

**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. 42/10**

**Date to Members: 29/10/10**

**Member's Deadline: 04/11/10 (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](mailto: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:

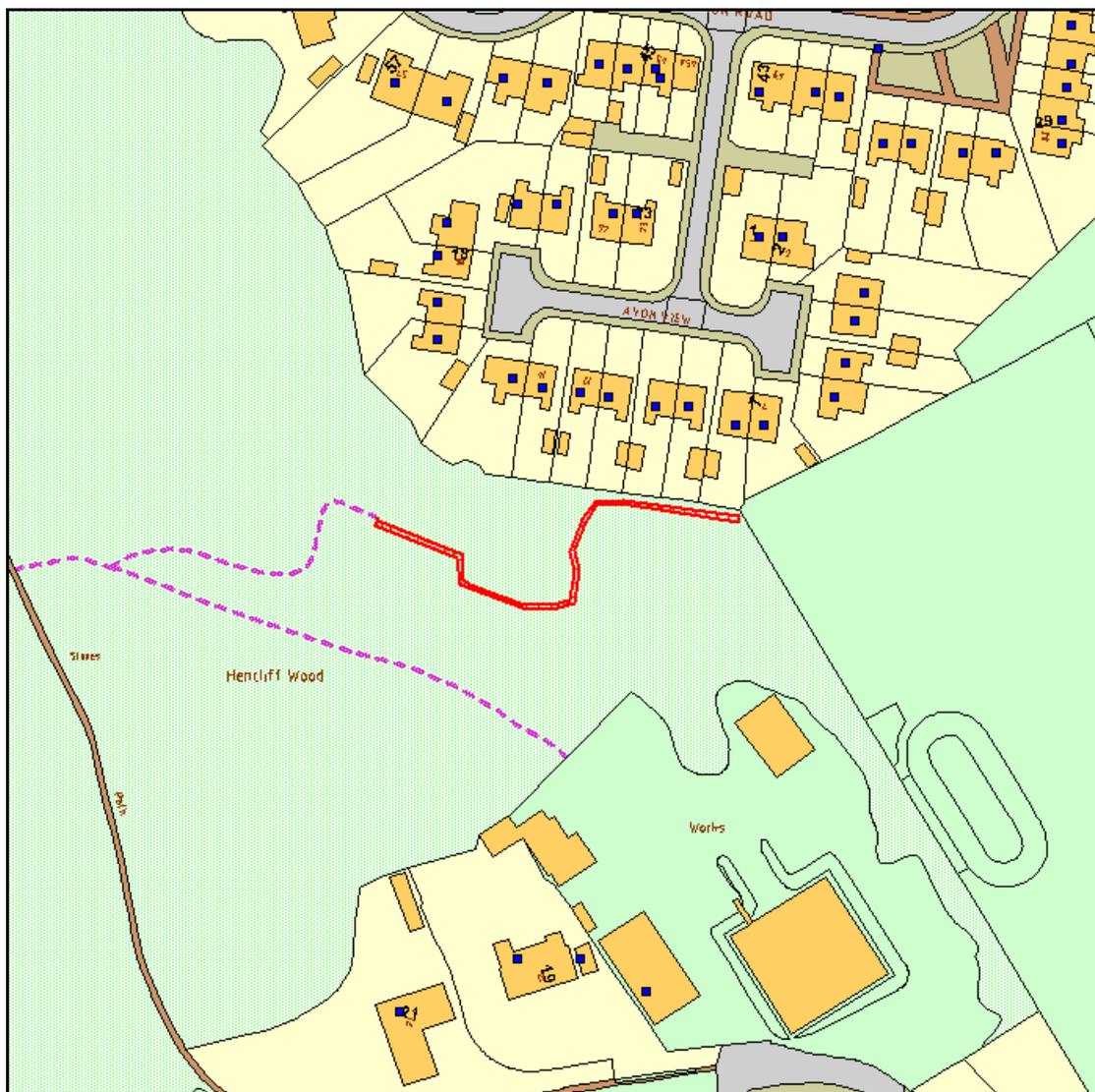
- Before referring an application always speak to the case officer or Area Planning Manager first to see if your concerns can be addressed without the application being referred.
- If you are considering referring in an application outside the ward you represent, as a courtesy, speak to the ward member(s) 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](mailto: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 – 29 OCTOBER 2010

<b>ITEM NO.</b>	<b>APPLICATION NO</b>	<b>RECOMMENDATION</b>	<b>LOCATION</b>	<b>WARD</b>	<b>PARISH</b>
1	PK10/1851/FDI	No Objection	19 Common Road Hanham South Gloucestershire	Hanham	Hanham Abbots Parish Council
2	PK10/2164/EXT	Approve with Conditions	72 Downend Road Kingswood South Gloucestershire BS15 1SP	Kings Chase	
3	PK10/2300/F	Approve with Conditions	10 Goose Green Yate South Gloucestershire BS37 5BJ	Yate North	Yate Town
4	PK10/2369/F	Refusal	France Lane Farm France Lane Hawkesbury Upton Badminton South Gloucestershire GL9 1AN	Cotswold Edge	Hawkesbury Parish Council
5	PT10/0839/CLP	Refusal	Rosary Cottage Shaft Road Severn Beach South Gloucestershire BS35 4NQ	Pilning And Severn Beach	Pilning And Severn Beach Parish Council
6	PT10/1989/F	Approve with Conditions	2 Elmdale Crescent Thornbury South Gloucestershire BS35 2JH	Thornbury North	Thornbury Town Council
7	PT10/2658/F	Approve with Conditions	98 Northville Road Filton South Gloucestershire BS7 0RL	Filton	Filton Town Council

**CIRCULATED SCHEDULE NO. 42/10 – 29 October 2010**

<b>App No.:</b>	PK10/1851/FDI	<b>Applicant:</b>	Harvey Shopfitters Ltd
<b>Site:</b>	19 Common Road Hanham Bristol South Gloucestershire BS15 3LL	<b>Date Reg:</b>	23rd July 2010
<b>Proposal:</b>	Diversion of footpath PHA/9/20	<b>Parish:</b>	Hanham Abbots Parish Council
<b>Map Ref:</b>	363709 171203	<b>Ward:</b>	Hanham
<b>Application Category:</b>	Minor	<b>Target Date:</b>	14th September 2010



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 100023410, 2008. **N.T.S.** **PK10/1851/FDI**

## **Reasons for Referral to Circulated Schedule**

This application relates to a Footpath Diversion and in accordance with the Council's procedures for determining such applications, must appear on the Circulated Schedule.

### **1. PROPOSAL**

- 1.1 Application is made under Section 257 of the Town & Country Planning Act 1990 for the permanent diversion of 240 metres of public footpath PHA/9/20 (notated as A to B on submitted plan). The northern and southern ends of Footpath PHA/9/20 currently links into footpath PHA/2/30. A new section of footpath would be provided (notated C to D on the submitted plan).
- 1.2 The diversion is required to facilitate the erection of a replacement design studio with a single storey glazed link within an existing B2 industrial site at 19 Common Road, Hanham (see PK10/1294/F).
- 1.3 The application site is situated in the open countryside and Green Belt immediately to the west of Hanham. The industrial site is bounded by Hencliff Wood to the north and northwest, Hanham Common to the east and residential development to the west and south. Workshops have been long established on the site, which was once a quarry. At present the site comprises an office building and studio located on the western boundary; a large industrial unit in the centre of the site, which is currently used as a workshop, and an additional industrial unit used for storage purposes located in the north-eastern corner of the site. Also within the site, are associated storage and parking areas, as well as various plant used ancillary to the current use. The site is currently occupied and owned by Harvey Shopfitters Limited. The site is situated outside the Urban Area as defined in the adopted Local Plan and within the Bristol/Bath Green Belt.
- 1.4 The site is used for the manufacture of timber and related components for shop, office and public house fittings, including ancillary office/studio, storage uses and car parking (Class B2). The existing office block and part of the design studio have been built over the route of PHA/9/20.

### **2. POLICY CONTEXT**

- 2.1 National  
Circular 01/09: Public Rights of Way
- 2.2 South Gloucestershire Local Plan (Adopted) 6th January 2006  
LC12 – Recreational Routes

### **3. RELEVANT PLANNING HISTORY**

- 3.1 P80/4281 - Erection of replacement workshop (K3248)  
Approved 15th Sept 1980.
- 3.2 P81/4204 - Erection of workshop and two storage buildings (K3248/1)

- Approved 21st July 1981
- 3.3 P82/4093 - Erection of storage building (K3248/2)  
Approved 2nd April 1982
- 3.4 P84/4280 - Erection of a replacement dwelling (K3248/3)  
Approved 18th Feb 1985
- 3.5 PK05/0674/F - Erection of single storey rear extension to form additional office accommodation and kitchen and cloakroom facilities.  
Refused 27th May 2005
- 3.6 PK09/0006/F - Construction of replacement roof.  
Approved 1st May 2009.
- 3.7 PK09/0904/CLE - Application for a Certificate of Lawfulness for an existing use of site for manufacture of timber and related components for shop, office and public house fittings, including ancillary office/studio, storage uses and car parking (Class B2).  
Approved 11 Sept. 2009
- 3.8 PK10/1294/F - Erection of replacement design studio with single storey glazed link for Class B2.  
Pending

#### **4. CONSULTATION RESPONSES**

- 4.1 Hanham Abbots Parish Council  
No objection
- 4.2 The Ramblers  
No response
- 4.3 The Open Spaces Society  
No response
- 4.4 Avon and Somerset Constabulary  
No response

#### **Other Representations**

- 4.5 Local Residents  
One response was received from a local resident who considered that the route of the entire footpath should be shown crossing Hanham Common and along Common Road.

#### **Internal Consultees**

- 4.6 Public Rights of Way  
No objection

- 4.7 Sustainable Transport  
No objections.

## 5. ANALYSIS OF PROPOSAL

- 5.1 Footpath PHA9/20 passes through the commercial site at 19 Common Road and into the adjacent Hencliff Woods. The site has undergone a number of changes in topography and function over the years, so much so that the original purpose of the path has now been lost and its route compromised by the presence of the office block and studio buildings.
- 5.2 Public footpath PHA9/20 has been unwalkable for many years due to development. The need to formally re-route the path was previously acknowledged by Avon County Council, but there is no evidence of a diversion order being applied for or having been made. Steps and a kissing gate were installed by the County Council's Community Enterprise Team in the 1980's, on a permissive route from the end of PHA/9/30, which terminates at a quarry working, continuing up to the corner of Hanham Common.
- 5.3 The proposed diversion has been designed in consultation with the Council's PROW officer and will formalise the permissive route to the rear of the site, through woodland owned by the applicant. Works to improve the safety of the existing steps will be required before the order, if made, can be certified. The diversion is considered to be long overdue and would take the footpath away from the industrial area, into the surrounding woodland, to link into existing footpaths across the Common and down Common Road.
- 5.4 The proposal is considered therefore to satisfactorily comply with Circular 01/09 and Policy LC12 of the South Gloucestershire Local Plan (Adopted) 6th January 2006 as the utility and amenity of the route would be enhanced.

