



**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. 35/11**

**Date to Members: 09/09/11**

**Member's Deadline: 15/09/11 (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 – 9 SEPTEMBER 2011

<b>ITEM NO.</b>	<b>APPLICATION NO</b>	<b>RECOMMENDATION</b>	<b>LOCATION</b>	<b>WARD</b>	<b>PARISH</b>
1	<b>PK09/0718/CLE</b>	Approve with Conditions	The Old Furnace Golden Valley Lane Bitton South Gloucestershire BS30 6NS	Bitton	Bitton Parish Council
2	<b>PK11/2040/F</b>	Approve with Conditions	8 Westerleigh Road Pucklechurch South Gloucestershire BS16 9RB	Boyd Valley	Pucklechurch Parish Council
3	<b>PK11/2200/R3F</b>	Deemed Consent	St Barnabas C Of E Primary School Poplar Close North Common South Gloucestershire	Oldland	Bitton Parish Council
4	<b>PK11/2298/F</b>	Approve with Conditions	38 Edgeworth Yate Bristol South Gloucestershire BS37 8YN	Dodington	Dodington Parish Council
5	<b>PK11/2357/CLE</b>	Approve	1 Lodge Road Wick Bristol South Gloucestershire BS30 5TU	Boyd Valley	Wick And Abson Parish Council
6	<b>PK11/2363/F</b>	Approve with Conditions	4 Wedgewood Road Downend Bristol South Gloucestershire BS16 6LT	Downend	Downend And Bromley Heath Parish Council
7	<b>PK11/2419/EXT</b>	Approve with Conditions	45 Cock Road Kingswood Bristol South Gloucestershire BS15 9SQ	Woodstock	None
8	<b>PT11/0803/F</b>	Approved Subject to	Land At Savages Wood Road Bradley Stoke Bristol South Gloucestershire BS32 8HL	Bradley Stoke South	Bradley Stoke Town Council

## CIRCULATED SCHEDULE NO. 35/11 – 09 SEPTEMBER 2011

<b>App No.:</b>	PK09/0718/CLE	<b>Applicant:</b>	Mr C Elliott
<b>Site:</b>	The Old Furnace Golden Valley Lane Bitton South Gloucestershire BS30 6NS	<b>Date Reg:</b>	20th April 2009
<b>Proposal:</b>	Application for Certificate of Lawfulness for existing use of site as residential and existing use of building as a single detached dwelling.	<b>Parish:</b>	Bitton Parish Council
<b>Map Ref:</b>	368935 171121	<b>Ward:</b>	Bitton
<b>Application Category:</b>	Minor	<b>Target Date:</b>	9th June 2009



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**N.T.S.**

**PK09/0718/CLE**

## **REASON FOR REFERRAL TO CIRCULATED SCHEDULE**

This application is reported on the Circulated Schedule due to the standing procedure in dealing with applications for Certificates of Lawfulness.

### **1. THE PROPOSAL**

- 1.1 This application seeks to prove that 'The Old Furnace', has been occupied residentially, for a period exceeding the prescribed period of 4 years prior to the submission of this application. The application was received on 14<sup>th</sup> April 2009 and the applicant is therefore trying to demonstrate that the building has been used for residential purposes since 14<sup>th</sup> April 2005.
- 1.2 A site visit was initially carried out on 15 June 2009. This revealed that there was a dwelling within a building that externally, appeared to be agricultural in design. The dwelling has two bedrooms, a kitchen, bathroom and living room, under a 'false' ceiling, above which is a domestic storage area, accessed via the 'garage' which comprises the other half of the building. The 'garage' contained two tractors and a mixture of domestic equipment and paraphernalia.
- 1.3 As identified on the plan received by the Council on 12<sup>th</sup> January 2011, around the building it is claimed that three distinct areas are in use as residential curtilage associated with the dwelling. These are an area of amenity space to the south of the building, a car parking and access to the immediate north of the building, and a further area in use as a vegetable plot to the north of the parking area. The remainder of the land owned by the applicant is not subject to the certificate. As part of the certificate of lawfulness, consideration is also given to whether, sufficient evidence is available to demonstrate that the land mentioned above has been used as residential curtilage for of 4 years period prior to the submission of the application.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
Town and Country Planning (General Procedures) Order 1995 Article 24  
Circular 10/97 Enforcing Planning Control

