/2016
Change of use of 2 no. agricultural buildings to (Class B8) storage as defined in the Town and Country Planning (Use Classes) Order 1985 (as amended) (retrospective)

4 SUMMARY OF EVIDENCE IN SUPPORT OF THE APPLICATION

- 4.1 This application is supported by a statutory declaration by Colin John Evans dated 9 December 2016 which is accompanied by receipts and invoices. To summarise the evidence:

Building A

- Construction of building A commenced in 2011 by erecting a new steel frame over the existing building

- Livestock was removed from the existing building in spring 2011
- Original building was removed from the inside of the new building in May 2011
- Electricity supply provided to building in June 2011
- Concrete floor laid and building completed June 2011

Building B

- Livestock removed from original building spring 2012
- Concrete floor laid for new building July 2012
- Steel frame for new building erected September 2012
- Original building removed September 2012
- Building completed October 2012

5 SUMMARY OF OTHER EVIDENCE

- 5.1 Aerial photographs held by the Council are available of the site. The 2008 photograph shows the original buildings. By the 2014 photograph the new buildings are evident on site. There are no aerial photographs of the site available between these dates.
- 5.2 A planning enforcement investigation of the site was undertaken in December 2012. The notes of the site visit indicate that a building (although it is not explicit if it is building A or B) was on the site at this time.
- 5.3 No further evidence has been submitted by any third party.

6 OTHER REPRESENTATIONS RECEIVED

- 6.1 Pilning and Severn Beach Parish Council
 “Pilning and Severn Beach parish council have been informed that an enforcement action was commenced within 4 years of substantial completion and thus the application is without merit”
- 6.2 Local Residents
 One comment from a local resident has been received. This comment does not provide evidence either to support or contradict the application. The comment raises a number of matters which are beyond the scope of an assessment for a certificate of lawfulness.

7 EVALUATION

- 7.1 An application for a certificate of lawfulness is not a planning application: it is purely an evidential test and therefore should not be determined against planning policy or on planning merit. The test to be applied is whether the application has demonstrated, through precise and unambiguous evidence, that (in this instance) ‘building B’ is lawful.

7.2 Breach of Planning Control

From a review of the planning history of the site, it is clear that the express planning permission of the local planning authority has not been granted for the building subject to this application.

7.3 Therefore a breach of planning control consisting of the unauthorised erection of a building has occurred.

7.4 Section 171B of the Act introduces statutory time limits in which enforcement action against breaches of planning control should be taken. If the breach has occurred continuously for the period stated in this section it would become immune from enforcement action.

7.5 Certificates of lawfulness for existing uses are covered in section 191 of the Act. Section 191(2) states:

*For the purposes of this Act uses and operations are lawful at any time if -
(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); [...]*

7.6 The applicant is claiming that the building subject to this application was completed in October 2012. This would constitute *the carrying out of building [...] operations in, on, over or under land* and therefore in accordance with section 171B(1) of the Act, the development would become lawful at the end of a period of 4 years beginning with the date of the breach

7.7 Assessment of Lawfulness

From the evidence submitted by the applicant in the form of a statutory declaration, the following dates are of importance:

Building B

- Livestock removed from original building spring 2012
- Concrete floor laid for new building July 2012
- Steel frame for new building erected September 2012
- Original building removed September 2012
- Building completed October 2012

7.8 To be found lawful, the evidence must demonstrate that the building has been on the land for a period in excess of 4 years. As a minimum this would therefore be since 29 December 2012 (as that is the date on which the application for the certificate of lawfulness was submitted to the local planning authority for consideration).

7.9 Aerial photographs held by the local planning authority clearly show that the building was in place by 2014 but was not in place in 2008. Therefore the evidence held by the planning authority itself is ambiguous as to the precise date on which the buildings were erected.

- 7.10 However, the planning authority does hold a records from a planning enforcement investigation of unauthorised development on the site. Included within this is an email from the enforcement officer dated 11 January 2013. The email refers to a site visit undertaken on 21 December 2012 and includes the line 'it is clear that a new building has been erected'. It is not clear as to whether this refers to building 'A' or 'B'. Notwithstanding that, it is clear that a building was on site before 21 December 2012.
- 7.11 To accompany the application, the applicant has prepared a statutory declaration. When making an assessment of, on the balance of probability, the lawfulness of a particular development statutory instruments are given significant weight. This is because it is an offence to knowingly include information within it that is inaccurate.
- 7.12 The statutory declaration states that 'building B' was completed in October 2012. As this is within a statutory declaration, significant weight must be attached to this as evidence.
- 7.13 Neither evidence held by the local planning authority nor presented by a third party contradicts the date of completion provided by the applicant. Based on the above, it is considered, on the balance of probability that the building has been on the land since December 2012.
- 7.14 There is no evidence that the use of the building has changed since it was first constructed. The applicant has confirmed that the use of the building has been one which falls within Class B8 of the Use Classes Order.
- 7.15 Summary
It has been found that there was a breach of planning control and that this breach occurred in the autumn of 2012. From the evidence held by the local planning authority it is likely that the building was on the site before 21 December of that year. From the applicant's statutory declaration, evidence is presented that the building was on the land by October 2012.
- 7.16 There is no evidence that is sufficiently robust to counter the account of the applicant.
- 7.17 Paragraph 17c-006-20140306 of the National Planning Policy Guidance states:
In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability
- 7.18 It is therefore concluded that the building (used for purposes falling within Class B8 as defined in the Town and Country Planning (Use Classes) Order 1987 as amended) would be immune from enforcement action by virtue of section 171B(1) of the Act and under section 191(2) a certificate of lawfulness should be granted.

8 RECOMMENDATION

- 8.1 It is recommended that a Certificate of Lawfulness is GRANTED for the reason listed below.

Contact Officer: Griff Bunce
Tel. No. 01454 863438

REASON FOR GRANT

1. Evidence has been submitted which proves, on the balance of probability, the building subject to this application on the land for a period in excess of 4 years and there has been no subsequent change of use. The building and its use as described above is immune from enforcement action by virtue of section 171B(1) of the Town and Country Planning Act 1990 therefore considered to be lawful by virtue of Section 191(2) of the abovementioned Act.