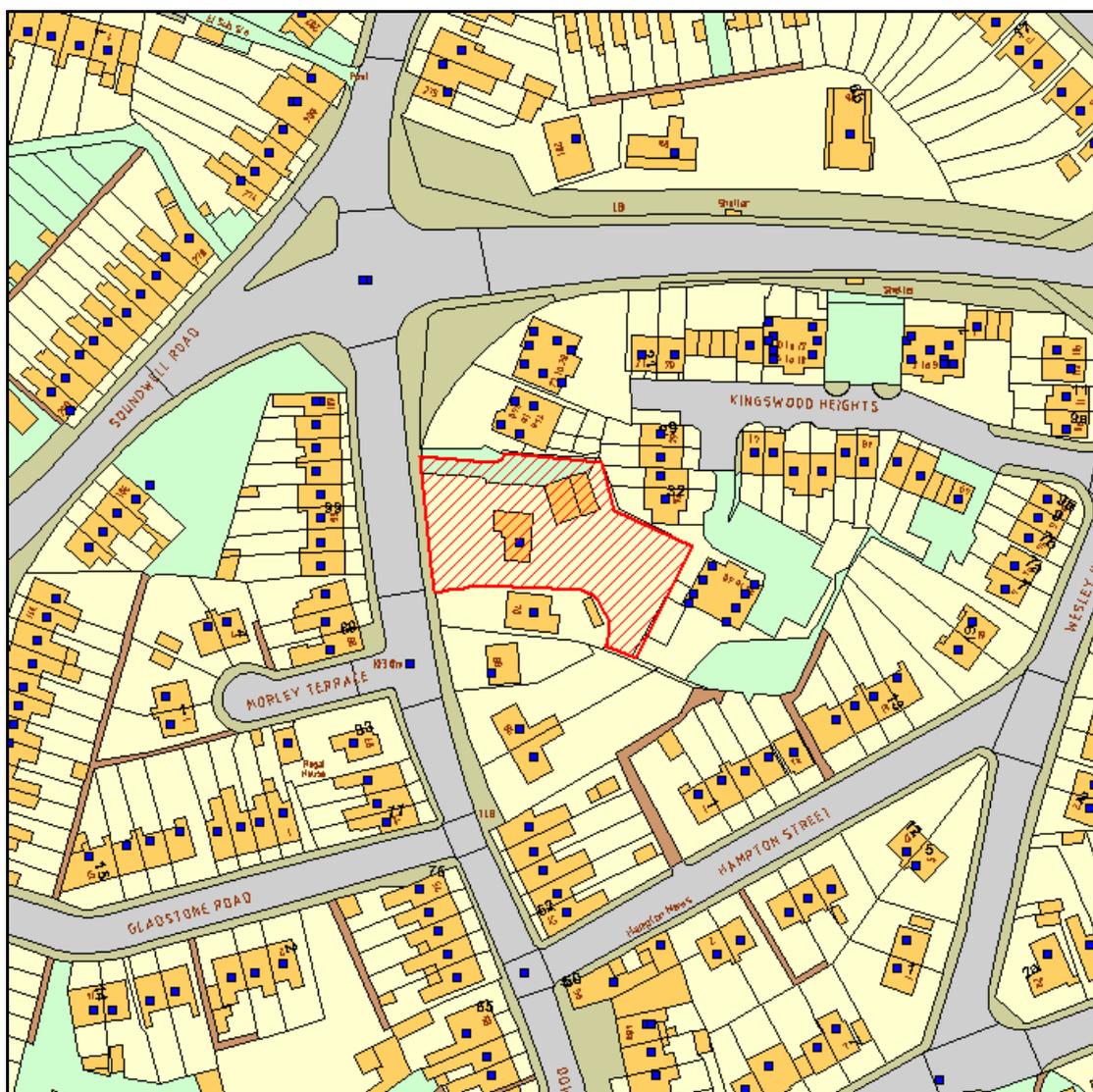
## 6. RECOMMENDATION

- 6.1 That no objection be raised to the proposed diversion. That the Head of Legal & Democratic Services be authorised to make an Order under Section 257 of the Town & Country Planning Act 1990 for the diversion of 240m of public footpath PHA/9/20 to a new 125m extension of public footpath PHA/9/30, subject to the new footpath being 2.0 metres wide and being maintained as such thereafter.

**Contact Officer: Roger Hemming**  
**Tel. No. 01454 863537**

**CIRCULATED SCHEDULE NO. 42/10 – 29 OCTOBER 2010**

<b>App No.:</b>	PK10/2164/EXT	<b>Applicant:</b>	Mrs H Woodman
<b>Site:</b>	72 Downend Road Kingswood Bristol South Gloucestershire BS15 1SP	<b>Date Reg:</b>	26th August 2010
<b>Proposal:</b>	Erection of 6 no. dwellings (Outline) with siting, and access to be determined. All other matters to be reserved. (Consent to extend time limit implementation for PK06/3382/O)	<b>Parish:</b>	
<b>Map Ref:</b>	364624 174399	<b>Ward:</b>	Kings Chase
<b>Application Category:</b>	Minor	<b>Target Date:</b>	18th October 2010



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## **INTRODUCTION**

This application is reported on the Circulated Schedule due to a Section 106 Agreement being recommended and objections having been received contrary to the officer recommendation.

### **1. THE PROPOSAL**

- 1.1 This application seeks to extend the time limit of condition 1 of planning permission PK06/3382/O for the erection of 6 dwellings (outline) with siting and access determined, which was due to expire on 31 August 2010. In accordance with the requirements for time extension applications, no changes have been made to the scheme, which is therefore the same as previously approved.
- 1.2 Since the development already benefits from outline planning permission in 2007 and was assessed against the policy framework at that time, this report will concentrate on policy changes which have occurred since then and analyse how the proposal meets the changed policy requirements.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
PPS1 Delivering Sustainable Development
- 2.2 Development Plans since the application was first approved  
South Gloucestershire Core Strategy (pre-submission publication draft) 2010  
CS1 High quality design  
CS5 Location of development  
CS6 Infrastructure and developer contributions  
CS16 Housing density
- 2.3 Supplementary Planning Guidance  
No new relevant documents

### **3. RELEVANT PLANNING HISTORY**

- 3.1 PK06/1144/O Demolish dwelling and erect 11 flats and one coach house  
(outline) Withdrawn
- 3.2 PK06/3382/O Erection of 6 dwellings (outline) with siting and access to be  
determined Approved August 2007

### **4. CONSULTATION RESPONSES**

- 4.1 Parish/Town Council  
Unparished area
- 4.2 Other Consultees

## Environmental Protection

No adverse comments

## Children and Young People Department

The proposed mix supplied by the developers generates a requirement for the following education contribution.

The proposed development of two 2-bed, two 3-bed and two 4-bed houses will generate two additional primary school pupils based on the pupil number calculator. A contribution of £21,494 is required for additional primary provision. The **total contribution** required for additional school provision is **£21,494**.

### 4.3 Local Residents

13 letters of objection to the proposal were received, citing the following concerns:

- The proposed development would obstruct natural light entering a nearby property
- The development would worsen parking availability locally
- Highway safety issues from construction
- The only site access should be from Downend Road
- Buyers of properties in Kingswood Heights were not advised that this development would take place
- Mess, pollution and noise
- The development would spoil the view out of Kingswood Heights
- The road is private and permission will not be given to access the new houses
- There is not enough room for the development
- The two houses at the rear would be overlooked by Kingswood Heights
- Protected badger sett on site and the badgers have lost much of their territory
- Effect on house prices
- Light pollution
- Intensified use of a single driveway causing highway safety problems
- The development would not respect the building line along Downend Road and introduce hard landscaping into a front garden, to the detriment of the character of the area
- Overbearing impact on the terraced properties on the other side of Downend Road
- No visitor parking proposed
- No Traffic Impact Assessment has been provided with this application

## 5. ANALYSIS OF PROPOSAL

### 5.1 Principle of Development

This application seeks further time in which to implement the outline planning permission. Since the scheme was originally approved, there have been no changes to the site or its surroundings. In terms of applicable policy, the only change to the framework under which the original application was assessed is the South Gloucestershire Core Strategy, which is not yet adopted. The implications of the Core Strategy policies are analysed below.

## 5.2 Core Strategy

Although the Core Strategy is at an early stage, it forms a material consideration in the determination of planning applications. Four policies have been identified at 2.1 which are of relevance to the proposal.

### Policy CS1 High Quality Design

Much of this policy follows the principles set out in policy D1 of the adopted South Gloucestershire Local Plan and is informed by the Design Checklist (2007) which this scheme was in accordance with, as stated in the report for 3.2 above. Relevant new requirements are that (8) orientate new buildings to ensure that energy conservation is achieved. The orientation of the proposed dwellings is set by the outline planning permission and the detailed design will be expected to take full account of energy conservation. (10) Ensure that sufficient space is allowed for recycling and composting. This would again be required as part of the detailed design of any forthcoming Reserved Matters application.

### Policy CS5 Location of Development

This policy directs development to the existing urban areas in the same manner as the adopted Local Plan does. This site is within the urban area.

### Policy CS6 Infrastructure and Developer Contributions

This policy requires mitigation of the effects of development in the same way as policies in the adopted Local Plan. It makes clear, with regard to off-site effects of development, that contributions will be sought to provide for the needs of the community relating to the development. See 5.4 below.

### Policy CS16 Housing Density

This policy seeks to make efficient use of land, maximise the amount of housing supplied, particularly in and around town centres. The issue of housing density was examined in the determination of the original permission and the site's proximity to Kingswood Town Centre is considered to be a factor in achieving a suitable density of development.

It is considered that, subject to detailed design which would follow in a Reserved Matters application, the proposal meets the requirements of the relevant Core Strategy policies, in addition to the those of the existing Development Plan.

## 5.3 Other Issues

This proposal is for an extension of time to implement the outline planning permission. All of the objections that have been received relate to the development itself, which already benefits from planning permission, rather than what has been applied for, that is, an extension of time.

## 5.4 Section 106

At the time of the original planning permission, no contribution was identified towards providing school places generated by the future occupiers of the development. This situation has now changed and CYP have appropriately identified that the development would generate a population which would

require two additional primary school places to be provided. The sum identified for this would be £21,494.

The principle of the contribution and 4% monitoring fee under Section 106 has been agreed with the applicant.

## **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 extension to the time limit for the commencement of this outline development would allow for the provision of 6 in a sustainable location, contributing towards a mixed and balanced community. The proposed development accords with policies D1, L1, H2, H4, T7, T8 and T12 of the adopted South Gloucestershire Local Plan and CS1, CS5, CS6 and CS16 of the South Gloucestershire Core Strategy (pre submission publication draft).
- 6.3 The recommendation to approve 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 (1) That authority be delegated to the Director of Planning, Transportation and Strategic environment to approve permission to extend the time limit for implementation to three years after the date of the permission, subject to conditions set out below and the applicant first voluntarily entering into an agreement under section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:
- To contribute £21,494 (plus 4% monitoring fee) under Section 106 of the Town and Country Planning Act (as amended) to be used to provide two primary school places for future occupants of the development.