### **3. PLANNING HISTORY OF SITE**

- 3.1 11110/CO Enforcement Notice regarding car repairs on the site 1997

### **4. SUMMARY OF EVIDENCE IN SUPPORT OF THE APPLICATION**

- 4.1 Four sworn statements have been received in support of the application – three separate statements signed by Clifford John Elliott and one statement signed by Martin Howard Goodall. Each of these three statements will be detailed in turn below:

4.2 Statement One – signed on 2<sup>nd</sup> April 2009

The affidavit was sworn by Clifford John Elliott, the current occupier, stating that he is the owner and occupier of the dwelling on the application site. He purchased the site in 1987 and built a barn on it in 1989/90. He claims that his solicitor at that time asked Kingswood Borough Council whether planning permission would be required and that the answer was no. The barn was subsequently built from concrete blocks on a good foundation, in the hope to later convert it to a private dwelling. A kitchen was fitted in 1994/95, replaced by the current kitchen in 2002. Mr Elliott installed a WC and shower in the northwest corner of the building. He stationed a caravan in the barn which was then used for sleeping accommodation until about 1999/2000, by when proper sleeping accommodation had been fitted in the building.

4.3 Gradual improvement to the accommodation was made up to May 2004, when his new solicitor, Mr Goodall, visited the site, at which stage the building offered the facilities for day to day life. In 2004, the interior had insulated walls throughout and the main living room had a wood-burning stove, which replaced an earlier model. This room was fully furnished, carpeted and curtained. It has remained so since. There was also a utility room containing a gas 'combi' boiler purchased in March 2003 for hot water and central heating. These facilities have been in place and in continuous use since. (NB. Bills were later provided – see below).

4.4 In early 2004 Mr Elliott states that he built an extension to provide the dwelling with an extra bedroom, with insulated walls. It was fully furnished before Mr Goodall's visit and has remained so since continuously. The original kitchen was at the other end of the building and visitors would be kept to that reception area to keep the rest of the dwelling private and out of view.

4.5 Drainage is to a septic tank, purchased on 24 June 2000 and installed that summer, to replace the original one. This has been used to provide foul drainage ever since.

4.6 The statutory declaration concludes that in order to avoid drawing attention to the occupation of the property, Mr Elliott did not apply for a postcode until very recently. He paid no council tax and only recently applied for a TV licence for this address. He claims that he has occupied the property as a dwelling and curtilage continuously throughout the time he converted it for residential use and in particular as a separate private dwelling throughout the last four years.

4.7 Statement Two – signed on 7<sup>th</sup> April 2009

The second affidavit was sworn by Martin Howard Goodall, LARTPI, a Consultant in the firm of Sisman Nichols Solicitors who was instructed by the applicant in March 2004, to advise him regarding the planning status of his property at Golden Valley Lane, Bitton. Mr Goodall states that he visited the site on 10<sup>th</sup> May 2004 and inspected the building in detail, finding that the building afforded the facilities for day to day private domestic existence. It had been adapted as a dwellinghouse as normally understood, with insulated interior walls throughout and with a wood burning stove in the living room, which was fully furnished, carpeted and curtained. There was an equipped kitchen, with provision for food storage, a bathroom with a bath and WC.

