



**LIST OF PLANNING APPLICATIONS AND OTHER PROPOSALS
SUBMITTED UNDER THE PLANNING ACTS TO BE DETERMINED BY
THE DIRECTOR OF PLANNING, TRANSPORTATION AND STRATEGIC
ENVIRONMENT**

CIRCULATED SCHEDULE NO. 27/10

Date to Members: 16/07/10

Member's Deadline: 23/07/10 (5pm)

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 Planning, Transportation and Strategic Environment 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 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 Services Support Team. If in exceptional circumstances, you are unable to e-mail you request, please contact 01454 863518, 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.

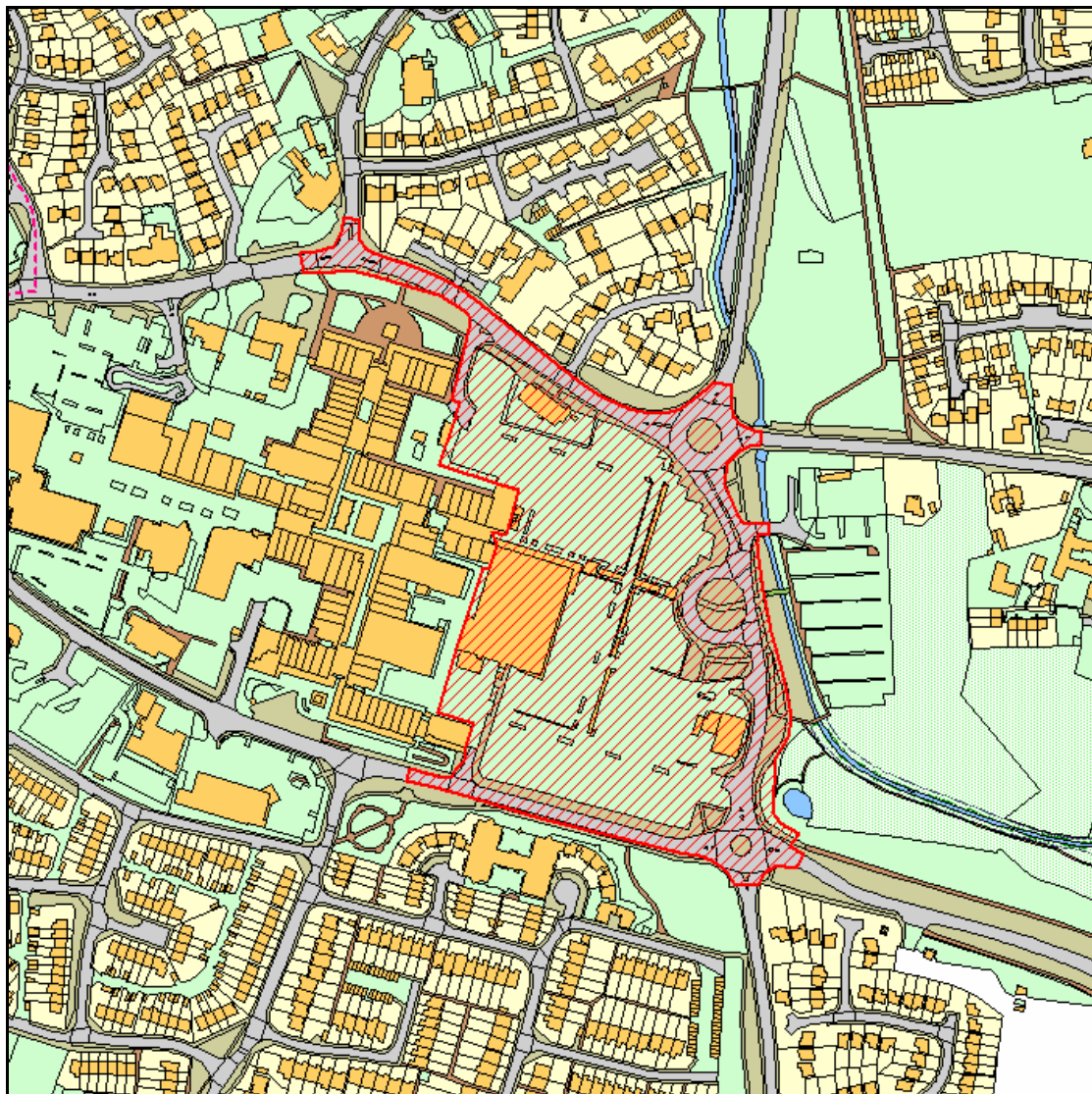
CIRCULATED SCHEDULE – 16 JULY 2010

ITEM NO.	APPLICATION NO	RECOMMENDATION	LOCATION	WARD	PARISH
1	PK10/0662/RV	Approve with Conditions	12 East Walk Yate South Gloucestershire BS37 4AS	Yate Central	Yate Town
2	PK10/0823/CLE	Approve with Conditions	66A Riding Barn Hill Wick South Gloucestershire BS30 5PA	Boyd Valley	Wick And Abson Parish Council
3	PK10/1174/TRE	Approve with Conditions	Barrow Cottage Kings Square Bitton South Gloucestershire BS30 6HR	Bitton	Bitton Parish Council
4	PK10/1385/R3F	Deemed Consent	Culverhill School Kelston Close Yate South Gloucestershire BS37 8SZ	Dodington	Dodington Parish Council
5	PT10/0197/CLE	Approve with Conditions	Redhill Farm Marshacre Lane Olveston South Gloucestershire BS35 4AG	Severn	Aust Parish Council
6	PT10/0702/O	Approved Subject to	90 Gloucester Road Patchway South Gloucestershire BS34 6PZ	Patchway	Patchway Town Council
7	PT10/1316/F	Approve with Conditions	43 Stone Lane Winterbourne Down South Gloucestershire BS36 1DH	Winterbourne	Winterbourne Parish Council
8	PT10/1344/F	Approve with Conditions	The Old Post Office Gloucester Road Rudgey South Gloucestershire BS35 3RY	Thornbury South And	Alveston Parish Council
9	PT10/1496/TCA	No Objection	Fromeshaw House Beckspool Road Frenchay South Gloucestershire BS16 1NU	Frenchay And Stoke Park	Winterbourne Parish Council

ITEM 1

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PK10/0662/RVC	Applicant:	Tesco Stores Limited
Site:	12 East Walk Yate Bristol South Gloucestershire BS37 4AS	Date Reg:	29th March 2010
Proposal:	Variation of condition 1 attached to Non Material Amendment PK10/0159/NMA dated 24 February 2010 to substitute revised plans detailing revisions to the service yard amendment and the junction onto Kennedy Way.	Parish:	Yate Town Council
Map Ref:	371532 182373	Ward:	Yate Central
Application Category:	Major	Target Date:	18th June 2010



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100023410, 2008.

N.T.S.

PK10/0662/RVC

INTRODUCTION

This application appears on the Circulated Schedule due to the receipt of one letter of concern on behalf of a neighbouring business and because the recommendation is subject to a S106 agreement

1. THE PROPOSAL

- 1.1 The application seeks permission for the variation of condition 1 attached to PK07/3391/F (by virtue of non material amendment PK10/0159/NMA). Condition 1 listed the plans that were approved as part of the original planning approval reference PK07/3391/F and stated that the development should be built in accordance with those stated plans. This somewhat lengthy process is one method of obtaining 'minor amendments' to planning decisions. This is in line with Central Government Advice who have identified this in absence of any specific legislation to apply for minor amendments. This application seeks consent to vary the list of approved plans thereby allowing changes to the approved scheme.
- 1.2 A summary of the main changes between the previously approved plans and the plans subject of this application is as follows:
- The principal change is the relocation of the service yard ramp from its position opposite the existing service yard turning area alongside the rear of the proposed store, to alongside the service yard elevation on Kennedy Way. This will allow for vehicles to access and exit from the service yard without the turning manoeuvre required in the consented scheme.
 - The existing access onto Kennedy Way has been widened to accommodate the above change.
 - There are amendments to the landscaping 'bund' in this area to accommodate the widening of the access onto Kennedy Way.
 - The relocation of the ramp and the amendments to the access has meant that the service yard has had to be reconfigured. The unloading docks have been turned through 180 degrees and the unloading area repositioned at the western end of the service yard. Although reconfigured, the home shopping facility remains at the eastern end of the yard.
 - A give-way and formalised traffic island has been incorporated on the Yate Centre service yard to ensure an improved flow of traffic occurs.
 - The uncontrolled pedestrian crossing has been relocated nearer to the junction to improve visibility of the new crossing position from the ramp and from Kennedy Way.
 - New lighting is proposed to highlight the crossing and to improve visibility of pedestrians using the crossing.
 - A number of signs have been relocated from the western verge to ensure an obstacle free footway adjacent to the crossing and vegetation will be kept to a lower level adjacent to the ramp and crossing, to ensure the visibility envelope is not obstructed.
 - New footways have been provided to link the pedestrian route to the Tesco store car park.

- The Tesco store car park has been reconfigured to accommodate the revised service yard ramp, although the number of car parking spaces remains unaltered from the consented scheme.
- 1.3 By means of summary, all changes to the previously approved scheme have been designed to enable a revised service yard access ramp to the Tesco store as well as an amended access arrangement onto Kennedy Way. The information submitted in support of the application claims that this is necessary in order to create a more desirable and safer access arrangement.

2. POLICY CONTEXT

2.1 National Guidance

PPS1	Delivering Sustainable Development
PPS4	Planning for Sustainable Economic Growth
PPG13	Transport

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1 Design
 RT1 Development in town centres
 RT3 Land East of Link Road, Yate
 EP1 Environmental Pollution
 EP2 Flood Risk and Development
 L1 Landscaping
 L11 Archaeology
 L17 The water environment
 L18 The water environment
 T7 Cycle parking
 T8 Parking standards
 T12 Transportation Policy
 LC13 Public Art

South Gloucestershire Core Strategy, Pre-submission Publication Draft March 2010

CS1 High Quality Design
 CS14 Town centres and Retail

2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist (Adopted) 2007.

3. RELEVANT PLANNING HISTORY

- 3.1 PK10/0159/NMA Non-material amendment to application PK07/3391/F to add two conditions.
 Approved February 2010
- 3.2 PK07/3391/F Erection of replacement Tesco store with ground floor parking, incorporating 3 no. separate non-food retail units. Erection of 4 no. non- food retail units, public transport interchange, construction of footway

along north side of Kennedy Way, acoustic screen to service yard and associated works.

Approved S106 July 2009

4. CONSULTATION RESPONSES

4.1 Yate Town Council

No objection

4.2 Highways

No Objection, see section 5.2 below for further details

Other Representations

4.3 Local Residents

One letter has been received on behalf of a neighbouring business. The letter raises the following points:

1. Confirmation that the 2 parking spaces located in the service yard serving the neighbouring business will not be obstructed
2. Confirmation that the walkway to the rear staff access door of the Job centre will be maintained during completion of the works

5. ANALYSIS OF PROPOSAL

5.1 Assessment

This application seeks to vary condition 1 of the non material amendment attached to PK07/3391/F to allow for various more minor amendments. When considering this application, your officer will take into consideration three distinct elements – firstly to assess the suitability of the proposed changes themselves, secondly to assess any material changes in policy or circumstance since the consideration of the initial application in 2007, and finally to consider whether all previous conditions apply.

5.2 Highways

Application PK07/3391/F granted planning permission for the re-development of a large area of Yate Town Centre. The application was approved and the S106 agreement was signed. Since the determination of this application in 2007, an application for a non-material amendment was subsequently submitted. This NMA application sought consent to add two conditions to the approval – one of the conditions listed the approved set of plans. This NMA was subsequently approved and therefore the list of approved plans was subject of a condition.

5.3 Since the approval of the initial application in 2007, a revised access arrangement has been designed which focuses around the service entrance to the South of the site accessing from Kennedy Way.

5.4 The main proposed amendment is the relocation of the position of the ramp from its position opposite the service yard turning area to a new position running alongside the inside edge of the building facing Kennedy Way. This would allow vehicles to enter and exit the service yard of the proposed new

store without the need to carry out the more complicated manoeuvre required in the currently consented scheme. The existing access onto Kennedy Way would be widened to accommodate the change. All changes are within the boundary of the application site.

- 5.5 In addition to the above, the existing un controlled pedestrian crossing on the service way would be re-located nearer to the junction to improve visibility to and from the crossing from both the ramp and from Kennedy Way. The new crossing incorporates a 2m wide kerb island with pedestrian barriers to ensure a safe waiting area when crossing the wider access. A new footway will be provided to link the pedestrian route to the store car park. In light of the assessment above, both the Highway officer and the planning officer conclude that the proposed alterations are acceptable and will not result in any adverse transportation effects.

5.6 Landscape

As part of the initial approval in 2007 a landscaping scheme was submitted and approved. The site is located within the existing urban area of Yate adjacent to Kennedy Way and the Link Road. The site contains a number of mature trees and overgrown shrub planting carried out as part of the original landscape mitigation when the store was constructed and later when the store was expanded in 1975. The general appearance is poor, with broken areas of tarmac and a general lack of maintenance.

The proposed changes to the service yard access and access onto Kennedy Way will have minimal impact on the proposed landscaping scheme; a small amount of existing vegetation will need to be removed. As no landscaping or tree protection conditions were attached to the 2007 application, it would be unreasonable to attach such conditions to this approval. Given that the changes to the approved landscaping are minimal, there is no landscaping objection to the works as proposed.

5.7 Noise

Given that part of the proposal involves moving the access ramp closer to Kennedy way, it will therefore also be closer to the residential units in Kennedy House on the opposite side of the carriage way. A noise report has been submitted with this application to vary the conditions explaining the noise implications of the change.

- 5.8 In the consented scheme, the service yard access ramp is approximately 66 metres for the facade of Kennedy House – the proposed scheme moves this ramp to approximately 46 metres from the facade of Kennedy House. Calculations suggest that the by moving the ramp in this manner, the noise levels at Kennedy House increase by 3.1dB(A) at Kennedy House.

- 5.10 However, in order to mitigate against this potential increase in noise, the proposed scheme includes 5dB(A) more screening than the consented scheme. As a result of this, the impact of moving the access ramp closer to Kennedy House will actually result in a minimal decrease in noise levels for the nearest residential property. Subject to the attachment of conditions to ensure

the provision of acoustic barriers as shown, environmental protection officers are satisfied with the revised scheme.