The reason for this agreement is:

In the interests of ensuring the provision of primary school places to provide education for children generated by the development and to accord with the requirements of Policy LC2 of the South Gloucestershire Local Plan (Adopted) January 2006 and policy CS6 of the South Gloucestershire Core Strategy (pre submission publication draft).

- (2) That the Head of Legal and Democratic Services be authorised to prepare and seal the agreement.

**Contact Officer: Chris Gosling**  
**Tel. No. 01454 863787**

## **CONDITIONS**

1. Approval of the details of the layout, scale and appearance of the building(s), the means of access thereto 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. 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

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

3. 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

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

4. No development shall commence until surface water drainage systems including Sustainable Drainage System (SUDS) for flood prevention, pollution control and environmental protection have been submitted and approved by the Local Planning Authority. Land set aside for this use shall be shown on the Reserved Matters application site layout. Where this is not practicable it must be demonstrated that an acceptable alternative means of public water disposal is incorporated.

### Reason

To provide sustainable drainage to accord with policies L17, L18, EP1 and EP2 of the South Gloucestershire Local Plan (Adopted) January 2006.

5. The existing access from the site onto Downend Road shall be widened to 5.5 metres in width prior to the first occupation of any of the dwellings hereby approved, surfaced with a bound material and thereafter maintained at such a width and in such a condition.

### Reason

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

6. The off-street parking facilities shown on the plan hereby approved shall be provided, surfaced in a bound material, before any of the dwellings 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 Policies T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

7. Notwithstanding the provisions of Article 3 and Parts 1 and 2 of the Second Schedule to the Town \_ Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, B, D, E, G and H), or any minor operations as specified in Part 2 (Class A), other than such development or operations indicated on the plans hereby approved, shall be carried out without the prior written consent of the Local Planning Authority.

Reason

To protect the residential amenity of existing neighbouring occupiers and future occupiers of the site, to accord with Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006.

8. No development shall take place until details of the proposed finished floor levels of each dwelling house relative to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason

To protect the residential amenity of existing neighbouring occupiers, to accord with Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006.

9. Application for the approval of the reserved matters shall be in accordance with the parameters described in the design and access statement hereby approved.

Reason

To ensure that development proceeds in accordance with the design principles set out at the outline stage to accord with Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006.

10. The hedgerow along the boundary of the site which borders No. 70 Downend Road shall be retained. Any plants within it which die shall be replaced in the following planting season, with species, size and location to be approved in writing by the Local Planning Authority.

Reason

To protect the character and appearance of the area to accord with Policies H4, D1 and L1 of the South Gloucestershire Local Plan (Adopted) January 2006.

**CIRCULATED SCHEDULE NO. 42/10 – 29 OCTOBER 2010**

<b>App No.:</b>	PK10/2300/F	<b>Applicant:</b>	M And A Commericals
<b>Site:</b>	10 Goose Green Yate South Gloucestershire BS37 5BJ	<b>Date Reg:</b>	14th September 2010
<b>Proposal:</b>	Erection of 1no. detached dwelling with associated works. (Amendment to previously amended scheme PK08/3091/F).	<b>Parish:</b>	Yate Town Council
<b>Map Ref:</b>	371364 183474	<b>Ward:</b>	Yate North
<b>Application Category:</b>	Minor	<b>Target Date:</b>	5th November 2010



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## **REASON FOR REPORTING TO CIRCULATED SCHEDULE**

This application has been forwarded to the Council's Circulated Schedule of applications as representations have been received raising views contrary to the Officer recommendation.

### **1. THE PROPOSAL**

1.1 The application site concerns an area of land approximately 0.0348 ha. The site was formerly in use as residential curtilage and is surrounded by group of residential properties. The site is currently used as a construction site for two dwellings, the two storey dwelling the subject of this application, which is near completion and a bungalow on the north side of the plot, which has been built up to roof level.

The application site is situated within the settlement boundary of Yate and Chipping Sodbury as defined in the adopted Local Plan.

1.2 This application seeks retrospective full planning permission to amend the previous approved scheme PK08/3091/F for the erection of 1 no. four bedroom detached dwelling with access, integral garage, and other associated works at No. 10 Goose Green.

The amendment relates to an increase in overall height of the dwelling by 450mm to the development approved under PK08/3091/F.

### **2. POLICY CONTEXT**

#### **2.1 National Guidance**

PPS1	Delivering Sustainable Development
PPS3	Housing
PPG13	Transport

#### **2.2 Development Plans**

##### **South Gloucestershire Local Plan (Adopted) January 2006**

D1	Design
L1	Landscape Protection and Enhancement
H2	Proposals for Residential Development within Settlement Boundaries
H4	Development with Existing Residential Curtilages, including Extensions and New Dwellings
T8	Parking Standards
T12	Transportation Development Control Policy for New Development

##### **South Gloucestershire Core Strategy Pre Submission Publication Draft – March 2010**

CS1	High Quality Design
-----	---------------------

2.3 Supplementary Planning Guidance/Documents  
South Gloucestershire Design Checklist – August 2007

**3. RELEVANT PLANNING HISTORY**

- |      |             |  |
|------|-------------|--|
| 3.1  | N2052       | Use of land and buildings as a bird farm (renewal of temporary consent)<br>Approved 13.11.75   |
| 3.2  | N2052/1     | Use of land and buildings as a bird farm<br>Approved 15.02.79  |
| 3.3  | P88/3376    | Erection of two single storey rear extensions to provide lounge / sun room.<br>Approved 11.01.89   |
| 3.4  | PK06/3310/F | Erection of 1 no. dwelling with integral garage and additional detached garage for use by No. 10 Goose Green.<br>Approved 05.04.07   |
| 3.5  | PK08/1236/F | Erection of 1 no. dwelling with access and associated work<br>Refused 19.06.08   |
| 3.6  | PK08/1239/F | Erection of 1 no. detached dwelling with associated works (Amendment to the previously approved scheme PK06/3310/F)<br>Approved 20.06.08                                     |
| 3.7  | PK08/1242/F | Erection of two storey, first floor and single storey rear extensions and first floor side extension to form garage and additional living accommodation<br>Approved 05.09.08 |
| 3.8  | PK08/3091/F | Erection of 1no. detached dwelling with associated works. (Amendment to previously amended scheme PK08/1239/F).<br>Approved 23.01.2009                                       |
| 3.9  | PK08/3205/F | Erection of 1no. detached dwelling with access and associated works. (Resubmission of PK08/1236/F).<br>Approved 13.02.2009   |
| 3.10 | PK10/0529/F | Erection of detached bungalow with associated works.<br>Approved 25.06.2010  |

#### **4. CONSULTATION RESPONSES**

##### **4.1 Yate Town Council**

Objection, for reasons:

No explanation of why it has not been built to specification; No consultation has taken place; the site is sensitive in terms of height; they continued to build after discrepancy was found.

##### **4.2 Other Consultees [including internal consultees of the Council]**

Sustainable transport – No objection, subject to conditions

Drainage engineer – No objection, subject to condition

##### **4.3 Local Residents**

4 letters received from the occupiers of 12, 14, 20 and 24 Goose Green raising the following concerns:

Building is too high; out of proportion with adjacent dwellings; building work continued after the development was confirmed not to accord with the approved plans; not built to plan; site notice was never displayed; overbearing development in relation to the rear and rear gardens of nos 12 and 14; Insufficient parking; loss of outlook to no.24; over-development of the site.

#### **5. ANALYSIS OF PROPOSAL**

##### **5.1 Principle of Development**

Policy H4 of the South Gloucestershire Local Plan is supportive in principle of proposals for development within existing residential curtilages including new dwellings, providing that the design is acceptable, there are no adverse highway safety implications and that there is no unacceptable impact on residential and visual amenity. Similarly, Policy H2 supports residential development within the urban area subject to the criteria above and no significant environmental impacts and subject to an appropriate site density. Policies T8 and T12 are also relevant in considering parking provision and highway safety respectively.

The proposal relates to an increase in height of the originally permitted two storey dwelling under PK08/3091/F. The dwelling has been built 450mm higher than the approved scheme. The slab and foundation on which the dwelling sits has been built higher than ground level and as such the entire building sits 450mm higher from ground level than the scheme approved under PK08/3091/F.

##### **5.2 Visual impact**

Policy D1 of the Local Plan requires all new development to be well-designed. The proposal would result in a 450mm increase in the height of the building. This would give the dwelling an added presence in the street scene. However, the overall scale, size and form of the building when viewed from public vantage points from Goose Green to the east are not considered to be materially different to the scheme accepted under PK08/3091/F. Therefore it is considered that in visual impact terms this revised scheme is considered to

preserve the character and appearance of the area in accordance with the criteria of Policy D1.

### 5.3 Residential amenity

The proposal would result in an overall increase in the height of the building by 450mm. The windows in the rear elevation are therefore positioned higher from ground level than those approved under PK08/3091/F the dwelling is situated 20m from the rear and side elevations of No.20 at the rear (west). Much of the rear garden of no.20 is screened by a row of trees on the east boundary of no.20. There are gaps between the trees and views from the rear first floor windows of the new dwelling are possible into the rear garden of no.20 and towards the facing rear ground and first floor windows and side dining room window. However, considering the distance between facing windows of no.20 and the new dwelling and the good visual screen from trees on the east boundary, in addition to the modest 450mm height increase of the first floor rear windows, the amendment to the new dwelling is considered not to result in a material loss of privacy to the adjacent occupiers to the rear (west). The new dwelling is set back from the rear elevation of no.12 to the south. The new dwelling has no side windows at first floor level. The new dwelling would therefore result in no material loss of privacy to the occupiers of the dwellings to the north and south.

The new dwelling would be situated 1m from the boundary with no.12 to the south. The two storey element of the dwelling would be set back from the rear of no.12 by 6m. This has resulted in a close relationship between the new dwelling and no.12. However, as the new dwelling would be situated directly north of no.12 there would be no resultant shadowing. Additionally, the amended height increase is considered not to be significant, the resultant size of the new dwelling would be 5.3m to eaves and 8.2m to ridge. On this basis it is considered that an increase in the height of the building by 450mm would be difficult to justify as harmful and as such the new dwelling as amended is considered not to be materially harmful to the residential amenity of no.12. The new dwelling is situated sufficient distance (20m+) from the dwellings to the west for the modest increase in the overall presence, bulk and scale of the building not to result in a material loss of amenity to these occupiers.

### 5.4 Highway matters

The scheme is unchanged to that approved under PK08/3091/F in terms of highway issues, parking and manoeuvring.

### 5.5 Other issues

The new dwelling is situated in the same position to that approved under PK08/3091/F and as such the amendment would result in no additional impact on any trees within or close to the site.

The Town Council and local residents raised concern that no justification has been provided for the increase in height. The applicant is not required to provide justification of this type specifically. The development is considered to be acceptable accounting for all of the material planning issues and no such justification beyond submission of the design and access statement is required for the development to be accepted.