- There was also a utility room. An extension had been built to provide an extra or separate bedroom; this was also furnished, carpeted and curtained. Another room at the other end of the building was the original kitchen. Drainage was to a septic tank outside the property.
- 4.8 Mr Goodall wrote a letter to Mr Elliott on 25<sup>th</sup> June 2004 (not supplied) in which he advised him that, having inspected the building, it was clear that it contained all the facilities required for day-to-day domestic existence. He noted that there had been some upgrading prior to his site visit, but the building had been used for a single private dwelling and was therefore lawful under the four-year rule. On the basis that Mr Elliott said that the present septic tank had been in place since June 2000 and prior to that there was an original septic tank. Mr Goodall concluded from this that the sanitary facilities had been in place for at least four years. He also concluded that there was sleeping accommodation for the site prior to the completion of the extension. Mr Goodall also warned Mr Elliott that the actual construction was not yet immune from enforcement action and would not become lawful until the early part of 2008.
- 4.9 Mr Goodall goes on to state that Mr Elliott did not have any documentary evidence in 2004 to substantiate the change of use of the building four years previously. Mr Goodall therefore advised his client that it would be inadvisable to draw attention to the conversion of the building and that his own evidence of his 2004 site visit could be added to Mr Elliott's own evidence in four years time. He argues that the outbuildings on the site became lawful as built development after the passage of four years, due to permitted development rights being established after the site became a dwelling. Mr Elliott waited for the recommended four year period before instructing Mr Goodall to submit this application. Mr Goodall points out that Mr Elliott has stated in his statutory declaration that he has continuously occupied the dwelling throughout the last four years.
- 4.10 Mr Goodall concludes that the material change of use to a dwellinghouse on the site took place over four years ago, as it was in such a use in May 2004. He gives the evidence of the occupation of the building and the facilities in place at that time, including the extension for the additional bedroom, as well as the outbuildings.
- 4.11 Statement Three – signed on 6<sup>th</sup> January 2011  
At your planning officers request, an additional affidavit was sworn and submitted by Clifford John Elliott (the current owner). He confirms that the information within this declaration is supplementary to the statutory declaration made by him on 2<sup>nd</sup> April 2009. He confirms that the previous affidavits are correct and that since signing the previous declaration, he has continued to live at the property the subject of this application without any cessation of interruption.
- 4.12 The declaration is accompanied by a hand drawn plan marked CJE showing the uses and the internal dimensions of each room within the dwelling. The declaration then re-iterates many of the points made in the original statement relating the dates when each of the individual rooms were created.

- 4.13 The statement confirms that the garage as shown on plan CJE 1 was created in its current dimensions in 2003 and has at all time since then been used as a domestic garage in connection with Mr. Elliott's residential use of the property and for purposes ancillary to that use including the storage of various equipment for the maintenance of the garden. Mr Elliott also confirms that the area marked J on plan CJE1 is used as a domestic workshop and storage area for purposes ancillary to his residential occupation of the property since early 2004.
- 4.14 Mr Elliott confirms that his intention in submitting the application is that the whole planning unit comprising the land and buildings are within a single and undivided unit of occupation that is occupied by him as a residential property and for purposes ancillary to that use.
- 4.15 Mr Elliott confirms that the land surrounding the site which is included in the current application has throughout the period of his residential occupation, been used as a domestic garden (including a vegetable garden) and for various other purposes which are ancillary to that use or are incidental to Mr. Elliott's enjoyment of the building as a dwelling. He confirms that from time to time such uses have included the keeping of some animals for domestic purposes.
- 4.16 The northernmost part of the plot comprises a large vegetable plot which is used exclusively for domestic purposes to provide vegetables for the house. Between the plot and the house there is an entrance from Golden Valley Lane and an area used for the parking of vehicles for domestic and ancillary purposes. The remainder of the land within the application site is used as amenity land and for other purposes including domestic storage all of which are purely ancillary to the use and occupation of the site for residential purposes. Plan CJE2 attached to the statutory declaration confirm the extent of the land referred to by Mr. Elliott in his declaration.
- 4.17 Statement Four – signed on 17<sup>th</sup> August 2011  
At your planning officers request, an additional affidavit was sworn and submitted by Clifford John Elliott (the current owner) to address the issue of the alleged extension as referred to in previous sworn statements. He confirms that the information within this additional declaration is supplementary to the previous statutory declarations made by him on 2<sup>nd</sup> April 2009 and 6<sup>th</sup> January 2011. In paragraphs 7 and 8 of this latest declaration, Mr. Elliott confirms that the footprint of the building remains the same as it was originally built in 1989/90 and that there has been no alteration to the overall shape of the building or to its roof since the building was erected. Mr Elliott confirms that in paragraph 7 of his statutory declaration of 2<sup>nd</sup> April 2009, he stated that, ' I built an extension to the dwelling to provide an additional bedroom'. Mr Elliott makes it clear in the additional declaration dated 17<sup>th</sup> August 2011 that reference to an extension refers solely to the creation of an extra bedroom within the envelope of the building. The new bedroom was formed within the original structure of the building which was already in wholly residential use. The declaration signed on 17<sup>th</sup> August 2011 also provides further details regarding the outbuildings on the site and the dates when they were erected.