- 5.11 Material Changes in Policy or Circumstance
Since the determination of the initial application there have been two key changes in Policy – these are the cancellation of PPG4 and its replacement with PPS4 and the publishing of the South Gloucestershire Core Strategy Pre-Submission Publication Draft. The broad objectives of both the new PPS and the Draft Core Strategy are in line with the policies against which the 2007 application was determined. There are no policy based objections therefore to the proposed variation of condition
- 5.12 In addition to the above, there have been no material changes in circumstance in the physical built form surrounding the application site since the 2007 application. There are no new dwellings within the vicinity of the site that need to be taken into consideration and no extensions to any of the surrounding commercial properties.
- 5.13 Suitability of Conditions
None of the conditions attached to application PK07/3391/F have been discharged and all conditions are still relevant and necessary. Therefore they will all be re-attached to the decision notice in respect of this variation of condition application.
- 5.14 Design and Access Statement
The design and access statement submitted is very detailed and explains the reasoning behind the proposed alterations. The statement explains the reasoning and justification behind the proposed alterations in light of prevailing policy.
- 5.15 Use of Energy and Sustainability
Not different to the previously approved scheme
- 5.16 Improvements Achieved to the Scheme
None required
- 5.17 Section 106 Requirements
The section 106 agreement dated 10th July 2009 signed as part of application PK07/3391/F will also apply to this application.

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 proposal alterations to the service yard access arrangements and access ramp will not result in any adverse impact on the surrounding environment. The change in location of the access ramp with associated road widening and pedestrian facility upgrades will improve manoeuvring for service vehicles and

provide safe facilities for pedestrians. Through the submission of noise details, the applicant has demonstrated that the existing level of residential amenity for the nearest neighbouring properties will be protected.

- 6.3 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 That planning permission is granted subject to the conditions set out below and the Section 106 dated 10th July 2009 of the Town and Country Planning Act 1990 (as amended) which secures the following:-

1) *Link Road–Kennedy Way-Scott Way Roundabout* - widening to three lanes on the southbound Link Road approach and realignment of the existing cycletrack together with all associated works.

2) Alteration to the alignment of the footpath around *Home Orchard/Station Road*, upgrading of existing pelican to toucan crossing with removal of the refuge island to enable pedestrians to cross the road in one movement, together with all associated works.

3) *Link Road - shopping centre car park junction* – change this junction to traffic signal control and provide a commuted sum for future maintenance for a 15 year period. The new signal controlled junction shall be linked to the existing pedestrian crossing and bus right turn facility from Link Road together with all associated works.

4) Provision of a 3 metre wide footway/cycleway along Kennedy Way between the Link Road junction and the access to the proposed Tesco service yard together with all associated works.

5) A contribution of £200,000 towards funding a Traffic Study for Yate Town Centre and the vicinity of the development proposal.

6) Provision of a new bus station in accordance with submitted and approved plans together with all associated works.

7) Provision of taxi parking along Link Road in accordance with the approved plans together with all associated works.

8) A contribution of £75,000 towards providing a programme of on-site and off-site permanent and/or temporary public art

Contact Officer: Marie Bath
Tel. No. 01454 864769

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 permitted shall be carried out in accordance with the following approved plans (all received by the Council on 19th March 2010):

Site Location Plan

Design and Access Statement

Planning Statement

AP02R - Proposed Layout

AP03H - Proposed First Floor Plan

AP04B - Proposed Roof Plan

AP05A - Bus Station

AP12F - Proposed Elevations

AP13B - Typical Section

AP14F - First Floor and Mezzanine Plan

AP30A - Service Yard Section

ASP2 - Landscape Master Plan

ASP3 - Vegetation Removed

ASP4 - Planting Plan

ASP5 - Planting Plan

ASP9C - Cross Section

Reason

To ensure that the development is carried out in accordance with the approved plans to satisfy the requirements of Policies D1, RT1, RT3, EP1, EP2, L1, L11, L17, L18, T7, T8, T12 and LC13 of the South Gloucestershire Local Plan (Adopted) 2006.

3. Unless otherwise agreed in writing with the Local Planning Authority the approved development shall proceed in the following phases:

1) Highways works (including a new footpath along the north side of Kennedy Way) and the provision of a new public transport interchange; and the demolition of the public house followed by laying out of car parking spaces on the public house site

2) The replacement Tesco store (including 3 no. separate non-food retail units)

3) The erection of 4 no. non-food retail units

Any reference in this permission to the submission and approval of planning conditions shall be construed as referring to matters to be approved in respect of each phase and may be submitted separately for each phase.

Reason

To ensure that the highway works are commenced prior to the first operation of the new retail units in the interests of highway safety and to accord with the requirements of Policies T7, T8 and T12 of the South Gloucestershire Local Plan (Adopted) 2006

4. The developer shall appoint an archaeological contractor not less than three weeks prior to the commencement of any ground disturbance on site or demolition works to the public house, and shall afford him or other archaeologist nominated by the Local Planning Authority access at all reasonable times in order to observe the excavations and record archaeological remains uncovered during the work. This work is to be carried out in accordance with the attached brief.

Reason

In order to ensure the adequate protection of archaeological remains, and to accord with Policy L11 of the South Gloucestershire Local Plan (Adopted) January 2006.

5. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason

To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal. To accord with Policy EP2 of the adopted South Gloucestershire Local Plan.

6. No development approved by this permission shall be commenced until a scheme for the provision and implementation of foul drainage works has been submitted and agreed in writing by the Local Planning Authority. All works as agreed shall be implemented to the reasonable satisfaction of the Local Planning Authority

Reason

To prevent pollution of the water environment to accord with policies EP1 and L17 of the adopted South Gloucestershire Local Plan.

7. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaway.

Reason

To prevent pollution of the water environment to accord with policies EP1 and L17 of the adopted South Gloucestershire Local Plan.

8. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there are multiple tankages, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason

To prevent pollution of the water environment to accord with policies EP1 and L17 of the adopted South Gloucestershire Local Plan.

9. Activities carried out at this site in the past may have caused contamination of soils, subsoil's and groundwater (water in both unsaturated and saturated zones). Therefore, it is recommended that any planning permission require the applicant to carry out an investigation to the satisfaction of the Local Planning Authority in consultation with the Environment Agency to determine the nature and extent of contamination. In the event that contamination of the site is confirmed the developer should liaise with the Environment Agency on measures required to protect surface water and groundwater interests. The investigation should include the following stages: - A desk study, which should include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information.

If the potential for significant ground contamination is confirmed, this information should be used to produce: -

* A detailed water interest survey to identify all wells, boreholes, springs and watercourses:-

* A diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors:-

* A site investigation, designed for the site, using this information and any diagrammatical representations (Conceptual Model) undertaken. The investigation must be comprehensive enough to enable: -

* A suitable risk assessment to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected, and - refinement of the Conceptual Model, and - development of a Method Statement detailing the remediation requirements.

Reference should also be made to the Model Procedures for the Management of Land Contamination CLR11 Report which can be found on the Agency's website www.environment-agency.gov.uk

Reason

To prevent pollution of the water environment to accord with policies EP1 and L17 of the adopted South Gloucestershire Local Plan.

10. The level of noise emitted from the fixed plant and machinery at the site shall not exceed the background noise level at any time. The noise level shall be determined on the boundary of the nearest residential property and measured and assessed in accordance with the British Standard BS4142: 1997 (as amended) 'Method of Rating for Industrial Noise'.

Specify: A - noise level expressed as LAeq,t
over a time period X (eg one hour).

T - time of day.

Reason

To minimise disturbance to occupiers of nearby residential properties and to accord with Policy RT1 of the South Gloucestershire Local Plan (Adopted) January 2006.

11. The solid acoustic barrier shall be erected in accordance with drawing no.s AP12F and AP30A prior to the first opening of the superstore to the public and thereafter so maintained.

Reason

To minimise disturbance to occupiers of nearby residential properties and to accord with Policy RT1 of the South Gloucestershire Local Plan (Adopted) January 2006.

12. The hours of working on site during the period of construction shall be restricted to 0800 to 1800 Mondays to Fridays and 0900 to 1400 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 minimise disturbance to occupiers of nearby residential properties and to accord with Policy RT1 of the South Gloucestershire Local Plan (Adopted) January 2006.

13. No development shall take place until details of the location of any construction compound to be provided on the site have been submitted to and agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason

To minimise disturbance to occupiers of nearby residential properties and to accord with Policy RT1 of the South Gloucestershire Local Plan (Adopted) January 2006.

14. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any soft landscaping which may later die or become diseased shall be replaced in the following planting season with substitute planting to be agreed in writing by the Local Planning Authority.

Reason

To protect the character and appearance of the area to accord with Policies D1 and L1 of the South Gloucestershire Local Plan (Adopted) January 2006.

15. Prior to the commencement of the development hereby authorised details of floodlighting and CCTV for the overflow car park and bus station shall be submitted to and agreed in writing by the Council and shall include:
- (i) the intensity of the lighting;
 - (ii) the direction and shielding of the lighting;
 - (iii) the hours of operation.
- Thereafter the development shall proceed in accordance with the agreed scheme which shall be fully implemented.

Reason

To minimise disturbance to occupiers of nearby residential properties and to accord with Policy RT1 of the South Gloucestershire Local Plan (Adopted) January 2006.

16. Prior to the first use of the development hereby approved details of a scheme for the retention of shopping trolleys within the site shall be submitted to and approved by the Local Planning Authority. Such details shall be implemented prior to the first use of the development hereby approved unless a variation is agreed in writing by the Local Planning Authority.

Reason

In the interests of visual amenity and to protect the amenity enjoyed by those living in the locality to accord with Policy D1 and RT1 of the South Gloucestershire Local Plan (Adopted) January 2006.

17. The off-street parking facilities (for all vehicles, including cycles) 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, T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

18. Prior to any of the retail units opening for trade, the dial-a-ride facility shall be constructed in accordance with the plans hereby approved.

Reason

In the interests of highway safety, and to accord with Policy T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

19. No development shall take place until details/samples of the roofing and external facing materials proposed to be used, including a plan showing all coloured glazing have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason

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

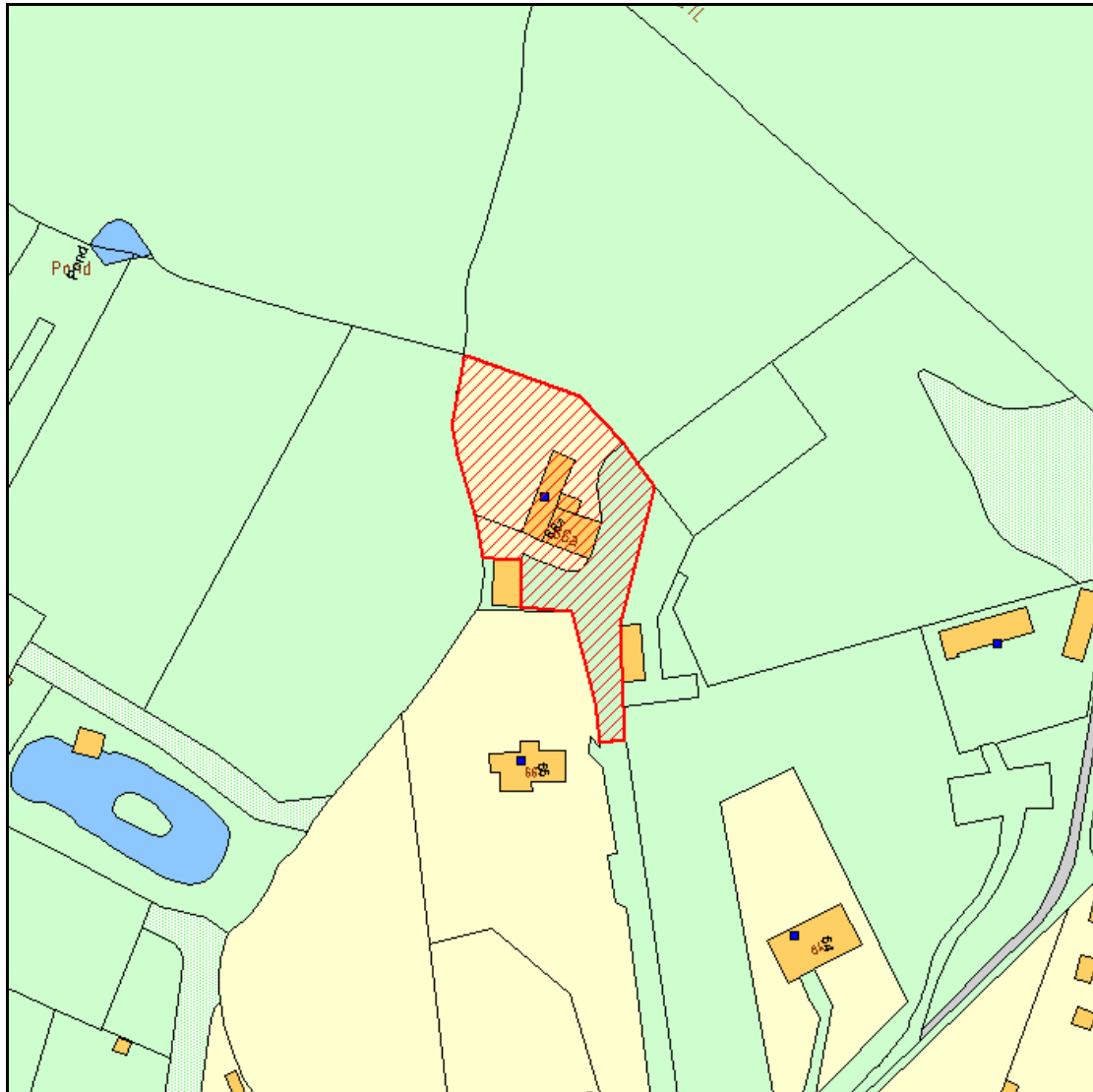
20. Prior to the commencement of development details of any floodlighting and external illuminations, including measures to control light spillage and CCTV coverage shall be submitted to the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason

To protect the amenities of the users of the facilities as well as occupiers of nearby dwelling houses, and to accord with Policy RT1 of the South Gloucestershire Local Plan (Adopted) January 2006.

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PK10/0823/CLE	Applicant:	Mrs K Namdjou
Site:	66A Riding Barn Hill Wick Bristol South Gloucestershire BS30 5PA	Date Reg:	28th April 2010
Proposal:	Application for Certificate of Lawfulness for the existing use of land as residential curtilage.	Parish:	Wick And Abson Parish Council
Map Ref:	369082 172916	Ward:	Boyd Valley
Application Category:	Minor	Target Date:	15th June 2010



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100023410, 2008. **N.T.S.** **PK10/0823/CLE**

INTRODUCTION

This application has been forwarded to the Council's Circulated Schedule for Member consideration in accordance with the adopted scheme of delegation as the application is for a Certificate of Lawfulness.

1. THE PROPOSAL

- 1.1 This is an application for a Certificate of Lawfulness to ascertain whether the existing use of land has been for the purpose of residential curtilage including an area of hardstanding to the east of the dwelling used for parking and turning of vehicles and that a conservatory has been erected at 66A Riding Barn Hill, for a continuous period of four years from the date of the application.
- 1.2 The application site is situated to the north of the A420 Riding Barn Hill just west of Wick village. The application site comprises an L shaped stone former agricultural barn which has since been converted into a single dwelling situated centrally within the site and a blockwork constructed modern triple bay garage in the south west corner with stone laid hardstanding in front. A ménage and timber constructed stable block and tack room within the applicant's ownership are situated adjacent to the east boundary of the site.