The Town Council and local residents raised a concern that development continued to take place after the applicant was made aware that the development did not accord with the approved plans. There is no statutory requirement for development to take place prior to gaining planning permission. An application can be made retrospectively and is then considered on its own merits.

## **6. CONCLUSION**

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report. A summary of reasons for granting planning permission in accordance with article 22 of the town and country planning (general development procedure) order 1995 (as amended) is given below.
- a) Due to the modest additional height, scale and prominence in relation to the adjacent dwellings, the proposed development is considered not to give rise to a material loss of amenity to the adjacent occupiers. The development therefore accords to Policy H4 and D1 of the South Gloucestershire Local Plan (Adopted) January 2006.
  - b) It has been assessed that the proposed dwelling as amended has been designed to respect and maintain the massing, scale, proportions, materials and overall design and character of the street scene and surrounding area. The development therefore accords to Policy D1 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist SPD (adopted) 2007.

## **7. RECOMMENDATION**

- 7.1 Consent is GRANTED subject to the conditions and informatives as outlined in the attached decision notice and the conditions attached to decision PK08/3091/F:

**Contact Officer: Sean Herbert**  
**Tel. No. 01454 863056**

## **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).

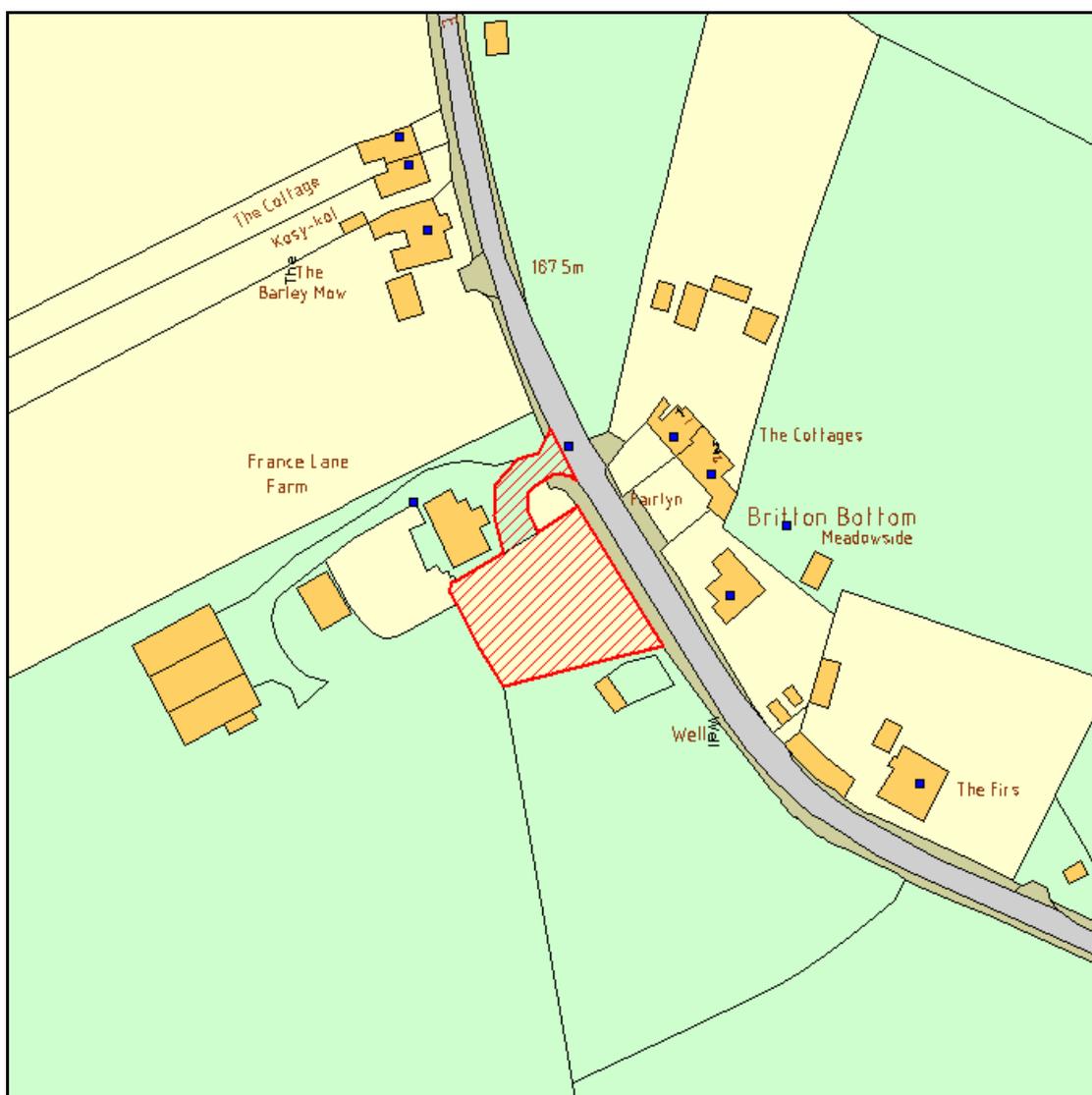
2. The development hereby permitted shall be implemented in accordance with the conditions attached to decision reference PK08/3091/F dated 23.01.2009.

Reason:

To protect the character and appearance of the area and the amenity of the local residents in accordance with policies D1, H2, H4, L1, T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

**CIRCULATED SCHEDULE NO. 42/10 – 29 OCTOBER 2010**

<b>App No.:</b>	PK10/2369/F	<b>Applicant:</b>	Mr Andrew Morgan
<b>Site:</b>	France Lane Farm France Lane Hawkesbury Upton Badminton South Gloucestershire	<b>Date Reg:</b>	16th September 2010
<b>Proposal:</b>	Erection of 1no. agricultural workers dwelling with associated works.	<b>Parish:</b>	Hawkesbury Parish Council
<b>Map Ref:</b>	378513 186352	<b>Ward:</b>	Cotswold Edge
<b>Application Category:</b>	Minor	<b>Target Date:</b>	8th November 2010



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 100023410, 2008. **N.T.S.** **PK10/2369/F**

## **REASON FOR REPORTING TO COMMITTEE/CIRCULATED SCHEDULE**

This application has been referred to the circulated schedule due to the receipt of seven letters of support.

### **1. THE PROPOSAL**

- 1.1 The application seeks full planning permission for the erection of a detached agricultural workers dwelling and associated works at France Lane Farm, Hawkesbury.
- 1.2 The site consists of a plot of land adjacent to France Lane Farmhouse, to the eastern side of France Lane. The site is located close to the village of Hawkesbury Upton, within the open countryside and the Cotswold Area of Outstanding Natural Beauty.
- 1.3 The proposed dwelling and attached garage would measure a maximum of 12.3 metres in width by a maximum of 11.6 metres in depth and would have a maximum height to ridge of 7.7 metres. The proposed dwelling would be located to the south east of the existing dwelling on site.

### **2. POLICY CONTEXT**

#### 2.1 National Guidance

- |      |  |
|------|--|
| PPS1 | Delivering Sustainable Development     |
| PPS7 | Sustainable Development in Rural Areas |

#### 2.2 Development Plans

##### South Gloucestershire Local Plan (Adopted) January 2006

- |     |   |
|-----|---|
| L1  | Landscape Protection and Enhancement        |
| L2  | Cotswold Area of Outstanding Natural Beauty |
| L17 | The Water Environment                       |
| EP1 | Environmental Pollution                     |
| T12 | Transportation Development Control Policy   |
| H3  | Residential Development in the Countryside  |
| H2  | Residential Development                     |

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

- |     |  |
|-----|--|
| CS1 | High Quality Design                        |
| CS9 | Environmental Resources and Built Heritage |

#### 2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist (Adopted) 2007.

### **3. RELEVANT PLANNING HISTORY**

- 3.1 P91/2002                      Erection of replacement dwelling (outline)  
Approved January 1992

- 3.2 P94/1777                      Erection of replacement dwelling and garage  
(reserved matters)  
Approved November 2004

#### 4. **CONSULTATION RESPONSES**

4.1 Hawkesbury Parish Council

Support the proposal however would like to ensure that all materials and finishes will be as stated in the design and access statement.

4.2 Sustainable Transport

No objections

4.3 Local Residents

Three letters of objection has been received from local residents raising the following concerns.

- Site is on green belt protected land, can not understand why an application is being considered on untouched green pastureland
- Live directly opposite the site and strongly object to a two storey building directly in front of their property.
- Outlook will be completely changes
- Already one house re-sited fro France Lane Farm, why is it necessary to build another?
- Will open a floodgate to planning applications in the surrounding area.
- Barn application has been appointed out of site which is acceptable, but will bring more heavy vehicles and noise to the front of their property.
- Why is it necessary to have two farmhouses on one site.
- Loss of outlook
- Suggest an extension to the existing farmhouse
- Green belt land should not be used up freely for building houses unless absolutely necessary.

Seven letters of support have been received from local residents stating the following:

- Vitally important to support local businesses that are the lifeblood of the community.
- The addition of permanent accommodation at France Lane Farm will ensure that traditional farming can continue on site.
- During spring when lambs and piglets are born it is vital to provide constant support to the livestock around the clock.
- The new development is in keeping with the existing property whilst remaining surrounded by open agricultural land.
- A small village relies upon community support, it is important that traditions and growing businesses are upheld.
- One of the few local working farms, it produces reared meat and eggs for many village people.
- This type of business should be supported by the locals so it can continue to grow.
- The existing farm business supports other local businesses
- The family have been farming in the area for generations

- 40 years ago there were 10 working farms in the village, now there are only 2.
- The farm is an asset to the community
- It makes sense that the dwelling should be placed where the farmyard is, especially where livestock are involved.
- Hawkesbury Upton is a thriving village with a well supported local shop post office 2 public house and a primary school
- France Farm lane is the only family run farm surviving in the village
- The family home is over a mile away so the applicant needs to be on site permanently for lambing, there are also pigs and chickens which need constant attention.

## 5. ANALYSIS OF PROPOSAL

### 5.1 Principle of Development

The application site is located within the open countryside. National Guidance PPS7 and Policy H3 of the South Gloucestershire Local Plan allow for the erection of permanent dwellings for agricultural purposes subject a number of criteria are satisfied.

### 5.2 PPS7 para 10 states that: 'Isolated new houses in the countryside will require justification for planning permission to be granted. Where the special justification for an isolated new house relates to the essential need for a worker to live permanently at or near their place of work in the countryside, planning authorities should follow the advice in Annex A to this PPS'.

Annex A of PPS7 requires that it be demonstrated that the following criteria can be satisfied:

- (i) There is clearly established existing functional need
- (ii) The need relates to a full time worker, or one which is primarily employed in agriculture and does not relate to part time requirement
- (iii) The units and the agricultural activity concerned have been established for the last 3 years, have been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so
- (iv) The functional need could not be fulfilled by another existing dwelling on the site, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) Other planning requirements e.g. in the relation to access or impact on the countryside are satisfied.