#### 4.18 Other Evidence

In additional to the three statutory declarations detailed above, a number of water, telephone and electricity bills have been submitted. These cover the period from 12 December 2003 to 1 June 2009 continuously. The bills are addressed to 83 Furber Road, but the property address is 'supply to a field, Golden Valley Lane, Bitton'. The usage over this period is for water supply, not a metered service.

4.19 The land line telephone bills cover an incomplete period from 2004 to 2009, are quarterly, addressed to Mr Elliott at 83 Furber Road and do not have any reference to the application site.

4.20 The electricity bills relate to a metered supply at 'Boyd Field/ BS30 6NS', although again the postal address they were sent to is 83 Furber Road. These bills cover the period from 2004 to 2009, although some are reminders and therefore not all relate to precise periods of time, at least as this evidence has been made available it should be taken into consideration. In addition, some of the sums are estimated. No particular pattern of electricity use at the site can be discerned from the bills, although the evidence points to electricity having been supplied to the site over the last 4 years.

4.21 In addition to the above, a series of letters has been received during the course of the application from the applicants solicitors re-iterating that the certificate should be granted.

4.22 A letter has also been received from a neighbouring resident who states the following, '*I have owned Little Valley Farm, BS30 6NS since 2005 and can confirm that the next door property known as the Old Furnace, was in use as a dwelling and small holding for many years before we moved in.*' The neighbours letter does not however offer any indication as to what has happened at The Old Furnace since the neighbour moved in in 2005 and therefore contributes very little towards the determination of the application.

### 5. SUMMARY OF CONTRADICTIONARY EVIDENCE

5.1 Following the consultation process, contrary evidence has been submitted in the form of four letters and three statutory declarations. These are detailed in turn below:

#### 5.2 Statement One – signed 13<sup>th</sup> May 2009

The first statutory declaration is sworn by Robert Butson, who lives in Golden Valley Lane and states that Mr Elliott has been careful to conceal his activities by erecting galvanised sheeting fences and gates. Mr Butson used to drive past the site each day, commuting to work, until retiring in December 2008. He did not notice any lights on. The letter box was attached to the gates around December 2008. Throughout his regular observations of *the Old Furnace* he has not observed any activities that indicate regular and continued residential occupation by Mr Elliott.

5.3 Statement Two – signed 14<sup>th</sup> May 2009

The second declaration is sworn by Peter Hurst, who also lives in Golden Valley Lane and has lived there for 12 years and has taken an interest in *the Old Furnace*. He has not seen any permanent residence by Mr Elliott. Mr Hurst regularly works in his garage and is therefore aware of vehicles using Golden Valley Lane. He has seen Mr Elliott approach the site by car in the mornings, as well as visiting the site in the evening and leaving again at night. During the last year the site has had high gates erected, containers and rubbish used to hinder views. A post box was recently erected. Mr Hurst, throughout his time living nearby has not observed any activities which indicate that Mr Elliott has occupied the site residentially.

5.4 Statement Three – signed 12<sup>th</sup> May 2009

The third declaration was sworn by Peter Deacon, who has lived in Golden Valley Lane since October 2007, his property abutting the northern end of the site. Attempting to engage with the community, Mr Deacon inquired into the ownership of *the Old Furnace*, to be told by a local landowner that Mr Elliott rarely visited the site in the winter. Despite looking for signs of activity such as vehicles, lights, noise and chimney smoke, it was over two months before Mr Deacon was able to meet Mr Elliott, having visited the barn several times over 2 to 3 weeks, in the week and at the weekend, never finding him in. On those visits, Mr Deacon looked through the door and windows, but saw nothing to prove that the site was being used for habitation. When he did find him in, Mr Deacon looked beyond him into the building and the floors were bare and no furnishings were visible. Around the building was rusty equipment and spoil mounds.