2. POLICY CONTEXT

- 2.1 Circular 10/97: Enforcing Planning Control: Legislative Provisions and Procedural Requirements.

3. RELEVANT PLANNING HISTORY

- 3.1 PK01/1704/F Conversion of agricultural building to holiday unit.
Approved 08.07.2002
- 3.2 PK05/1956/RVC Removal of Planning Condition 9 attached to Planning Permission PK01/1704/F dated 8th July 2002 (The holiday unit shall be occupied by the same person(s) for no more than 42 days in any 12 month period).
Approved 12.09.2005
- 3.3 PK06/0275/F Change of use from agricultural to land for the keeping of horses. Erection of 2 no. stables and tack storage room (Retrospective).
Approved 10.03.2006
- 3.4 PK07/0921/F Change of use of holiday unit (Class C1) to residential dwelling (Class C3) as defined in the Town and

Country Planning (Use Classes) Order
1987 (as amended).
Approved 01.06.2007

3.5 PK08/0792/F

Erection of porch to front
elevation
Approved 24.04.2008

3.6 PK09/5522/F

Installation of windows to
facilitate the conversion of detached
double garage and store to form
residential annexe ancillary to main
dwelling. Erection of extension and
replacement of flat roof with pitched
roof to facilitate conversion of existing
store to triple garage and store.
Approved 30.11.2009

4. CONSULTATION RESPONSES

4.1 Wick and Abson Parish Council

No response received

4.2 Other Consultees

None

Other Representations

4.3 Local Residents

None received

5. ANALYSIS OF PROPOSAL

5.1 The only issues which are relevant to the determination of an application for a Certificate of Lawfulness are whether or not the use described has continued for more than the period of time which would make it immune from enforcement action, re: 4 years in this case, and whether or not the use is in contravention of any enforcement notice which is in force. The planning history above, confirms no enforcement notice in force therefore it must be established whether or not the Authority is satisfied that the use has taken place over the period in question. The application was registered on 20.04.2010 and accordingly the period over which the use must be proved is from 20.04.2006 to 21.04.2010. Any view on the planning merits of the case is not relevant to the determination of this application.

5.2 Evidence submitted

The applicant has provided evidence in the form of Statutory Declarations in support of the application summarised as follows:

- Kim Namdjou (Applicant and site owner)

States she has lived at this address since August 2004. States that her former husband Mr Ray Namdjou converted the house and conservatory, erected the boundary fence and laid the hardstanding in question in early 2004. Confirms that the red edge application site, including hardstanding, conservatory and boundary fence relates to the extent of land used as residential curtilage since 2004.

- Barry Preece (Planning agent and architect for conversion of the agricultural building to dwelling known as 66a)

States he was the architect involved in the conversion work, hardstanding, conservatory and boundary fencing in 2004. Confirms that the red edge application site, including hardstanding, conservatory and boundary fence relates to the extent of land used as residential curtilage since 2004.

- Raymond Namdjou (Director of the construction firm that converted the agricultural building to the dwellinghouse known as 66a)

States he was the Director of Clarendon Homes Ltd who converted the building known as 66a to a dwelling in 2004 along with conservatory, hardstanding and boundary fencing. Confirms that the red edge application site, including hardstanding, conservatory and boundary fence relates to the extent of land used as residential curtilage since 2004.

- Christine Moreton (Estate Agent at Under One Roof)

Confirms that marketing information for 66a as a holiday let in 2005 which includes the conservatory is true. Confirms that the red edge application site including conservatory, hardstanding and boundary fencing relates to the extent of land used as residential curtilage since 2005. States that following visiting the site from time to time Kim Namdjou has lived at the address continuously from when she first visited the site in 2005 to the present date.

- Peter Ferris (Owner of the adjacent dwelling 66 Riding Barn Hill)

States he has lived at 66 for over 5 years and has visited 66a regularly over the past 5 years. Confirms that the red edge application site, including hardstanding, conservatory and boundary fence relates to the extent of land used as residential curtilage since he moved into no.66.

The applicant also submitted invoices from Falcon Interiors as follows:

- Invoice for joinery dated 30.09.2003. No reference specifically to the conservatory
- Invoice from Clarendon Homes dated 26.11.2003 related to supply and delivery of various building materials including Iroko conservatory
- Invoice from Clarendon Homes dated 26.11.2003 for various building materials. No reference specifically to the conservatory.

5.3 Other evidence

The red edge application sites for applications PK01/1704/F (determined 08.07.2002) and PK05/1956/RVC (determined 12.09.2005) show a smaller area defined as curtilage than that indicated as part of this application, and

excluding the area where the conservatory is positioned and the hardstanding area on the east side. Application PK06/0275/F (determined 10.03.2006) does indicate the conservatory and hardstanding as do all applications submitted thereafter related to 66a.

5.4 The Relevant Test of the Submitted Evidence

Circular 10/97 makes it clear that the onus of proof is on the applicant, but that in determining applications for a Certificate of Lawfulness, the relevant test of the evidence is 'the balance of probability' and not the more onerous criminal burden of proof, namely 'beyond reasonable doubt'.

Thus, the Council must decide whether it is more probable than not that the submitted evidence shows that the use has continued for the 10 year period in question.

5.5 Design and Access Statement

Not required

5.6 Use of Energy and Sustainability

Not applicable

5.7 Improvements Achieved to the Scheme

Not applicable

5.8 Section 106 Requirements

Not required

6. CONCLUSION

6.1 There is considered to be significant and compelling evidence weighing in favour of the applicant's claim and no contradictory evidence has been received. Having assessed the evidence provided, it is considered that the applicant has shown that it is more probable than not that the use of this site has continued and the conservatory and hardstanding have been in place for more than 4 years from the date of this application. Therefore it is considered that the Certificate should be issued.

7. RECOMMENDATION

7.1 That the Council issue the Certificate of Lawfulness with a description as stated above.

Contact Officer: Sean Herbert
Tel. No. 01454 863056

REASON

1. The applicant has shown that it is more probable than not that the use of this site has continued and the conservatory and hardstanding have been in place for more than 4 years from the date of this application.

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PK10/1174/TRE	Applicant:	Mr Simon Penfold
Site:	Barrow Cottage Kings Square Bitton Bristol South Gloucestershire	Date Reg:	25th May 2010
Proposal:	Works to 1 no. Horse Chestnut end weight reduction of low laterals tree covered by South Gloucestershire Council Tree Preservation Order 49 (Bitton) dated 1st February 1973	Parish:	Bitton Parish Council
Map Ref:	367868 169719	Ward:	Bitton
Application Category:		Target Date:	12th July 2010



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 100023410, 2008. **N.T.S.** **PK10/1174/TRE**

INTRODUCTION

This application has been forwarded to the Council's Circulated Schedule for Member consideration in accordance with the Council's adopted scheme of delegation as the applicant is South Gloucestershire Council

1. THE PROPOSAL

1.1 The application relates to a tree situated on the west side of Bitton village south of Bath Road and on the south side of King's Square. The tree the subject of the application is a mature Horse Chestnut located between Kings Square to the north and open fields to the south. Two Public Rights of Way run west and south from the tree.

The tree is situated within Bitton Conservation Area.

1.2 The application proposes works to 1 no. Horse Chestnut comprising end weight reduction of low laterals. The tree is covered by South Gloucestershire Council Tree Preservation Order 49 (Bitton) dated 1st February 1973

2. POLICY CONTEXT

2.1 National Guidance
PPS1 Delivering Sustainable Development
PPS5 Planning for the Historic Environment

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006
L1 Landscape Protection and Enhancement
L12 Conservation Areas

3. RELEVANT HISTORY

3.1 None

4. CONSULTATION RESPONSES

4.1 Bitton Parish Council

No objection

4.2 Other Consultees

Views incorporated into this report

Other Representations

4.3 Local Residents

None

5. ANALYSIS OF PROPOSAL

- 5.1 The application relates to a protected Horse Chestnut tree located on the south side of King's Square within Bitton Conservation Area. This large mature tree is located adjacent to the highway and two Public Rights of Way and as such is visually prominent. The tree is considered to be in good general health. As such the tree is considered to have a high amenity value and contributes positively to the character of the locality and Conservation Area.
- 5.2 The application proposes the reduction to the weight of the currently over extended lower lateral branches of the tree. It is considered that this should reduce the possibility of damage to the limbs under their own weight in the future. The proposed works are also considered to accord with good arboricultural practice and should result in a benefit to the long term health of the tree. The Council's Arboricultural Officer raises no objection to the proposal. The works are therefore considered acceptable.

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 consent 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 Consent is GRANTED subject to the following conditions and informatives:

Contact Officer: Sean Herbert
Tel. No. 01454 863056

CONDITIONS

1. The works hereby authorised shall be carried out within two years of the date on which consent is granted (or other appropriate timescale).

Reason

To ensure the works are carried out in an appropriate manner and in the interests of the health and visual amenity of the tree(s), and to accord with Policy L1 of the South Gloucestershire Local Plan (Adopted) January 2006.

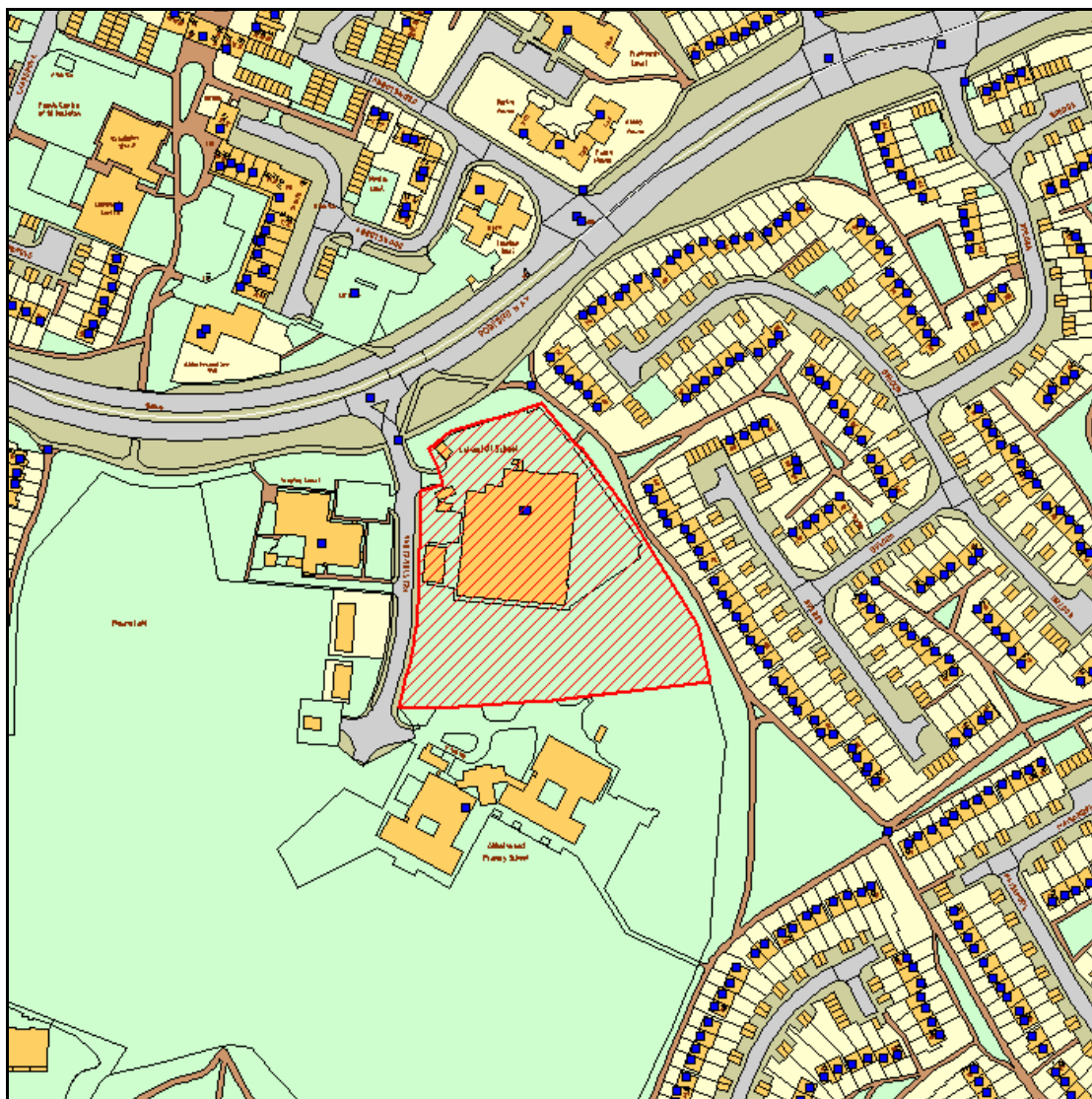
2. The works hereby authorised shall comply with British Standard 3998: 1989 – Recommendations for Tree Work.

Reason

To ensure the works are carried out in an appropriate manner and in the interests of the health and visual amenity of the tree(s), and to accord with Policy L1 of the South Gloucestershire Local Plan (Adopted) January 2006.

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PK10/1385/R3F	Applicant:	Miss Nicola Jones
Site:	Culverhill School Kelston Close Yate Bristol South Gloucestershire	Date Reg:	9th June 2010
Proposal:	Erection of 2.4 metre high security fence and gates, and internal site fences..	Parish:	Dodington Parish Council
Map Ref:	370783 181096	Ward:	Dodington
Application Category:	Minor	Target Date:	2nd August 2010



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INTRODUCTION

This application has been referred to the Circulated Schedule in accordance with standard procedures as South Gloucestershire Council has submitted the application.

1. THE PROPOSAL

- 1.1 The applicant seeks full planning permission for the erection of 2.4 metre high boundary fencing to the west, north and eastern boundaries of Culverhill Scholl, Yate. The application also includes the addition of internal fencing and entrance gates
- 1.2 The application property is a modern single storey school building for pupils aged between 7-16 with complex learning difficulties. The school is located within a residential area of Yate. A primary school, a nursery and playing fields are located to the south and west of the site, with the eastern boundary abutting a residential estate.

2. POLICY CONTEXT

- 2.1 National Guidance
PPS1 Delivering Sustainable Development
- 2.2 Development Plans
South Gloucestershire Local Plan (Adopted) January 2006
D1 Achieving Good Quality Design in New Development
LC4 Proposals for Educational and Community Facilities
T12 Transportation Development Control
- South Gloucestershire Core Strategy, Pre-submission Publication Draft March 2010
CS1 High Quality Design
CS23 Community Buildings and Cultural Activity
- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist (Adopted) 2007.

3. RELEVANT PLANNING HISTORY

- 3.1 PK00/1382/R3F Retention of part of contractors compound as an overflow carpark.
Deemed consent March 2001

4. CONSULTATION RESPONSES

- 4.1 Dodington Parish Council
No objections however would like a condition imposed that requires the retention of the existing hedge, to preserve the environmental value of the area.