### 5.3 To assess the proposals under the terms of PPS7, the views of were solicited of a specialist in this area from Gloucestershire County Council, who is regularly consulted by the Council on these types of applications, and the following is based on his assessment:

#### 5.4 Current Situation

The applicants mother currently lets the land and buildings to the applicant on a 10 year Farm Business Tenancy. It has been stated that the plan is to gift some and sell the remainder to the applicant. It is understood that this is with the solicitors at present. The acreage of the land including buildings equals approximately 75 acres, further land is rented locally on annual arrangements acres. The intention is to gradually expand the livestock enterprise and eventually convert the farm to predominantly grass. It is also intended to increase the number of lambs and pigs on site.

#### 5.5 Functional need

The farming operation is not large being only 75 acres but the applicants are trying hard to make the most of the acreage by keeping a range of livestock and marketing and selling their produce direct. As a result, their farming calendar is quite busy and spread out throughout the year. There are the lambings and calvings in the spring and farrowings throughout the year together with out of normal working hour welfare issues that will arise.

Especially with the ongoing build up of stock numbers there would appear to be a functional need for there to be somebody living on site to properly manage the livestock enterprises. As such this criteria of PPS7 has been met.

#### 5.6 Full-Time Labour

The business would require at least one full time qualified person and therefore an application for a dwelling would comply in this respect.

#### 5.7 Establishment and Profitability

The Morgan family has been farming at France Lane Farm for many years although A J Morgan Farm Produce itself has only been established since 2009 and therefore, not for the required 3 year period. That apart the accounts of years ending 2008 and 2009 have not indicated a particularly profitable business. The income and expenditure account for the year ending 2010 shows that although the income on the farming side increases as the applicant's business starts taking effect the majority of the income was in fact brought from the applicant carrying out building work off the holding. The figures would have shown expenditure exceeding income if it were not for this external income.

In addition the future of the land and buildings has yet to be formally completed and so there is an element of uncertainty with regard to the longer term availability of the land on which to base the business on. This is important as PPS7 requires the authority to assess whether the business has a clear prospect of remaining financially sound.

It has been stated that this year things are on the change and there is no doubt that this is the case and that with the applicant's skills and good marketing, there is the making of a viable farming business. However as required in accordance PPS7 when looking at a permanent dwelling the business has to be "currently financially sound" and this cannot be confirmed at present. As such the proposal fails to meet this criteria.

## 5.8 Other Dwellings

The applicants own and live in a house live in Birgage Road, Hawkesbury Upton which is approximately 1 kilometre from France Lane Farm. However, this is not considered to be an ideal location for the person to properly manage the livestock and deal with welfare emergencies out of normal working hours.

There is of course, a house at France Lane Farm which is owned and occupied by the applicant's mother Mrs. G P Morgan. The situation is not clear with regards to the future of this dwelling and, therefore, further indication or evidence with regard to how the dwelling, would be dealt with in the future was requested.

The applicant, who will likely gain ownership of the land and buildings in the future, has stated that he would not get the opportunity to occupy/have the house since his brother and sister would be the likely beneficiaries in accordance with his mother's wishes. Sims, Cook and Teague, solicitors, at Thornbury wrote in further to the request for more information and stated that and all they could do at this stage was a statement of Mrs Morgan's intention which is to leave the house to the two other children (not including Andrew Morgan) and that she would like to live there for the remainder of her life.

PPS7 requires the Planning Authority to look at whether or not any other dwellings on the unit, or any other existing accommodation in the area which is suitable and available for occupation. The house has only just been left to Mrs Morgan which would suggest that it is very early days with regard to decisions surrounding its future. It would be of course the ideal dwelling to manage the farm from as it is situated beside the farm buildings and has for many years been the France Lane Farm base and is still in fact in the same ownership as the land and buildings.

The house due to the above reasons has to be a material consideration and whilst it remains in the family and its future is based on intention, it cannot categorically be stated that it might not be available for occupation by the applicant, in the foreseeable future.

- 5.9 In conclusion, it is considered that this is a genuine application in connection with a mixed livestock farming enterprise business which has the hallmarks of becoming a viable business based on the applicant's stockmanship, and business and marketing acumen in connection with direct sale of farm produce.

With the potential number of livestock in the future there would seem to be a functional need for there to be a permanent presence on site to deal with in particular out of normal working hour welfare issues. However, at present the business cannot be said to be currently financially sound nor indeed remaining so whilst the future of the land and buildings has yet to be formalised and in addition the house at France Lane Farm has to be considered potentially available to the farming business whilst its future has still to be established.

## 5.10 Design

Annex A of PPS7 states that agricultural dwellings should be a size commensurate with the established functional requirement. The proposed

dwelling would be a two storey detached property constructed of natural stone with double roman clay roof tiles. It is considered that the proposed dwelling is of an appropriate standard in design and would not be harmful to the character and appearance of the surrounding area.

140 square metres of floor space is considered a reasonable size for a family home, the proposed dwelling does marginally exceed this allowance and given the location of the property within the open countryside, it is considered necessary that a condition be attached to any permission removing the permitted development rights for development within the curtilage of the dwelling house.

#### 5.11 Landscape and Visual Amenity

The site is located in open countryside to the south east of the village of Hawkesbury Upton. It is considered that the proposal would relate well to the existing dwelling on the site and with suitable planting would appear as a small addition to the existing group of buildings, consequently it is considered that there would be no significant landscape character or visual amenity issues with the proposal. Given the siting of the proposal within the Cotswold Area of Outstanding Natural Beauty, it would be necessary for a condition to be attached to any approval to ensure the submission of a full landscaping scheme.

Whilst concern has been raised that the property would be built on green belt protected land, it should be noted that the site is not within the designated green belt. The site is located in the open countryside and within the Cotswold Area of Outstanding Natural Beauty. The council seeks to protect open countryside as such a full assessment has been made to determine whether or not the proposal meets all the criteria set out in PPS7. Furthermore it should be noted that any other application for residential development within the open countryside surrounding Hawkesbury Upton would need to fall within the limited categories of development considered acceptable as set out in Policy H3.

#### 5.12 Residential Amenity

Given the location of the application site away from any neighbouring residential properties. It is not considered that the proposal would have any overshadowing or overbearing effect on neighbouring dwellings. Concern has been raised by local residents that the proposal would be directly in front of their property and would effect their outlook. Whilst the proposed dwelling would be opposite No's 1 and 2 The Cottages, the proposal would be approximately 50 metres away from the front elevation of these dwellings, as such given the distance the dwelling would be located away from these properties, it is not considered that the proposal would affect the outlook from these dwellings. It is accepted that the proposal would change the view from No's 1 and 2 The cottages, however overall, given the scale and location of the proposed dwelling, it is not considered that the proposal would have any significant detrimental impacts on these neighbouring dwellings.

It is considered that there are no issues of inter-visibility or loss of privacy. Further, the property would have sufficient private and useable amenity space.

Therefore the impact on residential amenity is subsequently deemed acceptable.

5.13 Transportation issues.

The access to the dwelling would be via the access to the existing dwelling on site and the parking provision would be in compliance and within the Councils required parking standards. Further, with no objections from the Councils Transportation Officer the proposal is considered acceptable, provided that there is a proven agricultural need for the dwelling.

5.14 Drainage Issues

In terms of drainage the Councils Drainage Engineer has raised no objections to the proposal. A condition would however be required to secure the submission of a full drainage scheme for approval before development could commence.

5.15 Other Issues

Concern has been raised regarding the need for two dwellings on site, this has been assessed with regard to the criteria of PPS7 under paragraph 5.8.

A lot of support has been received in relation to this application. Whilst it is acknowledged that the farm is an asset to the village and it is considered that there appears to be a functional need for there to be somebody living on site to properly manage the livestock enterprises. The building of new dwellings in the open countryside requires full justification and must meet a number of criteria, that are set out in PPS7. This is to ensure the open countryside is protected.

## 6. CONCLUSION

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

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

## 7. RECOMMENDATION

7.1 That the application be refused for the following reasons.

**Contact Officer: Kirstie Banks**  
**Tel. No. 01454 865207**

## REASONS FOR REFUSAL

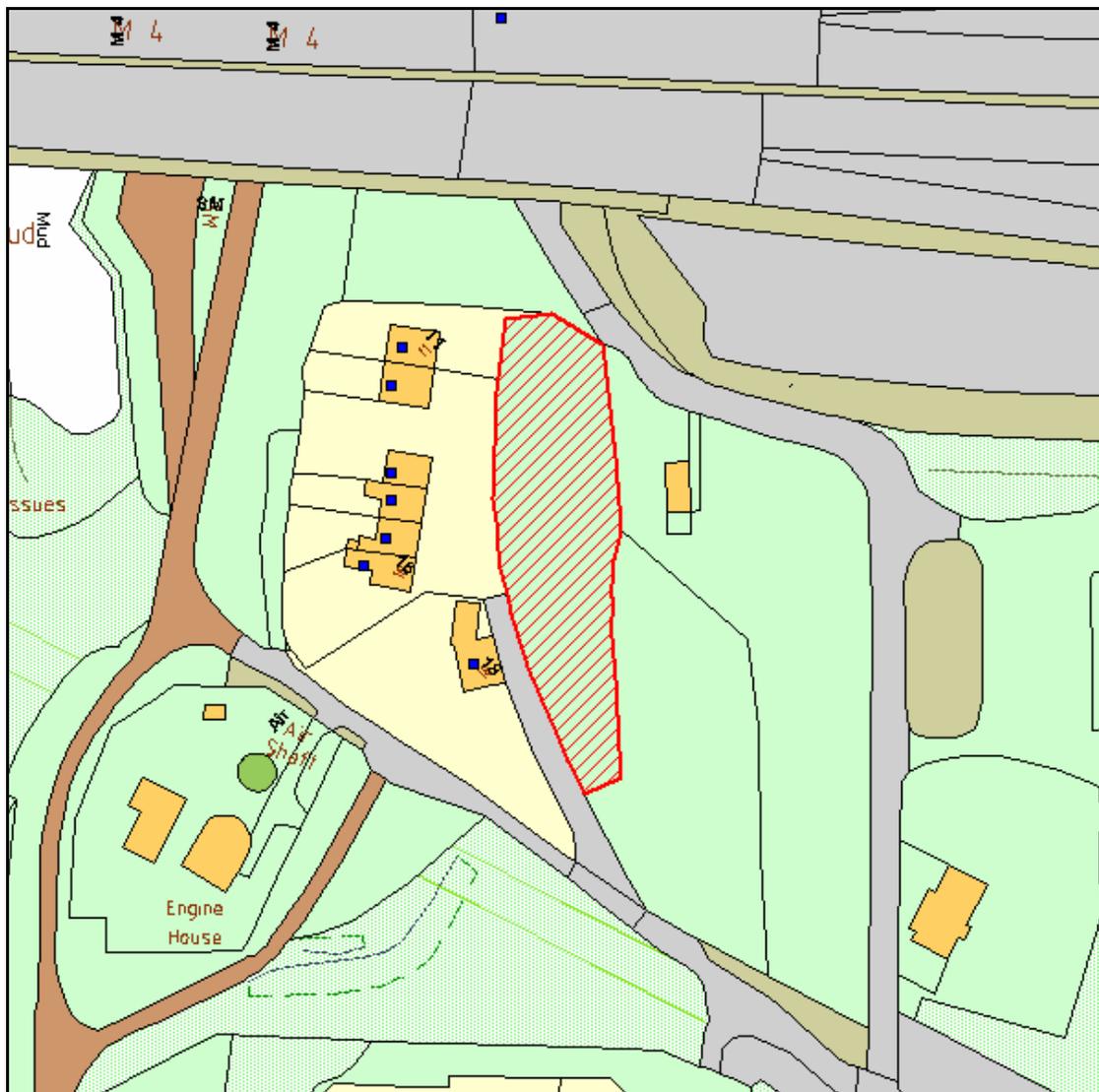
1. It is considered that the justification for the application does not demonstrate that the business is currently financially sound and has a clear prospect of remaining so. The

proposal therefore fails to satisfy the criteria set out in PPS7.REASONS FOR REFUSAL

2. The proposal does not demonstrate that the functional need could not be fulfilled by another existing dwelling on the site, or any other existing accommodation in the area which is suitable and potentially available for occupation in the future. The proposal therefore fails to satisfy the criteria set out in PPS7.REASONS FOR REFUSAL
3. The proposed development seeks planning permission for residential development outside an existing urban area and settlement boundary. The proposal is not considered acceptable for agricultural purposes and as such is contrary to Policy H3 of the South Gloucestershire Local Plan (Adopted) 2006.