5.5 During 2008, when working in the field bordering Mr Elliott's land, Mr Deacon observed the property and saw no sign of anyone in the building, such as smoke, lights or vehicles. They became involved in a legal dispute from April 2008 to April 2009. All correspondence was sent to Mr Elliott at an address in St George, Bristol (examples of such evidence were appended). Mr Deacon owns a stable close to the southern boundary with the application site. From this vantage point, the first sign of habitation on the site that he noticed was just before Christmas 2008, when he saw Mr Elliott drive to the *Old Furnace* in the morning and leave in the evening.

5.6 Mr Deacon concludes that throughout his time residing next to the site he has not observed any activities that indicate the regular and continual residential occupation of the site. In all his dealings with the applicant, Mr Elliott has stated his home address being in Bristol.

5.7 Other Evidence

The letter submitted to accompany the three declarations from LPC (Trull) Ltd, states that Mr Goodall has not submitted plans to identify the rooms which are referred to. He advised Mr Elliott not to draw attention to his domestic occupation of the site and this amounts to 'deliberate deceit'. No reference has been made to the claimed residential curtilage. Turning to Mr Elliott's declaration, in addition to the above points, the writer confirms that Mr Elliott undertook measures amounting to 'deliberate deceit'.

- 5.8 Further to the above, the letter points out that the red line area claimed to be residential curtilage is not intimately associated with the alleged dwelling. It is not being used for residential purposes at present and no evidence has been submitted to support this part of the claim.
- 5.9 Land Registry details have been submitted to prove that the applicant has owned 83 Furber Road, St George, Bristol, since 1991. This is put forward as a factor that throws doubt on Mr Elliott's residential occupation of the application site. The letter also refers to the *Beesley* case.
- 5.10 Further letters have also been received from LPC (Trull) during the course of the application confirming why, in the writers opinion the certificate should be refused. Notably, comments are raised that approximately 60% of the floor space of the building is used as garaging and a workshop.
- 5.11 Two letters has been received from Thring Townsend partnership explaining why, in the writers opinion, the certificate should not be granted.
- 5.12 One letter has been received from R. Moulding simply stating 'does this mean I can build a house on land I own in golden Valley too' but offering no comment on this specific application.
- 5.13 One letter has been received from C. Hamilton James who confirms they cannot speculate as to whether the building has been lived in for the past four years as the writer does not make it their business to pry. The writer is however aware of comings and goings and notes that the post box is a recent addition.
- 5.14 One letter has been received from R. Butson who confirms that unfortunately the writer is unable hand on heart to confirm or refute Mr Elliotts claim that he has lived on the site continuously for four years.
- 5.15 One letter has also been received from B Burnett. The writer confirms that he cannot offer any detail on whether the building operations were substantially completed 4 years ago because the property is behind substantial gates, fencing and hedging.

## **6. OTHER REPRESENTATIONS RECEIVED**

- 6.1 Bitton Parish Council  
The Council as a body is not in a position to comment on an application for a Certificate of Lawfulness. However, residents were present at the meeting who refuted the claims made by the applicant and stated that it has not been used continuously as a residence for the past 4 years and that he mostly lived at 83 Furber Road, St George. Councillors ask that this is investigated.

## 7. ASSESSMENT

7.1 The only issues which are relevant to the determination of an application for a Certificate of Lawfulness are whether, in this case, the use described has or has not been carried out for a period exceeding 4 years and whether or not the use is in contravention of any Enforcement Notice which is in force.

7.2 Dealing with the latter point from above first, there is an Enforcement Notice in force for the site. It was served in 1998 and relates to making a material change in the use of the land from agricultural to a mixed use of agriculture and motor vehicle repairs, maintenance and storage, unconnected to the use of the land. It is not considered that this Enforcement Notice is relevant to the current proposal.