Other Representations

- 4.2 Local Residents

No response received

5. **ANALYSIS OF PROPOSAL**

5.1 Principle of Development

Policy D1 allows for development provided that; siting, overall layout, density, form, scale, height, massing, detailing, colour and materials, are informed by, respect and enhance the character, distinctiveness and amenity of both the site and the locality. Policy LC4 of the South Gloucestershire Local Plan (Adopted) allows for the development or expansion of education facilities within the existing urban areas providing that:

A. The proposals are located on sites which are, or will be, highly accessible by foot and by bicycle;

The application site is easily accessed, furthermore there are no proposed changes to the existing access points. As such the proposal is considered acceptable with regard to this criterion.

B. Development would not unacceptably prejudice residential amenities;

The west and south of the site is adjacent to a nursery, primary school and open playing fields, the north of the site is adjacent to Rodford Way. The eastern boundary of the site borders open amenity space and public footpaths associated with the neighbouring residential estate, Bredon. Bredon is of 'Radburn' design, as such the grain of development is defined by dwellings being set back from the public footpath, with the intervening land, the front gardens and verges, creating a sense of openness, the vehicular access to the dwellings is located to the rear of the dwellings. As such a number of properties face the application site. The front elevations of the nearest neighbouring properties No's 120-123 Bredon are located approximately 12 metres away from the proposed fencing. Therefore, given the distance that the fencing is located away from neighbouring residential properties it is considered that the proposal would not have any significant impact on existing levels of residential amenity of the neighbouring properties.

C. Development would not have unacceptable environmental or transportation effects;

The proposal is for fencing only as such it is unlikely to have any detrimental environmental impacts. The proposed fencing would be located to the front of existing hedgerow and shrubs, replacing the existing 1.2 metre high timber fencing. The proposal would result in disturbance to the existing hedge, however it should be noted that whilst some areas of hedge appear well kept, other sections have died down leaving gaps. The intention is for the hedge to be retained and a condition can be attached to any permission to ensure the submission of a landscaping scheme. It should also be noted that the site benefits from several small trees to the north and east which would help to screen the proposed fencing from Rodford Way and Bredon.

With regard to transportation effects, the access would be as existing and no extensions to the school are proposed. As such it is not considered that the proposal would result in any detrimental impact on highway safety, further with

no objections from the Council's Transportation Officer, the proposal is considered acceptable.

D. Development would not give rise to unacceptable levels of on street parking to the detriment of the surrounding area and highway safety;

The development would have a minimal affect on the existing parking arrangement, the access and visitor parking would remain as existing but 4 of the staff car parking spaces would be lost. An internal fence within the staff car park has been proposed, this area would be used as a football / play area for older children and would result in the loss of 4 car parking spaces. Whilst the parking space in the staff parking area would decrease slightly the applicant has confirmed that this car park is only used as an overflow parking area and that there is ample space available within this and the main car parking area. The proposal would not result in any increase in numbers in staff or students as such whilst the existing parking provision would be reduced it is not considered that the proposal would give rise to any unacceptable levels of on street parking.

5.2 Design / Visual Amenity

The applicant proposes that erection of a 2.4 metre high boundary fence to the west, north and eastern elevations of Culverhill School. The fencing would replace an existing timber fence and would be a Nylofor 2D weldmesh fence finished in green. The primary school to the south of the site has an existing high palisade security fence which is green in colour. As such, whilst the proposed fencing is of a different design to the fencing at Abbotswood primary school it is of a similar height and colour. The proposed boundary fencing has been chosen in line with recommendations from the police crime prevention officer and is of the height needed to deter trespassers. Whilst the existing hedges and shrubbery that is behind the existing boundary fencing will be effected by the proposal, a condition can be attached to the application to ensure the submission and approval of a landscaping scheme. The proposed works are relatively small scale in comparison to the size of the site and the existing school building, furthermore, the proposed green colour for the boundary fencing would minimise the impact of the proposal on the visual amenity of the area.

It is considered that security fencing is an appropriate addition at a school, in addition the application site is located within a built up residential area. As such it is considered that the proposal would not be harmful to the character and appearance of the street scene.

5.3 Design and Access Statement

The Design and Access Statement submitted with the application is considered to demonstrate that the applicant has adopted a design approach consistent with the Council's Design Checklist Supplementary Planning Document.

5.4 Use of Energy and Sustainability

No measures proposed

5.5 Improvements Achieved to the Scheme

None required

5.6 Other Issues

The specification states that some aspects of the proposal will only be carried out if funding allows for it, and has detailed some either/or scenarios for the sites of the access gates along the western boundary. It has been proposed that if funding is not immediately sufficient for the western boundary fence to be instated, small sections of fencing behind the current hedge would be erected to facilitate the installation of the access gates. (Shown as points 1 and 5 on the proposed plan, drawing no. 002). It should be noted that planning permission cannot be granted on an either/or basis. As such if both the boundary fencing and the small sections of fencing to facilitate the erection of the access gates are shown on the approved plans, both fences could be implemented. Whilst it is understood that the applicant is unlikely to install both fences, the fact that this would be possible needs to be taken into consideration.

Given the scale of the fencing proposed to facilitate the installation of the access gates, it is not considered that proposal would result in any significant detrimental impacts on the visual amenity of the area should both the boundary fence and these small sections of fencing be implemented. As such it is not considered that this aspect of the proposal is of sufficient concern to warrant the refusal of the application.

5.7 Section 106 Requirements

In relation to the issues raised by this planning application, consideration has been given to the need for a Section 106 Agreement. Circulars 11/95 and 05/2005 relate to the use of planning conditions and planning obligations under Section 106 of the Town and Country Planning Act (as amended). Circular 05/2005 particularly advises that if there is a choice between imposing a condition and entering into a planning obligation, the imposition of a condition is preferable. In this instance, planning conditions are the most appropriate, and a Section 106 Agreement is unnecessary.

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 proposed fencing is of an appropriate standard in design for a school site. Furthermore the proposal is not considered to harm the amenities of the neighbouring properties or prejudice highway safety. As such the proposal accords with policies D1, T12 and LC4 of the South Gloucestershire Local plan (Adopted) January 2006.
- 6.3 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 That the application be approved subject to the following conditions.

Contact Officer: Kirstie Banks
Tel. No. 01454 865207

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. Prior to the commencement of development a scheme of landscaping, which shall include details of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection during the course of the development; proposed planting (and times of planting); shall be submitted to the Local Planning Authority for approval. Development shall be carried out in accordance with the agreed details.

Reason

To protect the character and appearance of the area to accord with Policies D1 and LC4 of the South Gloucestershire Local Plan (Adopted) January 2006.

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PT10/0197/CLE	Applicant:	I F Ford And Partners
Site:	Redhill Farm Marshacre Lane Olveston Bristol South Gloucestershire	Date Reg:	5th February 2010
Proposal:	Application for Certificate of Lawfulness for existing agricultural building	Parish:	Aust Parish Council
Map Ref:	359926 188824	Ward:	Severn
Application Category:	Minor	Target Date:	26th March 2010



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100023410, 2008. **N.T.S.** **PT10/0197/CLE**

This application is submitted to the Circulated Schedule in line with the delegation arrangements as it relates to a certificate of lawfulness.

1. DESCRIPTION OF DEVELOPMENT AND BACKGROUND

1.1 The application is made on behalf of Mr I F Ford the owner of the site, and is for a Certificate of Lawfulness for existing building works. The use of the building is described as agricultural. The applicant claims that the building works were substantially completed more than four years before the date of this application. Specifically a date of 22/12/2005 is given for when the building works were substantially completed.

1.2 This is not an application for planning permission where the planning merits of the case are to be considered against the development plan policies, but an application for a Certificate of Lawfulness. The test is to assess whether on the balance of probability the building erected at the site was substantially complete over four years ago. The Certificate, if granted, would effectively make the development immune from enforcement action. However in this instance there is a planning consent for an agricultural building, namely reference PT05/0531/F granted in October 2005. It is the view of the Local Planning Authority that the development falls within this consent and as such would be authorised by a specific conditional planning consent whether or not the '4 years' of existence had been proven. Notably this consent had a planning condition removing agricultural permitted development rights on the remaining agricultural holding upon which the building was proposed.

1.3 It is the applicants case that they did not build the building under consent PT05/0531/F (and as such are not bound by the conditions); rather they built an unlawful structure that should be granted a certificate free from any such constraints.

1.4 The evidence submitted by the applicant and any counter evidence considered is analysed in this report.

2. SITE AND LOCATION

2.1 The site set out in the application is a rectangle considered to represent the building subject of the application. It is located east of the main farm house and south of Marshacre Lane. The building footprint is shown to be 16.8 by 27.5m, a total area measuring 462 square metres.

3. RELEVANT PLANNING HISTORY

PT01/1728/F Planning permission granted for B1 use of former agricultural buildings. 19.7.2001.

PT05/0531/F Erection of agricultural buildings for the housing of livestock and storage of animal feedstuff. Approved 13.10.05. Condition 2 removed agricultural permitted development rights.

There were also two pre commencement conditions regarding the submission of drainage details and landscaping.

PT06/3530/F Conversion of existing agricultural building for Class B1 use as defined in the Town and Country Planning (Use Classes) Order 1987 as amended. Demolition of timber agricultural building to facilitate provision for car parking. (Resubmission of PT06/2747/F). Approved 2/2/2007

PT07/2036/F Erection of extension to existing agricultural building. Refused 28/08/2007

PT08/0903/F Erection of agricultural livestock building. Refused and appealed. Dismissed at appeal 3/12/2008.

4 POLICY CONTEXT

4.1 Town and Country Planning (General Procedures) Order 1995 Article 24 Circular 10/97 'Enforcing Planning Control: Legislative provisions and Procedural Requirements'.

5 ANALYSIS OF EVIDENCE IN SUPPORT OF THE APPLICATION

5.1 Evidence that has been submitted in support of the application:

5.2 Statutory Declaration of Walter Ford of Redhill Farm (the site) dated 11 January 2010.

- states that an agricultural building measuring 27.5m by 16.8m was erected twenty metres away from the eastern boundary. Work was completed on 22/12/2005 and a plan shows the building constructed.
- No details were submitted or approved regarding the pre-commencement conditions relating to the 23 by 20m building approved under PT05/0531/F.

5.3 Statutory Declaration of Adam Ford of Paddock Edge, Redhill Lane, Elberton dated 11 January 2010.

- Same text as Walter Ford above.

6 ANALYSIS OF COUNTER EVIDENCE

6.1 In assessing this certificate consideration needs to be given to whether a) The building constructed is or is not materially different to that granted planning permission, and b) has the planning permission been implemented. The building is clearly development which would have required planning consent under either the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted development) Order 1995. No Permitted Development application was applied for but an application for planning permission for a very similar building was applied for and granted only months before the subject building was erected under reference PT05/0531/F.

a) Is the building constructed materially different to that granted planning permission

In determining whether a development is materially different to that permitted under the planning application consideration needs to be given to the Court of Appeal decision of **Handoll and Suddick v Warner Goodman and Streat (A firm) and Others (1995)**. In Handoll it was held that if a development does not comply in a

material respect, or to a material extent, with the permission granted, a planning condition restricting the use (in that case an occupancy condition) attached to that permission cannot apply to the unauthorised development. In light of this ruling it needs to be established at Redhill Farm whether the building differs in a material respect to the building that was granted planning consent.

The building erected was intended to be the subject of the planning consent because it is on the same part of the farm yard with a footprint essentially in accordance with the cattle shed granted under PT05/0531/F and being in colour coated cladding, spaced boarding and blockwork. In addition the means of construction, eaves and ridge height of the building remain the same. Given the scale of the farmyard, lack of immediate neighbours and the agricultural nature of the building it is unsurprising that modest dimensional changes to the footprint of the building have not been identified to date. The differences between the proposed, consented building and the built form of the building are set out in the table below.

	Proposed	Built	Difference
Distance from eastern boundary	15m	20	5m further westwards
Distance from southern boundary	25m	25m	Nil
Depth	20m	16.8m	84% built
Breadth	23m	27.5m	119% built
Height to eaves	4.8m	4.8m	Nil
Height to ridge	Approx 7m	7m	Nil
Overall floor area	460	462	Negligible
Percentage of floor area within that of approved plan area.	460	18.5 x 16.8 = 311	460/(460+311) =60%

Whether the differences are material is a matter of fact and degree. IT is considered that the table above demonstrates that the building does not differ in a material respect from (design, materials, location) to that of the consented building in that it remains a modern farm building constructed in standard agricultural materials to a recognised modern agricultural design and significantly overlapping the consented build site. Neither is it materially different to the extent of building consented (floor area, height etc) as the floor area and height to eaves and ridge level remain almost identical to that permitted. Whilst it is acknowledged that the building was adapted such that it is now around 16% less deep and also 19% longer the changes alter the form of the building little overall. Given the context of a large agricultural building in a

rural area none of the above are considered to be materially different from the consent granted either singularly or communally. As such it is concluded that there is no material change to the substance of the development granted under planning permission PT05/0531/F.

6.3 Implementation of the planning application

In addition to the non material changes to the building undertaken it appears that the owners understood that they had erected the building approved under PT05/0531/F as references to PT05/0531/F occur throughout the intervening planning history. Some specific examples are set out below.

Planning permission for an agricultural building was approved at this location shortly before the building works were commenced. The approval was dated 4/8/2005 and the building actually erected appears to have been substantially completed by 22/12/2005. There is clear intent that the building erected was that of the 2005 consent albeit that the footprint dimensions appear to differ. The timescale of erection, the general form and materials are as approved and its function is as that approved. This stance is supported in evidence picked up in applications for planning permission between the granting of PT05/0531/F and this application where the building is referred to in supporting documents in the intervening applications.

- 6.4 Indeed it is clear that the applicant, Local Planning Authority and the Planning Inspectorate were all of the opinion that PT05/0531/F had been implemented lawfully-notwithstanding that pre-commencement conditions were not discharged. This is not fatal to the decision as the five-year timescale for commencement of development has not yet expired and the Local Planning Authority is open to discharging conditions – and this is a matter addressed later in this report.