**CIRCULATED SCHEDULE NO. 42/10 – 29 OCTOBER 2010**

App No.:	PT10/0839/CLP	Applicant:	Mr M Bhakerd
Site:	Rosary Cottage Shaft Road Severn Beach South Gloucestershire	Date Reg:	14th April 2010
Proposal:	Application for Certificate of Lawfulness for proposed development for the erection of new dwelling not in accordance with conditions 2 and 4 of planning permission P98/2112.	Parish:	Pilning And Severn Beach Parish Council
Map Ref:	354373 185530	Ward:	Pilning And Severn Beach
Application Category:	Minor	Target Date:	4th June 2010



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 100023410, 2008. N.T.S. PT10/0839/CLP

## **INTRODUCTION**

This report is circulated to Members in accordance with the Scheme of Delegation as it is an application for a Certificate of Lawfulness. (The previous application for a Certificate of lawfulness was circulated on 4 July 2008).

### **1. DESCRIPTION OF PROPOSAL**

- 1.1 An application for a Certificate of Lawfulness is purely an evidential and the planning merits of the development are not relevant considerations. The test of evidence to be applied is whether the case has been shown on the balance of probability.
- 1.2 This application is for a Certificate of Lawfulness for a Proposed Development, namely the demolition and proposed replacement of a house at the site. The application has come about as a result of the following events:
- a) the application P98/2112 was granted on 22 September 1998 and was to be begun, within the five year time frame allowed at that time, by 22 September 2003.
  - b) It is understood that the house was demolished within the five year period but this was carried out without submitting or having discharged condition 2 relating to the submission of materials.
  - c) The rebuilding of a house has not commenced on site.
  - d) Two certificates of Lawfulness have been submitted and refused. Neither were taken to appeal.
  - e) The agent now cites a new case, Hart Aggregates Ltd .v. Hartlepool BC and claims that the approval of materials does not go to the heart of the permission. Indeed he states that the condition is worded such that once constructed the details of the roofing and walling materials could be further altered with out being in breach of this condition.
- 1.3 The applicant claims that it would be lawful for the development to continue, under planning reference P98/2112. The key issues are in relation to conditions 2 and 4 under that consent. Condition two is a condition precedent and condition four relates to works to a vehicular access.
- 1.4 Condition Two reads as follows on the decision notice dated 22 September 1998.

“Building operations shall not be commenced until details of the roofing and external facing materials proposed to be used have been submitted to and approved by the Council and all such materials used in the construction of the building(s) hereby authorised shall conform to the details so approved.”

Reason “To ensure the satisfactory appearance of the development in the interests of visual amenity”.

- 1.5 Condition Four reads as follows on the decision notice dated 22 September 1998:  
“The existing vehicular access indicated in approved Drawing No. MB/01060/C shall be permanently closed and all vehicular access to the site shall be via the new access indicated on the same drawing.” (It should be noted that there is no trigger date for this condition).

## **2. LEGAL CONTEXT**

- 2.1 National Guidance  
S.191 of the Town and Country Planning Act 1990  
S.10 of the Planning and Compensation Act 1991

## **3. RELEVANT PLANNING HISTORY**

- 3.1 P97/2341 Two storey extension Approved 6 Feb 1998.
- 3.2 P98/2112 Demolition of dwelling and erection of dwelling and garage. Conditional Approval dated 22/9/98.
- 3.3 PT05/0061/RVC Removal of condition 4 of P98/2112 Returned to agent as invalid application due to permission having lapsed.
- 3.4 PT05/2161/CLP Application for Certificate of Lawfulness for proposed development for the erection of new dwelling in accordance with planning permission P98/2112 without compliance with Conditions 2 and 4. Refused for the following reason:  
Under Section 192 of the Town and County Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 insufficient evidence has been submitted to demonstrate the lawfulness of the proposed development.
- 3.5 PT08/1451/CLP Certificate of Lawfulness for proposed development for the erection of new dwelling in accordance with planning permission P98/2112 without compliance with conditions 2 and 4. Refused for the following reasons:  
Under Section 192 of the Town and County Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 insufficient evidence has been submitted to demonstrate the lawfulness of the proposed development. On the balance of probabilities it has not been demonstrated that the development that took place was undertaken lawfully in compliance with the conditions on P98/2112 for 'Demolition of dwelling and erection of replacement dwelling and detached garage'.

## **4. SUMMARY OF EVIDENCE IN SUPPORT OF PROPOSAL**

The following information summarises the case submitted by the applicant.

- 4.1 Building works commenced by the end of 1999 following the planning permission and the existing building was demolished without formally discharging condition 2 relating to the submission of details of the external materials condition. The demolition works constituted a material operation under Section 56(2) of the 1990 Act to which the permission applies and the permission has therefore been implemented. The application for PT05/2161/CLP relied upon the fact that the external facing materials were indicated on the approved plans and in accordance with R. v Flintshire CC Ex Parte Somerfield Stores, which concluded that commonsense had to be applied and that condition had in substance been complied with, albeit without the formality of a written application and a written notice of approval.
- 4.2 The agent now cites the case of Hart Aggregates Ltd .v. Hartlepool BC and claims that the essence of this judgement is that it establishes that it is necessary to establish whether the breached condition is truly a condition precedent and goes to the heart of the permission, and if so, whether it will be reasonable (in the Wednesbury sense) to take enforcement action against the entire development because of non-compliance. The agent states that in this case the Court held that it is necessary to distinguish between a condition that explicitly prevents development from being started before specified actions are taken and which are therefore subject to the Whitely rule (such as a Grampian condition) and those that simply require something be done before development commences. He states that in other words , if the breach does not go to the heart of the permission and relates to a matter of detail rather than to a fundamental issue, it need not be fatal. The agent claims that the approval of materials does not go to the heart of the permission. Indeed he states that the condition is worded such that once constructed the details of the roofing and walling materials could be further altered without being in breach of this condition.
- 4.3 The agent claims that the Hart ruling has introduced a degree of flexibility. This being because the authorised development was commenced within the required time period and Council still retains the opportunity to control the external materials prior to the construction of the replacement dwelling then it would be unreasonable, (in the Wednesbury sense) for the Council to take enforcement action against the entire development because of non-compliance with the strict wording of the condition when no material harm would be caused to the planning objectives and original reason for the condition. In addition in the case of Leisure Great Britain Plc v Isle of Wight Council (1999) four exceptions were identified, including where approval has subsequently been given so that unauthorised work carried out within the time limits was made lawful.
- 4.4 The agent supplies a copy of the original plans and a couple of photographs of the original house. He claims that these photos would allow the Council to approve the materials as originally intended if required.

## 5. SUMMARY OF CONTRARY EVIDENCE

No evidence has been submitted by any other party.

## 6. CONSULTATION RESPONSES

- 6.1 Pilning and Severn Beach Parish Council  
No comment received.
- 6.2 Environment Agency  
No comment as the type of application is out of their control.
- 6.3 Sustainable Transport  
This is an evidential test, therefore no transportation comments required.
- 6.4 Local Residents  
None received.

## 7. EVALUATION

The application for a Certificate of Lawfulness is purely an evidential test and as such the merits of the development are not relevant considerations. The test of evidence to be applied is whether the case has been shown on the balance of probability. As such the applicant needs to provide precise and unambiguous evidence.

A Certificate of Lawful Proposed Use or Development is used when an applicant wishes to ascertain whether

- a) any proposed use of buildings or other land; or
- b) any operations proposed to be carried out in, on, over or under land, would be lawful.

- 7.1 This application seeks to find that the continuation of the development, ie building the house, would be lawful under planning application P98/2112 and that, as such, the house can be lawfully continued without being liable to enforcement action. Hence this application ascertains the legal position, and is therefore not directly concerned with the planning merits of the case.
- 7.2 The term building operation is one of the operations considered to be development and condition two needed materials to be agreed before building operations started on site. In a practical sense this would have enabled the proposed materials to be considered in the context of the now demolished house and the neighbouring houses. In S.55(1A) of the Town and Country Planning Act 1990 demolition is clearly considered to be a building operation. It has been accepted in this case previously that the demolition was enough to commence development.
- 7.3 The critical question then is whether the operations were carried out in breach of condition. If the operation was not lawfully commenced on the balance of probabilities within the 5 year commencement date then it follows that it cannot be lawful to continue construction under consent P98/2112. There has been considerable case law on this detailed point, and the area continues to be one considered by the courts.

7.4 It is suggested that the following sequential questions have been established by the case law on this point.

1. Is the condition in question a condition precedent? ( F G Whitely & sons v Secretary of State for Wales 1992 & R(on the application of Hart Aggregates Ltd) v Hartlepool BC 2005)
2. If so, has it been complied with?
3. If it has not been complied with, can the developer bring himself within one of the exceptions? (R v Flintshire County Council Ex p Somerfield Stores Ltd 1998 & Leisure Great Britain plc v Isle of Wight Council 2000)
4. Even if none of the exceptions apply, would a decision to initiate enforcement be judicially reviewable for example because it would be irrational or an abuse of power? ( R(on the application of Hart Aggregates Ltd) v Hartlepool BC 2005)

1. The approved plans state that double roman tiles and rough cast render to match existing were to be used on the proposed dwelling. The approved plan number is MB/01060/02C which does show this detail but nevertheless it was felt appropriate to impose a condition requiring the submission of specific products for the external materials. This was condition two on the final decision notice. This does not seem unreasonable as double roman tiles vary widely in colour, profile, texture and material. Furthermore once the house were demolished there would be, and in fact is, no trace of a building to match the proposed materials to.