### 7.3 The relevant test of the submitted evidence

The onus of proof is firmly on the applicant and the relevant test of the evidence on such matters is “on the balance of probabilities”. Advice contained in Circular 10/97 states that a certificate should not be refused because an applicant has failed to discharge the stricter criminal burden of proof, i.e. “beyond reasonable doubt.” Furthermore, the applicant’s own evidence need not be corroborated by independent evidence in order to be accepted. If the Council has no evidence of their own, or from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous. The planning merits of the use are not relevant to the consideration of the purely legal issues which are involved in determining an application. Any contradictory evidence which makes the applicant’s version of events less than probable should be taken into account.

### 7.4 Hierarchy of Evidence

The evidence submitted comprises statutory declarations, in some cases referring to further documents. Inspectors and the Secretary of State usually value and give weight to evidence in the following order of worth:-

1. Personal appearance, under oath or affirmation, by an independent witness whose evidence can be tested in cross examination and re-examination, especially if able to link historic events to some personal event that he/she would be likely to recall.
2. Other personal appearance under oath or affirmation.
3. Verifiable photographic evidence.
4. Contemporary documentary evidence, especially if prepared for some other purpose.
5. Sworn written statements (witness statements or affidavits) which are clear as to the precise nature and extent of the use or activity at a particular time.
6. Unsworn letters as 5 above.

Written statements, whether sworn or not, which are not clear as to the precise nature, extent and timing of the use/activity in question.

- 7.5 The tests in this case are considered to be whether the dwelling was occupied for the prescribed 4 year period. If this is the case then the future occupation of the site on a residential basis would be immune from enforcement action and be lawful. This breaks down further into the point where the building could be used for residential purposes and its subsequent use. In addition to this, the claim for the curtilage area for the building also needs to be examined, particularly with regard to aerial photography. The four year rule also applies in this case, since any curtilage would have to be incidental to the enjoyment of the dwellinghouse in order to qualify. Lastly, this case needs to be compared with the Beesley case, as has been submitted by the objectors' agent. This examination is outside the planning legislation and the relevant tests, as it has been put forward that 'fraud' and 'deliberate deceit' have been used and therefore the comparison between the cases needs to be on the basis of the applicant's motivation and advice he was given by his solicitor.
- 7.6 When was the site capable of residential use?  
Answering this question is considered to be the key to determining whether the site has been used residentially for a continuous four-year period. In this regard, the evidence presented by Mr Elliott and Mr Goodall is considered to be clear and precise in their Statutory Declarations, where they claim that the site was in a standard that could be occupied residentially in 2004. Mr Elliott claims to have been living there since before that year, and Mr Goodall corroborates Mr Elliott's evidence of the creation of a dwelling within the agricultural building. Further independent evidence is supplied in the form of a bill for the heater to be seen at the site. While it is possible that the combi boiler may have been bought at that date and installed later, Mr Elliott refers to the boiler being in situ in his sworn statement.
- 7.7 The counter evidence submitted makes no mention of the internal condition and layout of the building in 2004 and whether it was capable of human habitation or not. Mr Deacon's statutory declaration refers to the condition of the building at a later date, but that is more appropriately dealt with in the following section. A combi boiler identical to that now in situ was certainly purchased on 14 March 2003 by Mr Elliott.
- 7.8 It is considered therefore that on the issue of the site's capability of sustaining residential use, the evidence points to the fact that it is more probable than not that the build was capable of residential use in 2004. The residential curtilage issue will be examined later.
- 7.9 The evidence of the suitability of the building for residential purposes is also considered to encompass the so-called 'extension' to the building, which, on the evidence, was created more than four years ago and is therefore immune from enforcement action. It is important to explain that the additional statutory declaration signed on 17<sup>th</sup> August 2011 confirms that the use of the term 'extension' was not intended to mean that the actual envelope of the building had been increased. It was instead meant to refer to the fact that the actual amount of sleeping space within the building had been increased but this had been done within the envelope of the existing building.