6.5 **Application PT08/0903/F for the erection of agricultural livestock building.**

- b) A letter from Derrick Hardwick (previous agent for the applicants) dated 10 March 2008: refers to the refused application PT07/2036/F. ‘for an extension to *an existing building which was originally approved on 4th August 2005 under Ref:PT05/0531/F. That building has now had three winters use.*’
- c) The approved scheme should have been erected approximately 15m from the eastern field boundary and approximately 25m from the southern boundary. The application for an additional building (PT08/0903/F) shows the ‘*existing building still measuring 23m by 20m and being approximately 25m from the southern boundary.*’
- d) The Design and Access Statement for the application refers to ...’ an existing building which was built in 2005 as a replacement of an original building which needed to be demolished..’ and the statement goes on to say that the proposal would be the same length and height at eaves (23m by 15m)’ and that ‘*new planting has been carried out in conjunction with the 2005 building at the west end*’. This shows that the applicants were of the opinion that they had complied with the landscape condition of planning approval PT05/0531/F.
- e) The Agricultural Planning Appraisal prepared in February 2008 by the Farm

Consultancy Group on behalf of Mr Ford and partners refers to *a current housing of just 460m2.*

- f) In the application PT08/0903/F paragraph 3.3 of the Planning Appeal Statement states 'In 2005 permission was granted for the erection of agricultural buildings for the housing of livestock and storage of animal feedstuff. (Application PT05/0531/F). *This permission authorised the erection of the existing livestock building to the north of the Appeal site.*' At paragraph 5.10 the existing livestock building is referred to again and specifically states that 'To the west new planting is being established as part of a previous planning permission.'
- g) The plan accompanying the application for the proposed additional agricultural building PT08/0903/F indicates that new hedge planting was carried out in 2005 which appears to be related to the implementation of consent PT05/0531/F.

The references to the building in the applicant's applications and appeal statement since the erection of the subject building clearly indicate that the applicants were implementing the consent PT05/0531/F.

6.7. Aerial photography

- 1. Aerial photo taken May to July 2005 shows: no building in situ.
- 2. Aerial photo taken 2006 shows: the building
- 3. Aerial photo taken 2008 shows: the same building

In essence the building is located in the same place (same distance from southern boundary and only five metres westwards) and is for the same floor area but is of a narrower plan footprint (16% narrower) and as such is slightly longer (19%). Such alterations from the scheme permitted were not formally considered by the Councils Planning Enforcement Team but had they been then it would be doubtful if the alterations would have been expedient to justify enforcement action.

However the lack of submission of the details required under pre-commencement conditions 4 (drainage) and 5 (scheme of details landscaping) can be passed on to the Councils Planning Enforcement Team for submission of details now but also raises the question as to whether or not planning permission has been implemented lawfully.

6.8 Has planning permission PT05/0531/F been implemented lawfully?

The development has been constructed without the discharge of two pre commencement conditions. The position on this is summarised in the case of **Leisure Great Britain plc v Isle of Wight Council (2000)** and set out below. The starting point is where works have been undertaken in breach of an operative planning condition, they cannot be works of 'material development' for the purpose of commencing the development. However there are exemptions identified in case law whereby pre-commencement conditions had not been formally discharged, but nevertheless the development was considered to have commenced lawfully. In **Whitley & Sons v SoS for Wales (1992)** it was held that if the condition requires an approval before a particular date and the developer applies before that date only to receive approval after that date such that no enforcement action could be taken, work done in accordance with the scheme ultimately approved can amount to a start to the

development. In **Agrecrest Ltd v Gwynedd County Council [1998]** it was held that where the LPA have agreed development could commence without full compliance with the relevant conditions. In **R v Flintshire County Council Ex p. Somerfield Stores Ltd [1998]** it was held that where the condition had in substance been complied with but the formalities, including the written notice of approval had not been completed before the works started on the site been submitted to the Council the development may nevertheless be lawful.

Accordingly there is some flexibility in relation to the timing of the discharge of some pre-commencement conditions especially if the Local Planning Authority was generally satisfied with the works carried out and would not consider it expedient to take enforcement action. Where the Courts have considered that no reasonable LPA would seek to undo the development then they have tended to treat the permission as having been lawfully implemented in case law (**Norris v First Secretary of State and Stoke on Trent CC (2006) JPL 1574**). At Redhill Farm there is a scheme of landscaping which would satisfy the condition close to the existing barn and it is anticipated that there would be no objection to the discharge of the surface water. Accordingly on the face of it, it would be unreasonable to take enforcement action against the development and it is highly likely that these specific details could be formally agreed retrospectively.

7 EVALUATION.

7.1 Legal implications

The current application was submitted on 29 January 2010 and the grounds upon which the certificate is sought is that the building was erected over four years before the date of the application. The purpose of this application is to test whether the evidence submitted supports this on the balance of probability.

7.2 Hierarchy of evidence

When assessing the evidence supplied in support of certificate of lawful development application, different types of evidence are given different weight. Generally speaking the weight to be attached to such evidence in order of worth is as follows:

1. Verifiable photographic evidence
2. Contemporary documentary evidence, especially if prepared for some other reason
3. Sworn written statements / appearance under oath at Public Inquiry.
4. Unsworn letters

The building is seen to be longer in footprint than the original building but this is essentially the addition to the permitted building of an additional bay. There is no dispute between the applicant and the Council that the dimensions of the building differ but this is not felt to alter the fact that the removal of one bay of the building retains essentially the building permitted under PT05/0531/F. Notwithstanding that the overall floor area has not been increased as the depth of the building was reduced.

The documents submitted in favour of later applications at the site clearly indicate that the building erected on site was that of the approved building.

The Sworn statements submitted in favour of this application indicate that a building of different dimensions was erected and that details relating to the pre-commencement conditions were not submitted for approval. This is not disputed, rather what has been considered in depth is whether nevertheless the building is lawful because it derives authority from planning permission PT05/0531/F. It is concluded with reference to relevant case law that on the balance of probability this is the case as the alterations to the building are not material and that it would not be expedient to enforce against the building simply because the formalities of the pre-commencement conditions have not been submitted or discharged.

8. **CONCLUSION**

It is considered that on the balance of probability the building is that approved under planning permission PT05/0531/F contrary to the argument put forward in the agents supporting statement and as such a certificate of Lawfulness for the existing building can be issued on the basis that it was granted specific planning permission. Furthermore the planning conditions on planning permission PT05/0531/F still hold, specifically the removal of agricultural permitted development rights.

9. **RECOMMENDATION**

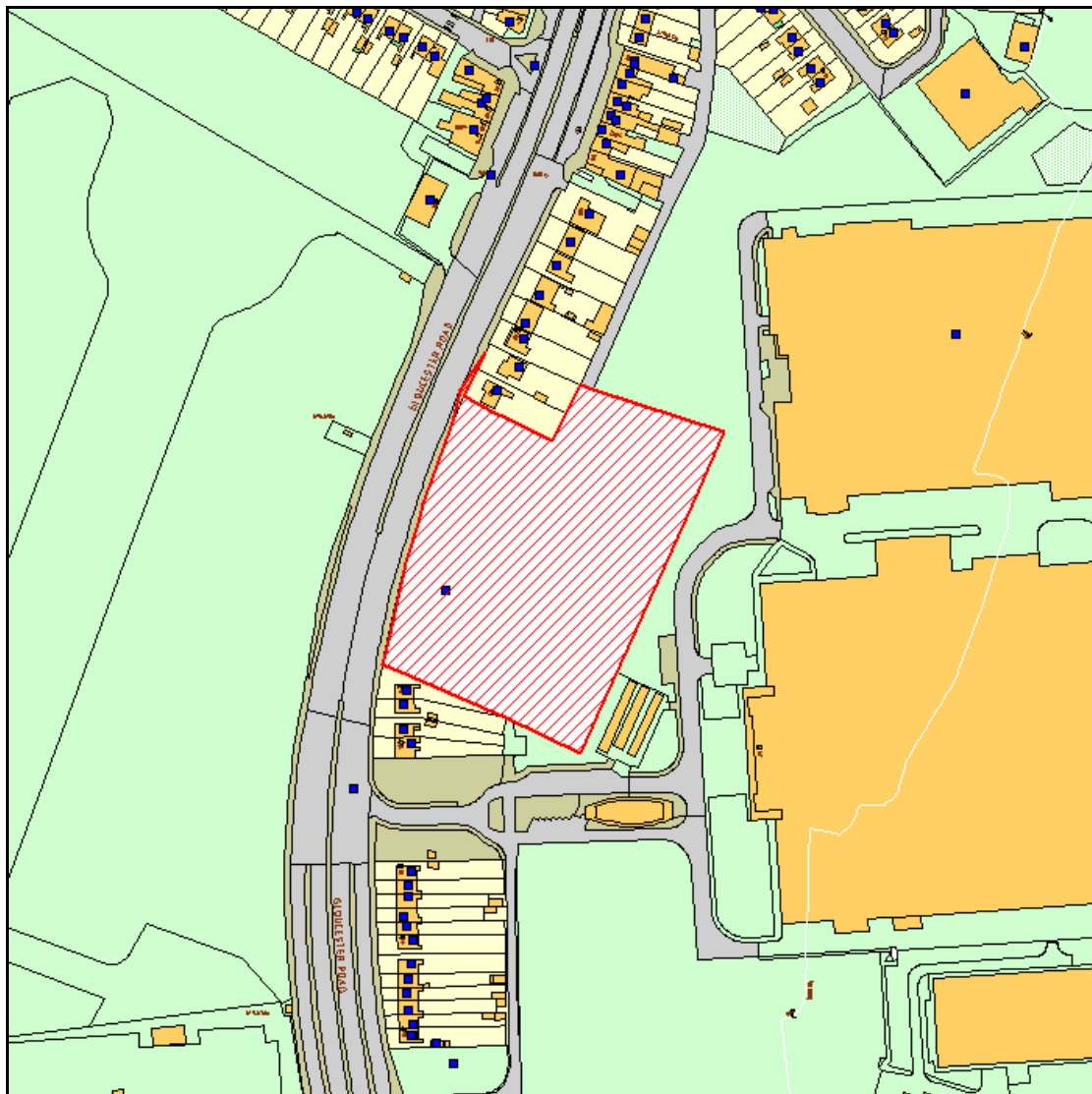
9.1 Certificate of lawfulness of existing use to be **GRANTED** for the following reason: -

On the balance of probabilities, the evidence demonstrates that the barn has been substantially implemented in accordance with the development approved under planning permission PT05/0531/F and it would be unreasonable of the Local Planning Authority to enforce against the pre-commencement conditions, which could be satisfactorily discharged retrospectively. On this basis the development is lawful and conditions 2, 3, 4, 5 and 6 attached to PT05/0531F apply.

Contact Officer: Karen Hayes
Tel. No. 01454 863472

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PT10/0702/O	Applicant:	Avon And Somerset Police Constabulary
Site:	90 Gloucester Road Patchway Bristol South Gloucestershire BS34 6PZ	Date Reg:	9th April 2010
Proposal:	Erection of two storey Police Station and custody facility (Outline) with access to be determined (All others matters reserved)	Parish:	Patchway Town Council
Map Ref:	360475 180981	Ward:	Patchway
Application Category:	Major	Target Date:	29th June 2010



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 100023410, 2008. **N.T.S.** **PT10/0702/O**

INTRODUCTION

This application appears on the Circulated Schedule as the recommendation to grant planning permission is subject to a s106 legal agreement.

1. THE PROPOSAL

1.1 The site consists of a vacant area of land measuring approximately 1.38 hectares. Although the site is vacant there is an extant outline planning consent (PT06/2141/O) for employment/car showroom uses. This is detailed below. The site is located within the Bristol North Fringe Urban Area and is within a safeguarded employment site as allocated under Policy E4 (1) of the South Gloucestershire Local Plan. The site is also safeguarded under Policy CS12 of the emerging South Gloucestershire Core Strategy (Pre-Submission Publication Draft).

1.2 The proposed development consists of the use of the site for a Police Custody Centre and Police Station arranged as two separate buildings within the site together with vehicle parking and circulation. The Police Station is intended to replace the existing Filton Police Station at Elm Park, Filton. All matters are reserved except access. This proposal utilises principally the same access arrangements as previously approved under PT06/2141/O

1.3 Public Consultation Exercise

The applicant has voluntarily carried out an independent public consultation regarding this proposal. A summary of this consultation exercise has been submitted in support of this planning application. This outlines the main areas of discussion and concern relating to the proposed development. It should be noted that the summary indicates that there is general support for the proposed development. The Town Council has not commented in regards to this application as a result of the statutory Public Consultation carried out by the Local Planning Authority. Similarly no public comment has been received by the Local Planning Authority.

2. POLICY CONTEXT

2.1 National Guidance

PPS1	Delivering Sustainable Development
PPS4	Planning for Sustainable Economic Growth
PPG13	Transport
PPG24	Planning and Noise
PPS25	Development and Flood Risk

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1	Achieving Good Quality Design in New Development
LC4	Proposals for Education and Community Facilities within the Existing Urban Areas and Defined Settlement Boundaries

- E3 Criteria for Assessing Proposals for Employment Uses within the Existing Urban Areas, Defined Settlement Boundaries and/or Permitted by Policies E4/E6/E7
 - E4 Safeguarded Employment Area
 - T7 Cycle Parking
 - T8 Vehicle Parking
 - T12 Transportation Development Control Policy for New Development
- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist (Adopted)
- 2.4 The South Gloucestershire Core Strategy (Pre-Submission Publication Draft)
CS1 High Quality Design
CS12 Safe Guarded Areas for Economic Development.
CS23 Community Buildings and Cultural Activity
CS25 Communities of the North Fringe Of Bristol Urban Area

3. **RELEVANT PLANNING HISTORY**

- 3.1 **PT05/3265/O** Demolition of existing buildings to facilitate the redevelopment of 1.44 hectares land (Outline) for employment use (Class B1, B2 and Car Dealership/Showroom [sui generis]) (as defined in the Town & Country Planning (Use Classes) Order 2005). Means of access to be determined. All other matters to be reserved.

Withdrawn

- 3.2 **PT06/2141/O** Demolition of existing buildings to facilitate the redevelopment of 1.44 hectares land (Outline) for employment use (Class B1, B2 and Car Dealership/Showroom [sui generis]). Means of access to be determined. All other matters to be reserved. Resubmission of PT05/3265/O

Approved subject to section 106 legal agreement (signed 6th March 2008)

4. **CONSULTATION RESPONSES**

- 4.1 Patchway Town Council
No comments received

- 4.2 Sustainable Transport
The proposed development is very similar in respect of traffic generation to that which was approved under PT06/2141/O and it is proposed to utilise the same access arrangements as the previous approval. On this basis, there is no objection in transportation terms subject to the provision of the access arrangements by way of a s106 legal agreement.