In the Whitely case the Court of Appeal established the principle that if development took place in breach of a condition then on that basis it could not be taken as lawful development to demonstrate a material commencement of the development. The case established the “condition precedent” concept. In relation to these facts it has been established through the previous Certificate applications that condition 2 is a condition precedent, but the wording of condition 4 would not amount to such a condition. However condition 2 does require that “Building operations shall not be commenced until...” the materials were agreed.

The Hart case went further and made a distinction between true conditions precedent as opposed to those that simply required something to be done before development takes place, it asked whether the condition went to the heart of the permission. It also stated that if an LPA wished to impose any obligation on an applicant by way of a requirement it should do so expressly. The facts of this case related to a condition that required details of a restoration scheme for a quarry to be agreed before extraction commenced. It was not tested until 30 years of extraction had taken place – with the premise being that the 30 years of extraction has been done unlawfully because condition 10 had not been complied with. The judge found in law that the condition had been complied with; but also stated that even if he had found condition 10 to be a condition precedent it would have been irrational and an abuse of power to take enforcement action against the whole development some 30 years later.

Looking at the facts of this case – the wording of condition 4 would not be a condition precedent. However the wording of condition 2 is expressly using the condition precedent wording that it was said was missing from the condition examined in the Hart case. Furthermore, the materials that the proposed house under P98/2112 was to be constructed of was not a secondary matter/or an afterthought. Construction cannot take place until one has decided what materials the built form is to utilise and therefore it does go to the heart of the planning permission. It is concluded that condition 2 of P98/2112 is a true condition precedent and as such the Whitely principle does apply.

2. There is no evidence that this condition was formally discharged prior to building operations commencing. Neither is there any evidence that materials had been informally agreed. This was also examined in the two previous CLOPUD applications.

3. Some exceptions to the Whitely principle have been established in case law. The R. v Flintshire CC ex parte Somerfield Stores case is not considered directly applicable to the facts of this case. The Flintshire case concerned a condition to do with a study of traffic impact which was to be submitted and approved by condition. In that case the Council claimed that the condition had been satisfied by a report submitted and approved prior to the decision being issued. The works had been in conformity with the full knowledge and co-operation of the Local Planning Authority and the Highway Authority and it would have been unreasonable for it to have decided that the planning permission had not been implemented. The same cannot be said of the current application, as the specific materials proposed have never been submitted.

In Leisure the following exceptions were identified and summarised from the case law:

- a. if a condition requires approval before a particular date and the developer applies before the date, but does not get approval until afterwards...the condition will be interpreted as having been complied with.
- b. where the LPA have agreed that the development could commence without full compliance with the relevant conditions.

These have been considered in relation to the facts of this case and there is no evidence, and no new evidence to suggest that any of these circumstances apply here.

4. The Hart case does indicate that it is necessary to consider whether a decision to initiate enforcement be judicially reviewable for example because it would be irrational or an abuse of power. The facts of that case were in relation to a longstanding quarrying operation of some 30 years – whereby the Judge held it would have been irrational and an abuse of power to attempt enforcement action at that juncture in those circumstances. The circumstances of this case are markedly different. Demolition took place, but no further works followed. Had the building been constructed in breach of condition 2 and been standing for a

considerable period, then it is considered that it might be appropriate to cite the Hart case if the LPA had been seeking to take enforcement action. This is patently not the case, the LPA is being asked in this CLOPUD application whether the continuation of works under P98/2112 would be lawful. If works commenced tomorrow ostensibly under the 1998 consent, then it would neither be irrational nor an abuse of power to enforce against such work as it be both a breach of condition 2, but also a breach of the time period for commencement.

- 7.5 Accordingly the facts of the Hart case cited by the applicant in their evidence have been closely considered in relation to the facts of this case. The recommendation remains that on the balance of probabilities the evidence does not demonstrate that P98/2112 was commenced lawfully as it was in breach of Condition 2 (which is considered to be a condition precedent), and as such to continue such works would be unlawful. The applicant has not produced any further fresh evidence to be considered since the previous refusals of a Certificate of Lawfulness.

## **8. RECOMMENDATION**

- 8.1 The Certificate of Lawful Proposed Development is refused for the following reason:  
Under Section 192 of the Town and County Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 insufficient evidence has been submitted to demonstrate the lawfulness of the proposed development. On the balance of probabilities the evidence does not demonstrate that P98/2112 was commenced lawfully as it was in breach of Condition 2 (which is considered to be a condition precedent), and as such to continue such works would be unlawful and in breach of Condition 1 which required development to commence lawfully within five years from 22 September 1998.

**Contact Officer: Karen Hayes**  
**Tel. No. 01454 863472**

## **REASONS FOR REFUSAL**

1. On the balance of probabilities the evidence does not demonstrate that P98/2112 was commenced lawfully as it was in breach of Condition 2 (which is considered to be a condition precedent), and as such to continue such works would be unlawful and in breach of Condition 1 which required development to commence lawfully within five years from 22 September 1998.

## CIRCULATED SCHEDULE NO. 42/10 – 29 OCTOBER 2010

<b>App No.:</b>	PT10/1989/F	<b>Applicant:</b>	Mr Tim Horswell
<b>Site:</b>	2 Elmdale Crescent Thornbury Bristol South Gloucestershire BS35 2JH	<b>Date Reg:</b>	6th August 2010
<b>Proposal:</b>	Erection of 1no. detached dwelling and associated works.	<b>Parish:</b>	Thornbury Town Council
<b>Map Ref:</b>	364331 190149	<b>Ward:</b>	Thornbury North
<b>Application Category:</b>	Minor	<b>Target Date:</b>	29th September 2010



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100023410, 2008.

**N.T.S.**

**PT10/1989/F**

## **REASON FOR REPORTING TO CIRCULATED SCHEDULE**

This application appears on the Circulated Schedule following the receipt of representations from a local resident that are contrary to the Case Officer's recommendation.

### **1. THE PROPOSAL**

- 1.1 The applicant seeks planning permission for the erection of a new attached dwelling. The existing dwelling would remain as a 3-bedroom dwelling.
- 1.2 It is important to acknowledge that the extension proposed under this application is identical to the householder extension that was approved under a recent planning application (PT10/1135/F). On this basis, the main issue to address under this application is the sub-division of a single dwellinghouse into two separate units.
- 1.3 The proposed development comprises of a two-storey side extension and a porch to the existing dwellings southwest elevation. The new dwelling would have its own private garden and parking space.
- 1.4 The application site relates to an existing semi-detached dwelling and its associated curtilage. The site is situated within a well established residential area and lies within the Thornbury Settlement Boundary.

### **2. POLICY CONTEXT**

#### **2.1 National Guidance**

- PPS1: Delivering Sustainable Development
- PPS3: Housing
- PPG13: Transport

#### **2.2 Development Plans**

##### **South Gloucestershire Local Plan (Adopted) January 2006**

- D1: Achieving Good Quality Design In New Development
- H2: Proposals for Residential Development within Defined Settlement Boundaries
- H4: Development within Existing Residential Curtilages
- H5: Residential Conversions, Houses in Multiple Occupation, and Re-use of Buildings for Residential Purposes
- T8: Parking Standards
- T12: Transportation Development Control Policy for New Development

#### **2.3 Emerging Development Plan**

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

- CS1: High Quality Design
- CS5: Location of Development
- CS15: Distribution of Housing
- CS16: Housing Density
- CS32: Thornbury

- 2.4 Supplementary Planning Guidance  
South Gloucestershire Design Checklist SPD (Adopted) 2007

### **3. RELEVANT PLANNING HISTORY**

- 3.1 PT10/1135/F Two storey side extension to form additional living accommodation  
Approved 09.06.2010.

### **4. CONSULTATION RESPONSES**

- 4.1 Thornbury Town Council  
No objection.

- 4.2 Highway's Authority  
No objection.

- 4.3 Local Residents  
In response to this planning application seven letters of objection have been received. The main points are summarised below: -

- a) No off-street parking.
- b) Increase volume of traffic in busy area.
- c) Restricted visibility.
- d) Highway safety issues to traffic and pedestrians.
- e) Noise nuisance.
- f) Loss of outlook.
- g) Loss of garden land.
- h) Over development
- i) Loss of light.
- j) Reduce property value.

### **5. ANALYSIS OF PROPOSAL**

- 5.1 The applicant seeks planning permission for the erection of a new dwelling. The development would include a two-storey side extension to the existing dwelling. The main issues to address in the assessment of this application are:

- 1. The principle of development?
- 2. Would the proposed development achieve good quality site planning and design?
- 3. Would the proposed development prejudice residential amenity?
- 4. Would the proposed development give rise to unacceptable highway safety effects?
- 5. Would the proposed development give rise to unacceptable environmental effects?

## 5.2 Principle of Development

The proposed development relates to the erection of a two-storey side extension to facilitate the subdivision of an existing dwelling into two separate units. Policies H2 and H4 of the South Gloucestershire Local Plan establish that new residential development on sites within the defined settlement boundaries and the curtilage of dwellings are acceptable in principle, subject to the proposal satisfying other material considerations, such as an density, design, residential amenity, and highway safety.

5.3 Notwithstanding this policy context in June 2010 the Coalition Government issued a Ministerial Statement under the title of 'New Powers for Local Authorities to Stop 'Garden Grabbing''. This statement made the following changes to Planning Policy Statement 3: Housing: -

- i. The definition of 'previously developed land' has been amended to exclude private residential gardens.
- ii. The national indicative minimum density target (of 30 dwellings per hectare) for new housing development has been removed.

5.4 These changes have been introduced to reflect the concerns regarding the over development of neighbourhoods, loss of green space and the impact upon local character. PPS3 is a material consideration in relation to planning application for housing development and as such these amendments are material and must be taken into account when determining this application.

5.5 Policies H2 and H4 of the South Gloucestershire Local Plan allow for residential development on sites that are within the defined settlement boundaries or urban areas, without reference to whether or not such land is brownfield or previously development land. Therefore, on this basis Officers do not consider the change to the definition of 'previously developed land' to make a significant difference to the approach that the Council takes in considering applications for residential development, and thus the proposed development remains to be acceptable in principle.

5.6 Nevertheless the Ministerial Statement has raised some important points regarding the design and density of new residential development. Firstly the statement reiterated the need to ensure the residential development do not result in the over development of neighbourhoods, the loss of green space, and impact upon local character. These matters can be reasonably resisted on the basis of existing policies (D1, L5, H2, and H4) within the South Gloucestershire Local Plan.