Other Representations

- 4.3 Local Residents
No comments received

5. ANALYSIS OF PROPOSAL

- 5.1 The proposed development consists of the use of the land for a Custody Suite and Police Station. The site is located within the Bristol North Fringe and is within land safeguarded for employment uses under policy E4 (1) of the South Gloucestershire Local Plan (Adopted) January 2006.
- 5.2 Principle of Development
Chapter 11 (Service Infrastructure) of The South Gloucestershire Local Plan (Adopted January 2006 sets out that Police Emergency Services should be considered under Policy LC4 of that document. The policy sets out that proposals for the development of community facilities within the existing urban area will be permitted. In this instance the site is located within the urban area associated with the Bristol North Fringe and is broadly consistent with that principle.
- 5.3 Policy E4 of the South Gloucestershire Local Plan (adopted) January 2006 is also relevant to this planning application. The site is located within the safeguarded employment land adjacent to Airbus and Rolls Royce to the East and West of the A38 at Patchway and Filton.
- 5.4 The above safeguarding defines the employment uses as those falling under Class B1 (Business), B2 (General Industry) and B8 (Storage and Distribution) of the Use Classes Order. The proposal consists entirely of police related activity which itself is a Sui Generis use and therefore not falling within the use classes traditionally considered as employment uses.
- 5.5 The extant planning permission consists of a mix of B1/B2 uses and a car sales show room/dealership (Sui Generis). At the time that the application was assessed, it was considered that the scale and the mix of uses now approved would not undermine the site allocation for employment uses. On this basis, a precedent for an element of sui-generis use (car sales showroom) on the basis that the development is potentially capable of providing employment for 135 persons.
- 5.6 Notwithstanding the above PPS4 has introduced a broader position in respect of Economic Development. The document defines 'Economic Development' as those land uses included within the 'B' Use Classes, public and community uses and main town centre uses. The document also sets out that its policies also apply to other developments which would provide employment opportunities; generate wealth or produce or generate an economic output or product. In this instance, the proposed use would employ a total of 212 persons. On this basis, it is considered that the development constitutes 'economic development' as defined in PPS4. Furthermore, it is considered that given the level of employment offered as part of the development, it is considered that the proposal would constitute an employment use; albeit not within the B use classes traditionally associated with employment uses.
- 5.7 Policy E4 of the South Gloucestershire Local Plan makes a general presumption against non-employment uses (within the B use classes) unless it can be shown that the development proposal would;

- i) would support or would not prejudice the creation or retention of employment uses elsewhere within the defined employment area (E4(1)), and
 - ii) no suitable alternative for the proposal has been made elsewhere in the plan, and
 - iii) it can be clearly demonstrated that the site is no longer capable of offering accommodation for employment purposes, or
 - iv) it can be clearly demonstrated that the use would contribute to a more sustainable pattern of development; or
 - v) the proposal would provide a significant improvement in the amenities of existing neighbouring residential occupiers.
- 5.8 The applicant has submitted a comprehensive assessment of the proposal in the light of its impact upon the employment allocation of the site under policy E4 of the South Gloucestershire Local Plan. Essentially, the applicant argues that the proposed development would represent a robust quasi-employment use that satisfies the criteria of Policy E4 of the South Gloucestershire Local Plan. Officers would agree with the applicants assessment as submitted. Indeed, officers consider that the proposed development is consistent with the requirements of PPS4 in that it represents appropriate economic development.
- 5.9 Policy CS12 of the emerging South Gloucestershire Core Strategy (Pre-Submission Publication Draft) proposes to safeguard this site in a very similar manner to Policy E4 of the South Gloucestershire Local Plan. Policy CS12 is a criteria based policy which sets out that proposals for a change from B Use Classes to other economic development uses will need to satisfy if approval is to granted. The thrust of the criteria is very similar to that contained within the current development plan. On this basis, officers consider that the proposed development would not undermine the future implementation of Policy CS12 of the South Gloucestershire Core Strategy (Pre-Submission Publication Draft).
- 5.10 Policies CS23 of the emerging Core Strategy (Pre-Submission Publication Draft) is supportive of new community buildings and infrastructure. Policy CS25 of the emerging Core Strategy (Pre-Submission Publication Draft) relates to the development of new communities in the North Fringe of Bristol. The proposal would not undermine the principles of the future implementation of those policies.
- 5.11 Having regards to the above assessment, it is considered that the proposed development would represent a quasi-employment/community and economic development use and as such is acceptable in principle.
- 5.12 Location of the Proposed Development
The main element of the proposed use comprises of a Custody Centre and this would not require general public access. The proposed Police Station would effectively replace the existing Police Station located at Elm Park and would be

open to the public in the same way as the existing Police Station at Elm Park. Clearly, if developed, the proposed Police Station would potentially lead to the closure of the Police Station at Elm Park. This application cannot consider the principles of the redevelopment of the Elm Park Site. However, Policy CS23 in considering the redevelopment of existing Community Facilities (including the emergency services) sets out (at section 10.78) that the policy should not obstruct the re-organisation plans of the particular service provider. Furthermore, the proposed development does not fall within the category of Town Centre uses as defined within PPS4 and Policy LC4 of the South Gloucestershire Local Plan (Adopted) January 2006 does not require that Community uses are located within a Town Centre site. On this basis, the location of the proposed Police Station is considered acceptable.

5.13 Given the scale, nature and security issues relating to the proposed development (primarily for Custody Services) it is also considered that the site would be preferable in respect of the function of the proposed development. Similarly, the primary function of the site is such that easy access to the primary transport network is a distinct advantage. Clearly this site would enable this. On this basis, officers considered that the proposed use need not be located within a town centre and that the proposed location is acceptable.

5.14 Design and Layout Considerations

Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006; supported by the South Gloucestershire Design Checklist (Adopted SPD) seeks to ensure that new development achieves a high standard of design. Policy LC4 and E3 of the South Gloucestershire Local Plan (adopted) January 2006 are supportive of this principle and seek to ensure that there is no unacceptable environmental impact and the character of the area surrounding the subject site is not adversely affected.

5.15 The application is submitted in Outline with all matters reserved except access. The access to the site is considered below. The Design and Access statement sets out the broad parameters for the design, scale and layout of the development and the buildings themselves. The proposed development can be split into two main elements consisting of two buildings; namely the proposed Custody Centre and the proposed new Police Station. The application is supported by indicative drawings so as to demonstrate the scale of the buildings and the layout of the site. In this instance it is considered that the proposed layout and scale of the buildings are acceptable in principle and would be consistent with the character of the surrounding locality, which is dominated by the existing building associated with the adjacent Rolls Royce site. Nonetheless it is appropriate to apply a condition to any approval such that the subsequent reserved matters application is consistent with the parameters of the submitted Design and Access Statement. Details of the design principles are set out below.

The Custody Centre

The Custody Centre is proposed to be the main building on the site and as such is the largest of the two proposed buildings. Essentially the building would be located centrally on the site so as to allow appropriate vehicular circulation whilst providing the required level of security for the purpose of the building.

The proposed building would cover approximately 3000 square metres and would be arranged on a two storey basis (approximately 8 to 9 metres in height). The building would principally accommodate 54 detention cells and associated office and ancillary accommodation. The building would be predominantly office space. The building would have its own dedicated and secure parking provision.

The Police Station

The Police Station is proposed to be located in the North-eastern area of the site and to the rear of 92 and 94 Gloucester Road North. It is also proposed that this building is two storey (approximately 8 metres in height) and would cover approximately 1000 square metres of ground. The building would have its own dedicated parking which would be accessible to the public.

- 5.16 The detailed design proposals would be submitted at the 'reserved matters' stage should this outline application be approved. The applicant has indicated that in this submission will be designed with a contemporary appearance whilst respecting the general character of the locality. The developer has also indicated that the development will be designed to achieve BREEAM 'excellent' in respect of the performance of the buildings. Any approval of this proposal can include an appropriately worded condition to secure this rating. In addition, the applicant has set out that the design of the building will be required to meet the 'design excellence' standards as set out in the Government 'Better Public Buildings initiative. This will form a fundamental element of the tender process. Prior to the submission of reserved matters, detailed designs will be reviewed by a Home Office Design Review Panel which would be attended by CABI members including architects and building design related professionals. This would inform the final submission for consideration by the Local Planning Department. Officers would welcome this approach and are confident that this will result in a very high standard of design.
- 5.17 Having regards to the above, it is considered that the proposed development will be able to achieve a high standard of design and performance; subject to details submitted in subsequent reserved matters applications, and as such is consistent with Policy D1 of the South Gloucestershire Local Plan and Design Checklist. Proposed Policy CS1 of the South Gloucestershire Core Strategy (Pre-submission Publication Draft) also advocated very high standards of design in new development. In this instance, it is considered that the proposed development would not undermine the future implementation of that policy.
- 5.18 Residential Amenity
In general terms policy E3 of the South Gloucestershire Local Plan (Adopted) January 2006 seeks to ensure that new employment development should not have an unacceptable impact upon the privacy and residential of the occupants of nearby dwellings.
- 5.19 There are a small number of residential properties located adjacent to the site and associated with Gloucester Road North. However, the immediate location is predominantly occupied by commercial development. In this instance, the indicative drawings show the proposed Police Station element of the proposal is situated to the East (rear) of dwellings at 92 and 94 Gloucester Road North.

The building is approximately 27 metres from the boundary of the residential properties and approximately 54 metres from the dwellings themselves. It is considered that these distances are sufficient to minimise the impact of the development such that it would not be material in respect of overlooking and loss of privacy.

- 5.20 It is proposed that the site is used for 24 hours per day. It should be noted that the extant planning permission is such that there is no specific control over the hours of operation in respect of the employment and car sales show room currently benefiting from planning permission. It is not envisaged that the proposed development would result in a materially greater level of vehicular movement. Indeed the activity at the proposed development being predominantly office/administrative space is not considered to represent a noisy activity. In relation to the potential for the use of sirens on police emergency vehicles, it is considered that this is no more likely to occur than currently exists on the immediate highway network. Generally, the use of sirens within the site would not occur whilst the use of them on the highway network would normally occur during day time hours when traffic volumes would require; with night time use less frequent. Transportation of those in custody to the site would be via the proposed one way access system and as such would not normally require vehicles to manoeuvre within the site or use reversing beepers, and thereafter they would be transferred to the building under cover/internally.
- 5.21 Having regards to the above, it is not considered that the proposed development would create such a level of noise as to materially or unduly impact upon the residential amenity of the occupants of nearby dwellings.
- 5.22 Currently the site is unoccupied and enclosed by timber hoarding. It is considered that the scope of the proposed development is such that the outlook from the nearest residential dwellings would be considerably improved as a result of the redevelopment of this site.

Having regards to the above, it is considered that the proposed development would not unduly impact upon the privacy and residential amenity of the occupants of nearby dwellings and as such is consistent with the requirements of policy E3 of the South Gloucestershire Local Plan.

- 5.23 Flood Risk
Given the size of the site, it is necessary for the applicant to submit a Flood Risk Assessment (FRA) in support of the application. The Environment Agency has considered the detail of the FRA and raises no objection subject to the provision of sustainable drainage systems (SuDS). In this instance, any approval will be subject to a planning condition requiring that the development achieves a BREEAM rating of 'Excellent'. This would include SuDS as a matter of course as this would be minimum requirement of that BREEAM rating.
- 5.24 Transportation
Policy E3 and T12 of the South Gloucestershire Local Plan seek to ensure that new employment development would not have a detrimental impact upon

- highway safety or unduly impact upon the capacity and amenity of the surrounding highway network.
- 5.25 The site benefits from an extant planning consent (PT06/2141/O) for B1, B2 and car sales/dealership (Sui Generis) uses. The applicant has submitted a comprehensive Transport Assessment and Travel Plan in support of this application. Essentially, the Transport Assessment concludes that there would be no more traffic generated by this proposal than would be expected as a result of the currently approved development. Indeed, the nature of the use is such that heavy goods vehicles would not service the site as may be the case should the existing approval be developed. In this instance, it is considered that the proposed parking arrangements are acceptable and consistent with Policy T7 and T8 of the South Gloucestershire Local Plan.
- 5.26 It is proposed to replicate the access arrangement currently approved as part of the existing consent (PT06/2141/O). Essentially this would involve creating two points of access that would work with the new junction currently being constructed on the A38 immediately adjacent to this site (and associated with the Northfield Development). It is necessary to dedicate a strip of land to the front of this site as highway land. This can be secured through a section 106 legal agreement (and would be very similar to that which was signed in relation to planning permission (PT06/2141/O)). Subject to the provision and signing of the required section 106 legal agreement, there is no objection to this development in transportation terms.
- 5.27 Design and Access Statement
The Design and Access Statement submitted with the application is considered to demonstrate that the applicant has adopted a design approach consistent with the Council's Design Checklist Supplementary Planning Document.
- 5.28 Use of Energy and Sustainability
The proposed development will achieve a BREEAM rating of 'excellent' and this standard would exceed the minimum standard expected in order to comply with South Gloucestershire Planning Policy.
- 5.29 Improvements Achieved to the Scheme
It is considered that no improvements are required in respect of the outline proposals detailed within this planning application.
- 5.30 Section 106 Requirements
In relation to the issues raised by this planning application, consideration has been given to the need for a Section 106 Agreement. Circulars 11/95 and 05/2005 relate to the use of planning conditions and planning obligations under Section 106 of the Town and Country Planning Act (as amended). Circular 05/2005 particularly advises that if there is a choice between imposing a condition and entering into a planning obligation, the imposition of a condition is preferable. In this instance, having regard to the above advice, the required highway works and necessary dedication of land as highway are appropriately the subject of a Section 106 Agreement and would satisfy the tests set out in Circular 05/2005.

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 It is concluded that the principle of the proposed development is acceptable and that the development of a Custody Centre and Police Station would not undermine the provisions of Policy E4 of the South Gloucestershire Local Plan (Adopted) January 2006 and would be consistent with the provisions of PPS4. It is concluded that, subject to a section 106 legal agreement to secure the dedication of land within the site as highway land (and any other necessary highway works) the proposed development would provide safe access to and from the site and would not have a material impact in respect of highway safety, capacity and amenity. It is concluded that the outline proposals (subject to the submission of reserved matters in line with the broad design and layout principles of this planning application) are sufficient to provide the basis for high quality development that would be consistent with the character and visual amenity of the site and its surroundings and that the development would not result in a material impact upon the privacy and residential amenity of the occupants of nearby residential dwellings. The proposed development is therefore consistent with the requirements of Policy D1, E4 and T12 of the South Gloucestershire Local Plan, the South Gloucestershire Design Checklist and PPS1.
- 6.3 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 That authority be delegated to the Director of Planning, Transportation and Strategic Environment to grant planning permission, subject to the conditions set out below and the applicant first voluntarily entering in an appropriate agreement under section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:
- a) A signalised junction (as proposed as part of this outline planning application (Transport Statement)
 - b) The prohibition of the use of the ahead only junction until the completion of the proposed NF8 junction (by others)
 - c) The dedication of the land across the frontage as highway land
 - d) The closure of existing access points onto the A38
- 7.2 That the Head of Legal and Democratic Services be authorised to check the agreement.
- 7.3 In the event that the Legal Agreement is not signed within six months of the date of this decision the application is refused on the basis that the above have

not been secured; or the matter is returned to the Circulated Schedule with an update report.

Contact Officer: Simon Penketh
Tel. No. 01454 863433

CONDITIONS

1. Approval of the details of the layout, scale and appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason

This is an outline permission only and the reserved matters shall be made to the Local Planning Authority.

2. Plans and particulars of the reserved matters referred to in the condition above, relating to the layout, scale and appearance of any buildings to be erected and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason

This is an outline permission only and the reserved matters shall be made to the Local Planning Authority.

3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason

This is an outline permission only and the reserved matters shall be made to the Local Planning Authority.

4. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason

This is an outline permission only and the reserved matters shall be made to the Local Planning Authority.

5. Application for the approval of the reserved matters shall be in accordance with the parameters described in the design and access statement hereby approved on 23rd July 2010

Reason

To ensure a satisfactory standard of external appearance and layout and to accord with Policy D1, E3 and LC4 of the South Gloucestershire Local Plan (Adopted)

January 2006; and the South Gloucestershire Design Statement (Adopted) Supplementary Planning Guidance

6. The development hereby approved shall be constructed to a BREEAM standard of "excellent". A formal assessment following construction shall be undertaken by a licensed BREEAM assessor and a copy of the assessors report and the certificate shall be submitted to the Local Planning Authority prior to the use of the building.

Reason

To ensure the development minimises the use of energy and natural resources in accordance with PPS1 and its draft supplement Planning and Climate Change, draft RSS Policy G, the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist (Adopted) Supplementary Planning Document

7. Prior to the commencement of development a Commuter/Travel plan shall be submitted to the Local Planning Authority for approval. For the avoidance of doubt, the Commuter/Travel Plan shall bring forward the measures and recommendations of the 'Interim Travel Plan' as submitted for assessment with this Outline Planning Approval. The agreed Commuter/Travel Plan shall be implemented as approved before the development hereby permitted is brought into use; or otherwise as agreed in the commuter plan.

Reason

To encourage means of transportation other than the private car, to accord with Policies T10 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

8. The hours of working on site during the period of construction shall be restricted to 08:00 to 18:00 on Monday to Friday inclusive; 08:00 to 13:00 on Saturday; 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 occupiers of 92 to 98 Gloucester Road North and to accord with Policy E3 and E4 of the South Gloucestershire Local Plan (Adopted) January 2006.

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PT10/1316/F	Applicant:	Ms Saraha Behling
Site:	43 Stone Lane Winterbourne Down Bristol South Gloucestershire BS36 1DH	Date Reg:	8th June 2010
Proposal:	Subdivision of existing dwelling to form 2 no. separate dwellings with new access and associated works.	Parish:	Winterbourne Parish Council
Map Ref:	365500 179535	Ward:	Winterbourne
Application Category:	Minor	Target Date:	27th July 2010



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 100023410, 2008. **N.T.S.** **PT10/1316/F**

INTRODUCTION

This application appears on the Circulated Schedule as a representation was made contrary to the Officers recommendation.

1. THE PROPOSAL

- 1.1 The applicant seeks full planning permission for the subdivision of an existing dwelling to form 2 no. separate dwellings with new access and associated works.
- 1.2 This is a stone built semi-detached property within the defined settlement boundary of Winterbourne Down / Winterbourne. The proposal consists of the property's subdivision into two dwellings involving the creation of a new access. Minimal external alterations are proposed.

2. POLICY CONTEXT

PPS1	Delivering Sustainable Development
PPS3	Housing (as amended 9 th June 2010)
PPG13	Transport

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1	Achieving Good Quality Design
EP1	Environmental Pollution
H2	Residential Development within Existing Urban Areas
H4	Development within Existing Residential Curtilage
H5	Residential Conversions
T8	Parking Standards
T12	Transportation Development Control Policy for new Development

Emerging Development Plan

Core Strategy Pre-Submission Publication Draft (March 2010)

CS1	High Quality Design
CS5	Location of Development
CS15	Distribution of Housing
CS16	Housing Density
CS17	Housing Diversity

2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist (Adopted) 2007

3. RELEVANT PLANNING HISTORY

- 3.1 PT04/2607/F (Land to rear of 43 Stone Lane) – Erection of 3 no. dwellings with garages. Approved 20/09/2004.
- 3.2 PT04/3348/F – Two storey side extension and single storey rear extension. Refused 03/11/2004.
- 3.3 PT05/0086/F - Two storey side extension and single storey rear extension. (Re-submission of PT04/3348/F). Approved 04/02/05.

4. CONSULTATION RESPONSES

4.1 Winterbourne Parish Council

No objection - However, The Planning Committee wish to point out that in one of the properties a toilet is being inserted into the kitchen contra to planning regulations. Also a neighbour has commented that the first floor window on the side elevation should have obscure glazing as per PT10/0086/F.

4.2 Other Consultees

Highways

No objection.

Other Representations

4.3 Local Residents

One letter raising no objection in principle but objecting to the cutting down of a tree in the front garden prior to the application being made and also that a first floor side elevation window should be obscure glazed as per application PT05/0086/F.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy H5 of the Local Plan states that *'proposals for conversion of existing residential properties into smaller units of self contained residential accommodation, or change of use to houses in multiple occupation, or conversion of non-residential properties for residential use, will be permitted provided that they: -'*

A. Would not prejudice the character of the surrounding area; and

- 5.2 It is acknowledged in the Local Plan that, where appropriate, the conversion of larger residential properties into smaller units of accommodation can help contribute towards the need for houses for growing numbers of single persons

and small households. No. 43 Stone Lane resides within the settlement boundary of Winterbourne Down / Winterbourne. The immediate area is characterised by a mixture of residential property types including detached, semi detached and terrace dwellinghouses. In 2004 planning permission was granted for the erection of no. 3 detached dwellings to the rear and side of no. 43 Stone Lane. It is considered that owing to the residential character of the locality and of the varying housing types and sizes that can be seen, that the proposal would be acceptable and not to the overall detriment of the character of Stone Lane and the surrounding area.

B. Would not prejudice the amenities of nearby occupiers; and

- 5.3 No. 43 Stone Lane is already in use as a residential property, this is inclusive of land to the front and rear which is in use as amenity space for occupiers of the dwelling. It is not considered that the subdivision of the property would lead to any additional noise issues and as the property is not being extended there would be no adverse overbearing impact upon neighbouring occupiers. To the front of the property the garage doors are being replaced with windows and to the rear a door is being added in place of a window. This would not lead to any loss of privacy to neighbouring occupiers.
- 5.4 Under application PT05/0086/F for a two-storey side extension at the property a first floor window on the side elevation facing no. 49 Stone Lane was conditioned to be obscure glazed. A further condition was attached to prevent further windows being inserted into the side elevation. It is recommended that this condition be attached to this consent to ensure consistency between the permissions.

C. Would identify an acceptable level of off-street parking; and

- 5.5 The proposed alterations to the access will facilitate additional parking which is needed to serve the extra dwelling. Associated vehicles will continue to reverse back onto the highway and this is an accepted practice on an unclassified road such as Stone Lane. There are a number of similar neighbouring accesses and the Highways Officer is satisfied with the arrangements.

D. Would provide adequate amenity space

- 5.6 Both dwellings would benefit from private amenity space to the rear. A fence is proposed to divide the existing garden space. It is considered that sufficient space is provided for both the two and three bedroom property.
- 5.7 Other Matters

Winterbourne Parish Council point out that in one of the properties a toilet is being inserted into the kitchen contra to planning regulations. Notwithstanding this matter, there is no objection in planning terms to this arrangement, however this would be subject to separate Building Regulations consent.

5.8 Design and Access Statement

The Design and Access Statement submitted with the application is considered to demonstrate that the applicant has adopted a design approach consistent with the Council's Design Checklist Supplementary Planning Document.

5.9 Improvements to Scheme

No improvements considered necessary.

5.10 Section 106 Requirements

In relation to the issues raised by this planning application, consideration has been given to the need for a Section 106 Agreement. Circulars 11/95 and 05/2005 relate to the use of planning conditions and planning obligations under Section 106 of the Town and Country Planning Act (as amended). Circular 05/2005 particularly advises that if there is a choice between imposing a condition and entering into a planning obligation, the imposition of a condition is preferable. In this instance, planning conditions are the most appropriate, and a Section 106 Agreement is unnecessary.

6. **CONCLUSION**

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.

The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority is not in conflict with the following policies or adopted Supplementary Planning Guidance when read in conjunction with the planning conditions imposed.

- a) The proposal would not give rise to an adverse overbearing effect or a material loss of privacy to nearby occupiers. The development therefore accords to Policies D1 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006.
- b) The proposal has been designed to not prejudice the character of the surrounding area and character of the existing dwelling and provides adequate amenity space. The development therefore accords to Policies D1, H4 and H5 of the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist SPD (Adopted) 2007.
- c) The proposal identifies an acceptable level of off street parking. The development therefore accords to Policies T12, H4 and H5 of the South Gloucestershire Local Plan (Adopted) January 2006.

7. **RECOMMENDATION**

7.1 That planning permission is **GRANTED** subject to the following conditions.

Contact Officer: William Collins
Tel. No. 01454 863819

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. No windows other than those shown on the plans hereby approved shall be inserted at any time in the side elevation at first floor level of the extension, unless the Local Planning Authority gives consent in writing to any variation.

Reason

To protect the privacy and amenity of neighbouring occupiers, and to accord with Policy H5 of the South Gloucestershire Local Plan (Adopted) January 2006.

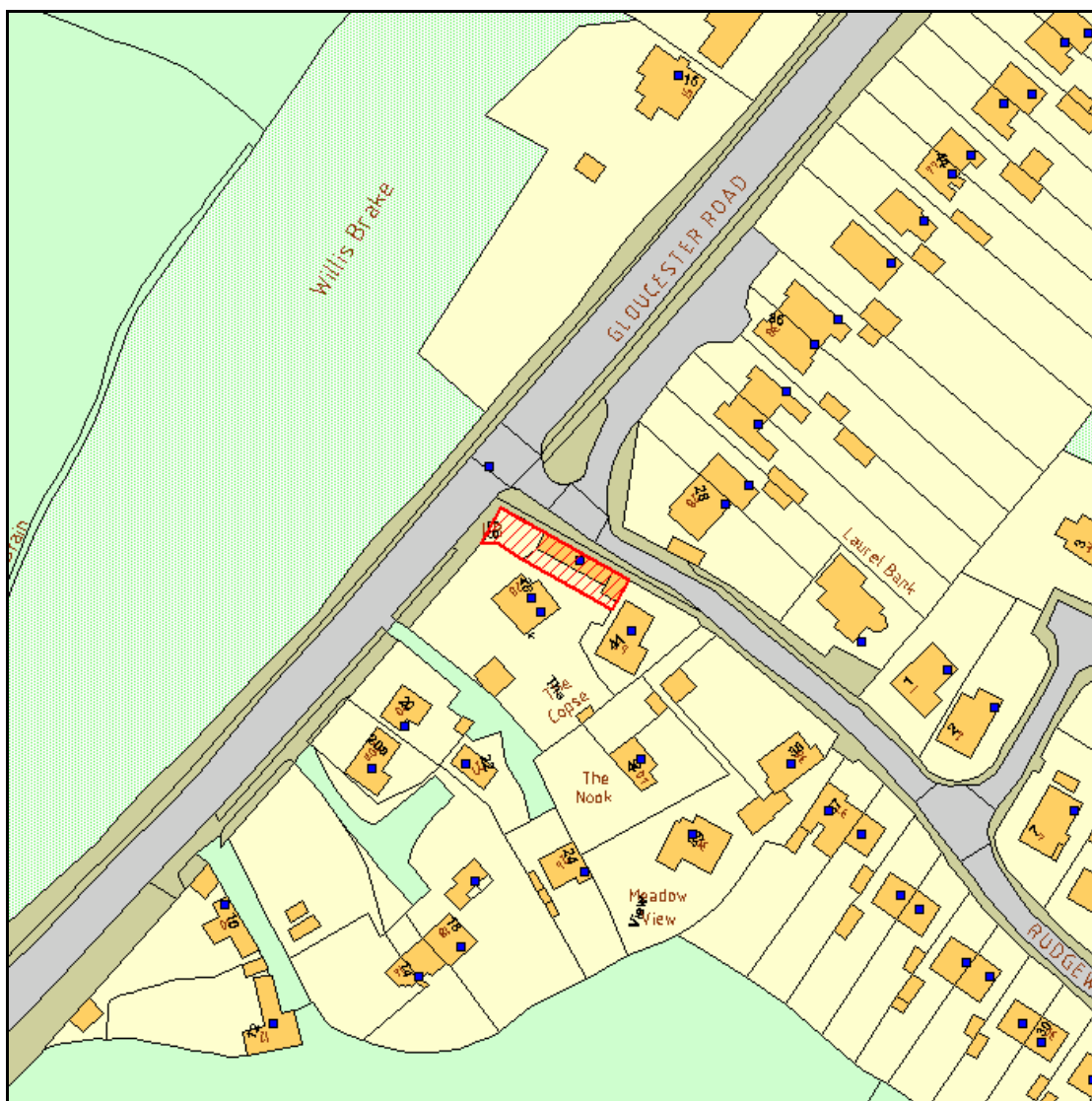
3. The glazing on the south-east side elevation shall at all times be of obscured glass.

Reason

To protect the privacy and amenity of neighbouring occupiers, and to accord with Policy H5 of the South Gloucestershire Local Plan (Adopted) January 2006.

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PT10/1344/F	Applicant:	Bedlam Beds
Site:	The Old Post Office Gloucester Road Rudgeway Bristol South Gloucestershire	Date Reg:	8th June 2010
Proposal:	Erection of single storey side extension to enclose existing external store.	Parish:	Alveston Parish Council
Map Ref:	362461 186367	Ward:	Thornbury South And Alveston
Application Category:	Minor	Target Date:	28th July 2010



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 100023410, 2008. **N.T.S.** **PT10/1344/F**

INTRODUCTION

This application appears on the Circulated Schedule following the receipt of representations that were contrary to the Case Officer's recommendation.

1. THE PROPOSAL

- 1.1 The applicant seeks planning permission for the erection of a single storey side extension. The proposal would be approximately 13.1m in length, 3.7m in width, and 4m in height.
- 1.2 The application site relates to an existing retail unit and its associated yard area. The site is located along the Gloucester Road and lies within the Rudgeway settlement boundary and the Green Belt.

2. POLICY CONTEXT

2.1 National Guidance

- PPS1: Delivering Sustainable Development
- PPG2: Green Belt
- PPS4: Planning for Sustainable Economic Development
- PPG13: Transport

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

- D1: Achieving Good Quality Design In New Development
- GB1: Development within the Green Belt
- T12: Transportation Development Control Policy for New Development
- RT8: Small Scale Retail Uses within the Boundaries of Settlements

2.3 Emerging Development Plans

South Gloucestershire Core Strategy (Pre-Submission Draft) March 2010

- CS1: High Quality Design
- CS5: Location of Development
- CS34: Rural Areas

2.4 Supplementary Planning Guidance

- South Gloucestershire Design Checklist SPD (Adopted) 2007
- South Gloucestershire Development within the Green Belt SPD (Adopted) 2007

3. RELEVANT PLANNING HISTORY

- 3.1 N7581/1 Change of use of part of existing shop/post office to estate agents
Refused 10.03.1983
- 3.3 P88/3205 Erection of detached bungalow (in accordance with

- the additional plans received by the council on the 24th January 1989) (outline)
Approved 13.04.1989
- 3.4 P97/1801 Change of use from retail (Class A1) to offices/stores for heating engineer (Class B1)
Approved 04.07.1997
- 3.5 PT08/3252/F Change of use of offices/stores for heating engineering (Class B1) to 1no. dwelling (Class C3) as defined in the Town and Country Planning (Use Classes Order) 1987 (as amended).
Approved 13.02.2009
- 3.6 PT09/0963/F Change of use of offices/stores (Class B1) to Class A1 as defined in the Town and Country Planning (Use Classes Order) 1987 (as amended).
Approved 17.07.2009

4. CONSULTATION RESPONSES

4.1 Alveston Parish Council
No objection.

4.2 Local Residents

One letter has been received in response to this application. The respondent has not objected providing that the following points are noted and respected.