5.7 The second point relates to the requirement in PPS3 for all new residential developments to achieve the national indicative density target of 30 dwellings per hectare. This policy objective was reflected in Policy H2(b) of the South Gloucestershire Local Plan which stated that the maximum density compatible with the sites location should be achieved, but with an expectation that it will achieve a minimum density of 30 dwellings per hectare. The Ministerial Statement has removed the requirement for new residential development to

- achieve the national indicative minimum density, and thus very limited weight should be given to Policy H2(b).
- 5.8 The remaining advice in PPS3 states “Good design is fundamental to using land efficiently...” (Para. 48) and “Careful attention to design is particularly important when chosen local strategy involves intensification of the existing urban fabric. However when well designed and built in the right location, it can enhance the character and quality of an area” (Para. 49). “Density is a measure of the number of dwelling that can be accommodated on a site or in an area. The density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.” (Para. 50)
- 5.9 On this basis in this application the need to achieve an efficient use of land is still an important material consideration. However this need should be carefully balanced against the requirement to consider the character of the area and whether the proposal is good quality design. Policy D1 of the South Gloucestershire Local Plan recognises this, and density is one of the design factors that this policy requires to be assessed.
- 5.10 Design  
It is important to recognise that the applicant has an extant planning permission (PT10/1135/F) to construct a householder extension that is identical to the extension proposed under this application. Accordingly the only difference between these two separate applications would be that the previously approved extension would now be used as a separate dwelling.
- 5.11 The proposed development would comprise of a two-storey dwelling that would be attached to the existing semi-detached dwelling. The development would be subservient to this adjacent dwelling and would include a porch on the side elevation. It is considered that this design approach would be acceptable for a separate dwelling and would not adversely harm the character and appearance of the street scene.
- 5.12 It is noted that the new application would include a new parking space and would subdivide the existing rear garden. Nevertheless, it is considered that these rather minor developments would not materially harm the character and appearance of the site and its surrounds. Moreover the development would provide adequate private amenity space and would not result in a significant loss of garden space. On this basis, it is concluded that the proposed development would achieve good quality site planning and design, and would not conflict with policies D1 and H4 of the South Gloucestershire Local Plan.
- 5.13 Residential Amenity  
It is important to note that the proposed development is identical to the previously approved extension. As such it has been assessed that the proposed development would be sited away from any nearby dwellings and thus would not give rise to a material overbearing effect or loss of light. Moreover the development would not give rise to a material loss of privacy as

the proposal would not afford any direct inter-visibility into adjacent properties. It is therefore concluded that the proposed development would not materially prejudice the amenities of nearby occupiers, and would not conflict with policy H2 and H4 of the South Gloucestershire Local Plan.

5.14 It is noted that some local residents have raised concerns that the proposed development would result in adverse levels of noise and disturbance. Notwithstanding these comments, the proposed development would be a residential use within a well-established residential area. On this basis, it is considered that the use would be compatible with the surrounding uses and would not give rise to adverse noise pollution to nearby occupiers. The proposed development would therefore accord to policy H2 and H4 of South Gloucestershire Local Plan.

5.15 Transport

It is acknowledged that a number of concerns have been raised by local residents with regard to the potential adverse transportation effects by the proposed dwelling, particularly the lack of off-street parking. The Highway's Authority has assessed the development and they have also raised concerns that the development did not include an allocated off-street parking space. This was because it would be unrealistic to assume that the dwelling would result in no traffic generation. In view of this advice the applicant has amended the development to ensure that the existing and the proposed dwellings have satisfactory off-street parking arrangements. Officers are satisfied that this would ensure the development would provide satisfactory parking that would prevent any adverse levels of on-street parking. On this basis, it is concluded that the proposed development would not give rise to unacceptable transportation effects, and would accord to policies T8 and T12 of South Gloucestershire Local Plan.

5.15 Other Matters

It is noted that some local residents have raised concerns that the new development would devalue their property. Notwithstanding these concerns, it should be acknowledged that a perceived loss of property value from a new development is not a material planning consideration.

## 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 proposed residential development would be situated within the Thornbury settlement boundary and within the curtilage of an existing dwelling. It is considered that this is an appropriate area for residential development. It is therefore considered that the principle of the proposed development would accord with PPS3 and policies H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.

- b) The design and landscape impact of the proposed development has been fully assessed. It is considered that the development would achieve good standards of siting planning and design. This is because the siting, overall layout, density, form, scale, height, massing, detailing, materials, are informed by, and respect and enhance the character and appearance of the site and locality. The proposed development would therefore accord with PPS3 and policies D1, L1, H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.
- c) The impact of the proposed development on nearby properties has been fully assessed. It is considered that the siting and layout of proposal would not result in a material loss of privacy, an overbearing effect, or adverse levels of air, light and noise pollution. The proposed development would therefore accord with Policy H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.
- d) The impact of the proposed development in terms of transportation has been fully assessed. It is considered that proposal would have satisfactory access and parking arrangements. The proposed development would therefore accord with Policy T8 and T12 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 conditions: -

**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. Prior to the first occupation of the dwelling hereby approved, the parking space (as shown on Dwg. No. 11545 100 Rev A) shall be completed in accordance with the approved details.

Reason

To ensure the proposed development provide satisfactory off-street parking, and to accord with Policy H2, T8 and T12 of the South Gloucestershire Local Plan (adopted) January 2006.

## CIRCULATED SCHEDULE NO. 42/10 – 29 OCTOBER 2010

<b>App No.:</b>	PT10/2658/F	<b>Applicant:</b>	Mr James Robertson
<b>Site:</b>	98 Northville Road Filton South Gloucestershire BS7 0RL	<b>Date Reg:</b>	7th October 2010
<b>Proposal:</b>	Erection of single storey side and rear extension to provide additional living accommodation.	<b>Parish:</b>	Filton Town Council
<b>Map Ref:</b>	360398 178196	<b>Ward:</b>	Filton
<b>Application Category:</b>	Householder	<b>Target Date:</b>	30th November 2010



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**N.T.S.**

**PT10/2658/F**

## **REASON FOR REPORTING TO CIRCULATED SCHEDULE**

The application has been referred to the Circulated Schedule due to concerns raised by a local resident.

### **1. THE PROPOSAL**

- 1.1 This full application relates to the erection of a single storey side and rear extension at 98 Northville Road, Filton. The rear extension has a depth of 3m and incorporates a hipped roof. The side extension has a lean-to roof with parapet wall forming the entire side elevation, with a maximum height of 3.1m due to lower land level to the rear. All materials are to match existing
- 1.2 The application site is a two storey semi-detached property that has been previously extended by a small, rear conservatory. Vehicular access to the site is off Northville Road to the front, with off-street parking available. The rear of the property backs on to vacant land. The site lies within the urban area of Filton.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
PPS1 Delivering Sustainable Development
- 2.2 Development Plans  
South Gloucestershire Local Plan (Adopted) January 2006  
D1 Design  
EP4 Noise Sensitive Development  
H4 Development Within Existing Residential Curtilages,  
Including Extensions and New Dwellings  
T12 Transportation Development Control Policy for New  
Development
- 2.3 Supplementary Planning Guidance  
South Gloucestershire Design Checklist (Adopted)
- 2.4 Emerging Policy  
South Gloucestershire Core Strategy Pre-Submission Publication Draft March  
2010  
CS1 High Quality Design

### **3. RELEVANT PLANNING HISTORY**

- 3.1 None, although the property has been extended by a rear conservatory which would appear to have been erected under PD.

### **4. CONSULTATION RESPONSES**

- 4.1 Filton Town Council  
No objection.

#### 4.2 Sustainable Transport

No objection.

#### 4.3 Local Residents

1 letter has been received raising no objection in principle but raise concerns with regard to the following:-

- a) location of scaffolding ;
- b) possible damage to driveway/garage from digging foundations;
- c) no encroachment;
- d) hours of construction should be carried out during normal working hours and during the working week.

Of the above, a, b and c are civil matters. The application indicates encroachment below ground level on to the neighbouring property of 96 Northville Road. There may also be a degree of encroachment above ground level from the coping to the parapet wall. However, Certificate B has been submitted and notice served on the occupiers of this property. If planning permission is granted this does not give any rights to carry out works on, or over any land not within the ownership of the applicant.

With regard to d, this can be a condition of any planning permission but it would be unreasonable to prohibit any development on a Saturday.

### 5. ANALYSIS OF PROPOSAL

#### 5.1 Principle of Development

In assessing applications for residential extensions, planning policies D1 and H4 of the adopted local plan are particularly relevant. Policy D1 is a general design policy and cites that development will only be permitted where good standards of site planning and design are achieved. In particular, proposals will be required to demonstrate that siting, overall massing, form, scale, height, detailing, colour and materials respect and enhance the amenity, character and distinctiveness of both the site and the locality. Policy H4 specifically relates to residential development, including extensions, and considers issues such as design, residential amenity and highway safety.

#### 5.2 Design

The design of the proposal is in keeping with the existing dwelling and area as a whole. The size and scale of the extension is appropriate and all materials are to match existing.

#### 5.3 Residential Amenity

As the majority of the extension is to the side, with only 3m extending beyond the rear building line, no adverse impact to residential amenity will result. The extension is single storey and the garage of the adjacent property of 96 Northville Road will largely shield the rear extension from this property. No overbearing impact or loss of privacy/light will result from the proposal.

5.4 It is also worth pointing out that the proposal would normally have been regarded as permitted development but for the fact that a degree of

encroachment occurs and the height of the rear parapet wall, due to the lower land level to the rear, measures 3.1m in height. The maximum height is 3m.

5.5 Transportation

No objection as off-street parking is still available.

5.6 Other Issues

Of the concerns raised by a local resident, points a, b and c are civil matters and not something that the Council would become involved. The application indicates encroachment below ground level on to the neighbouring property of 96 Northville Road. There may also be a degree of encroachment above ground level from the coping to the parapet wall. However, Certificate B has been submitted and notice served on the occupiers of this property. If planning permission is granted this does not give any rights to carry out works on, or over any land not within the ownership of the applicant.

With regard to d, this can be a condition of any planning permission but it would be unreasonable to prohibit any development on a Saturday.

6. **CONCLUSION**

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

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

6.3 The recommendation to grant permission is for the following reasons:-

1. The proposed extension due to its limited size, single storey nature and design is considered to be acceptable in terms of visual and residential amenity term. The proposal would therefore accord with Planning Policies D1 (Achieving Good Quality Design in New Development) and H4 (Development within Existing Residential Curtilages, Including Extensions and New Dwellings) of the South Gloucestershire Local Plan (Adopted) January 2006.

2. The proposal has no impact in highway safety terms. As such the proposal is considered to be compliant with Planning Policy T12 (Transportation Development Control Policy) of the South Gloucestershire Local Plan (Adopted) January 2006.

7. **RECOMMENDATION**

7.1 Planning permission be granted subject to conditions set out in the decision notice.

**Contact Officer: Vivian Butt**  
**Tel. No. 01454 863427**

### **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.

3. No windows other than those shown on the plans hereby approved shall be inserted at any time in the side (west) elevation of the extension hereby permitted.

Reason

To protect the privacy and amenity of neighbouring occupiers, and to accord with Policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006.

4. The hours of working on site during the period of construction shall be restricted to 08.00 hours to 18.00 hours Monday to Friday and 08.00 hours to 13.00 hours 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 neighbouring dwellings and to accord with Policy EP4 of the South Gloucestershire Local Plan (Adopted) January 2006.