- a) The Block Plan is incorrect. It states that there are no windows on the adjacent property.
- b) No roof lights should be inserted into the roof of the extension.
- c) Rainwater should run-off within the boundaries of No. 26A.
- d) The extension should not impinge on the No. 26 in any way.
- e) The height of the extension should not exceed 7ft (2.1m).
- f) The extension should be painted an appropriate colour.

5. ANALYSIS OF PROPOSAL

5.1 The applicant seeks planning permission for the erection of a single storey side extension. The main issues to address in the assessment of this application are:

- (1) Is the principle of the proposed extension to a retail unit within Rudgeway settlement boundary and Green Belt acceptable?
- (2) Would the proposed development maintain the openness of the Green Belt?
- (3) Would the proposed development achieve good quality design?
- (4) Would the proposed development prejudice the residential amenities of nearby occupiers?
- (5) Would the proposed development have acceptable transportation affects?

5.2 Principle of Development

The proposed development seeks permission for the erection of a single storey side extension to an existing retail unit, which is sited within the Rudgeway settlement boundary and the Green Belt.

5.3 Policy RT8 of the South Gloucestershire Local Plan allow for small retail developments within the boundaries of settlement providing that they would not harm transportation, residential amenity, and the character of the area.

5.4 PPG2 and Policy GB1 of the South Gloucestershire Local Plan outline that new building within the Green Belt are inappropriate, unless they are for: agriculture and forestry; essential facilities for sport; cemeteries; limited extensions to dwellings; and limited infill within the boundaries of settlements.

5.5 The proposed extension would be small scale and would be limited to “in-filling” an existing yard area between two existing buildings. Furthermore the site is situated within the boundary of an established rural settlement. On this basis the proposed development would be an appropriate development, and would preserve the openness of the Green Belt and would not conflict with purposes of including land in it.

5.6 In view of the above, it is concluded that the principle of the development would be acceptable, subject to the assessment of the following material considerations.

5.7 Design

The existing building is a long and narrow and has a pitched roof. This application seeks a single storey extension to the buildings south-west elevation. The proposal would be subservient to the host dwelling in terms of its height and its front elevation would also be set back. Furthermore the extension would be finished in render and tiles to match the existing dwelling.

5.8 It is considered that this design approach demonstrates that the scale, height, massing, detailing, colour, and materials of proposal respect the existing building and the surrounding area. On this basis, it is concluded that proposal accords to policy D1(a) and RT8(c) of the South Gloucestershire Local Plan.

5.9 It is noted that a local residents comment that the elevation facing their property should be finished in an appropriate colour. To ensure this, it is recommended that a condition is attached to ensure the new extension is finished in materials to match the host building.

5.10 Residential Amenity

The proposed extension would extend alongside the boundary with No. 26 Gloucester Road. The occupier of this dwelling has commented that the proposal should not exceed 2.1m in height (i.e. the height of the existing fence), it should never have roof lights inserted into the roof, and should not impinge on the No. 26 in any other way. Furthermore, Officers note that there is a discrepancy on the submitted ‘Block Plan’ because there are indeed windows

- in the side elevation of the adjacent property. On this basis, this relationship has been taken into account in the assessment of this application.
- 5.11 The proposed extension would be single storey. The eaves would be approximately 2.3m in height and the ridge would be approximately 4m in height. As such the proposal would exceed the limitations set out in the response from the nearby neighbour. Notwithstanding this, Officers are satisfied that the proposal would not result in a material overbearing impact. This is because the proposal would be single storey in height and would be situated to the side of the property. As such the proposal would not result in a material loss of light or over shadowing that would be detrimental to the amenities of the adjacent occupier.
- 5.12 The proposed extension would not include any windows that would prejudice privacy. However the adjacent occupier has suggested a condition to prevent roof lights from being inserted in to the roof. Notwithstanding this request, it is considered that such a condition would be unnecessary because the views from a roof light within a storeroom would not materially harm the privacy of the adjacent occupier.
- 5.13 In view of the above it is concluded that the proposed development would not harm residential amenity, and would accord with Policy RT8(b) of the South Gloucestershire Local Plan.
- 5.14 Transportation
The proposed development would provide ancillary storage space and would not result in additional functional retail floorspace. On this basis it is considered that the proposed development would not result in any unacceptable transportation effects. It is therefore concluded that the proposal would accord with Policy RT8(a) of the South Gloucestershire Local Plan.
- 5.15 Outstanding Matters
It is acknowledged that the neighbouring occupier has commented that rainwater should be disposed within the curtilage of the retail unit. It is reasonable that the applicant would dispose of grey water within the curtilage of the existing building. Building Regulations generally would cover the adequacy of the drainage arrangements.
- 5.16 Design and Access Statement
The Design and Access Statement submitted with the application is considered to demonstrate that the applicant has adopted a design approach consistent with the Council's Design Checklist Supplementary Planning Document.
- 5.17 Use of Energy and Sustainability
To be built to Building Regulations.
- 5.18 Improvements Achieved to the Scheme
None.

5.19 Section 106 Requirements

In relation to the issues raised by this planning application, consideration has been given to the need for a Section 106 Agreement. Circulars 11/95 and 05/2005 relate to the use of planning conditions and planning obligations under Section 106 of the Town and Country Planning Act (as amended). Circular 05/2005 particularly advises that if there is a choice between imposing a condition and entering into a planning obligation, the imposition of a condition is preferable. [In this instance, planning conditions are the most appropriate, and a Section 106 Agreement is unnecessary.

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.

- a) The principle of the proposed extension to the existing retail unit within the Rudgeway settlement boundary would accord with Policy RT8 of the South Gloucestershire Local Plan (Adopted) January 2006.
- b) The proposed extension would represent 'limited in-filling' within settlement boundaries and thus would constitute an appropriate development within the Green Belt. Furthermore the proposed extension would preserve the openness of the Green Belt. The proposed development therefore accord with Policy GB1 of the South Gloucestershire Local Plan (Adopted) January 2006.
- c) The scale, height, massing, detailing, colour, and materials of proposal would respect the existing building and the surrounding area. The proposed development would therefore accord with policy D1(a) and RT8(c) of the South Gloucestershire Local Plan (Adopted) January 2006.
- d) The proposed extension would not result in a material overbearing effect or a loss of privacy. The proposed development therefore would maintain the residential amenities of the nearby occupiers. The proposal therefore accords with policy RT8(b) of the South Gloucestershire Local Plan (Adopted) January 2006.
- e) The proposed development would not result in unacceptable transportation effects. The proposal therefore accords with Policy T12 and policy RT8(a) of the South Gloucestershire Local Plan (Adopted) January 2006.

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 Planning permission to be **GRANTED** subject to the following condition(s): -

Contact Officer: Peter Rowe
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).

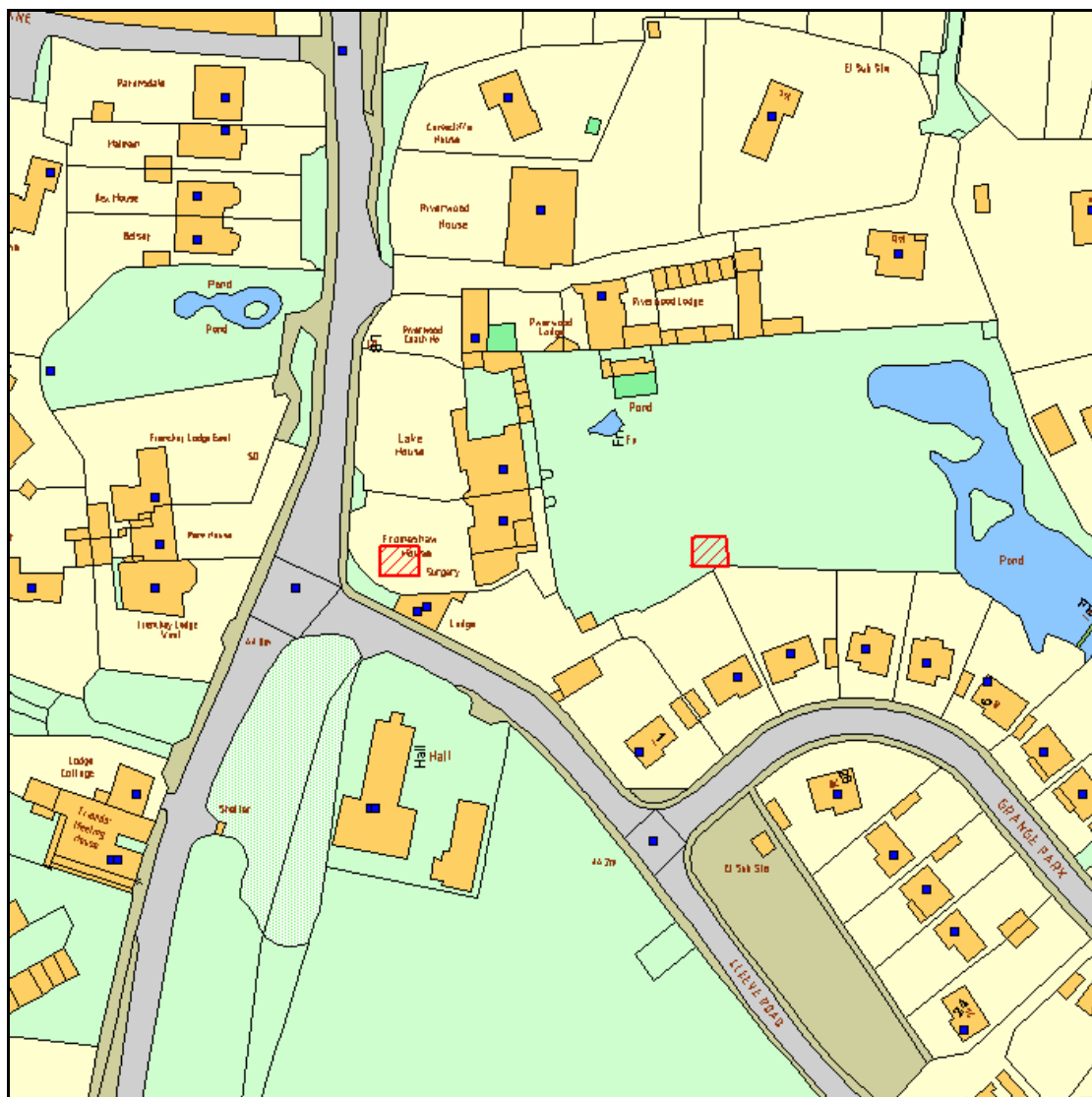
2. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Reason

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

CIRCULATED SCHEDULE NO. 27/10 – 16 JULY 2010

App No.:	PT10/1496/TCA	Applicant:	Mr Ronald Barber
Site:	Fromeshaw House Beckspool Road Frenchay Bristol South Gloucestershire	Date Reg:	18th June 2010
Proposal:	Works to 1no. Ash tree (T1) to reduce and shape by 25% and works to fell 1no. Larch tree (T4) situated within the Frenchay Conservation area.	Parish:	Winterbourne Parish Council
Map Ref:	364200 177956	Ward:	Frenchay And Stoke Park
Application Category:		Target Date:	28th July 2010



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 100023410, 2008. **N.T.S.** **PT10/1496/TCA**

INTRODUCTION

This application appears on the Circulated Schedule as a representation was made contrary to the Officer's recommendation. Please note there is insufficient time for this application to be referred to a scheduled Development Control (West) Committee meeting. This is because the Local Planning Authority only has six weeks to make a decision. If no decision is made within this period the applicant are deemed to have consent for the proposed tree works.

1. THE PROPOSAL

- 1.1 The applicant seeks consent for works to 1no. Ash tree (T1) to reduce and shape by 25% and works to fell 1no. Larch tree (T4) situated within the Frenchay Conservation area.
- 1.2 Please note, the original application referred to a reduction to a Yew Tree. However following a site visit it was highlighted that the tree was indeed an Ash Tree. As such the description has been amended accordingly.
- 1.3 The application site relates to a semi-detached dwelling and its associated curtilage. The site is within the Frenchay settlement boundary and Conservation Area.

2. POLICY CONTEXT

- 2.1 National Guidance
PPS1 Delivering Sustainable Development
- 2.2 Development Plans
South Gloucestershire Local Plan (Adopted) January 2006
L1 Landscape Protection and Enhancement
L12 Conservation Areas

3. RELEVANT PLANNING HISTORY

- 3.1 No relevant history.

4. CONSULTATION RESPONSES

- 4.1 Winterbourne Parish Council
The Parish Council has no objection to the reduction work on the Yew Tree (T1). However, the Council objects in principle to healthy trees being felled without good reason and since no reason to fell the Larch Tree has been put forward, they feel they must object.

Other Representations

- 4.2 Local Residents
No response.

5. ANALYSIS OF PROPOSAL

- 5.1 Under the Planning (Listed Building and Conservation Act 1990 it is recognised that trees make a special contribution to the character and appearance of a Conservation Area. This act makes special provision for trees in Conservation Areas which are not subject of a Tree Preservation Order (TPO). Under Section 211, subject to a range of exceptions, planning permission is required for proposals to cut down, top, or lop a tree in a Conservation Area. The purpose of this requirement is to provide the Local Planning Authority an opportunity to consider bringing any tree under their general control by making a TPO in respect of it. When considering whether trees are worthy of protection in a Conservation Area, the visual historic, and amenity contribution of the tree should be taken into account.
- 5.2 The proposed tree works seek to: 1) reduce and shape 1no. Ash tree by 25%, and 2) fell 1no. Larch tree. The Council Tree Officer has visited the application site and has confirmed that they have no objection to the proposal to reduce and shape the Ash tree by 25%. With regard to the Larch tree it is noted that the Parish Council have objected because they consider there to be no good reason to fell a healthy tree. Notwithstanding this view, the Council Tree Officer has commented that the tree is a mis-shapen specimen, and cannot be seen from outside of the site. On this basis, the tree would not fulfil the criteria for a TPO, and thus Officer's would not object to this tree being felled.

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 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

- 7.1 **NO OBJECTION** to the proposed works to the tree.

Contact Officer: Peter Rowe
Tel. No. 01454 863131