7.10 How long has the site been used residentially?

Having established that the building was indeed capable of residential occupation at the start of the claimed four-year (actually from as early as 2004), the pertinent issue is whether it was put to this use. Mr Elliott's evidence states that he has occupied the property as a dwelling and curtilage continuously throughout the time he converted it for residential use and in particular as a separate private dwelling throughout the last four years. This evidence is considered to be clear and unambiguous. In the statutory declarations signed on 6<sup>th</sup> January 2011 and 17<sup>th</sup> August 2011, Mr. Elliott explains in detail the conversion process of the barn and in what years each of the rooms were created.

7.11 The bulk of the counter evidence received is considered to contest Mr Elliott's assertion. To a large extent, this is attempting to prove a negative, i.e. that Mr Elliott has not been living in the building over the four year period. It is noted that there is no dwelling immediately next to the site. The area features sporadic housing in a predominantly agricultural setting. However, while direct line of sight of the site may be difficult to obtain from the nearby housing, it is considered that the sporadic nature of the residential development allows for a greater appreciation of activity than would be the case in a more densely populated urban area.

7.12 The counter evidence states, in the case of Mr Butson, that he used to drive past the site on his commute to work, until his retirement in December 2008. He did not observe any lights on. Given the height of the hedgerow between the building and the lane and the height of a car driver above the road, together with the relatively small number of room windows which face the road or the site access, it is considered that the only lights which would be likely to be seen while driving would be outside lights. Given that Mr Elliott has willingly noted he was actively trying not to draw attention to his residential occupation of the building, it is realistic to believe attempts would have been made to minimise light pollution escaping from the building.

7.13 Mr Hurst states that he has taken an interest in the site as he lives nearby. The evidence in his statutory declaration relates more to comings and goings to and from the site, which Mr Hurst has been able to observe over a 12 year period when he has regularly worked in his garage. He states that he has seen Mr Elliott approach the site in the mornings as well as evenings and leave again at night. Mr Hurst takes the same line as Mr Butson regarding his general observation of the site itself. The pattern of vehicular movements which Mr Hurst describes is considered to point to Mr Elliott not sleeping at the site, since the journeys to the site are in the morning and the journeys away are at night. Details of when Mr Hurst made these observations are generalised, and whilst Mr. Hurst notes he 'regularly' works in his garage, no more details are given as to just how 'regularly' this takes place.

7.14 Whilst Mr. Hurst's observations are not doubted, the vehicle movements themselves are not sufficient to prove that the building was not in residential use. It is indeed true that sometimes Mr Elliott may have travelled away from the site in the evenings and sometimes travelled to the site in the morning – your officer is not in any position to comment on the reason for these journeys

and no evidence has been put forward to identify the reason. Mr Hurst has not specifically commented that the occasions when Mr Elliott left the site in the evening and returned in the morning that these occurrences were necessarily on consecutive days. Your officer is in no position to comment on the lifestyle choices of Mr Elliott and it is possible that the movements indicate some other activity such as a night shift work. No evidence has been submitted to prove that the vehicular movements prove that the building was not being used for residential purposes.

- 7.15 Mr Deacon's evidence is much more limited in terms of its time frame as he has lived at his house in Golden Valley since October 2007. This period still spans the claimed four year period and Mr Deacon's dealings with the site in this time are considered to be more intimate than Mr Butson's or Mr Hurst's. His declaration mentions a conversation with a local land owner, but that person has not offered any evidence himself and therefore that part of the declaration is considered to be no more than hearsay. At some stage after he moved in, Mr Deacon states that he tried to call round regularly to speak to Mr Elliott over the course of 2 to 3 weeks until he finally found him in. These visits took place on weekdays and weekends. When Mr Deacon found Mr Elliott in, he had the chance to look into the building, he saw that it was unoccupied, with bare floors and no furnishings. Mr Elliott's statutory declarations make it clear that attempts were made to screen the residential occupation of the building from view. It is not therefore unreasonable to expect Mr Elliott to have actively sought not to draw Mr. Deacons attention to the residential use at the time of their meeting. From the evidence available, it is not clear which door Mr Elliott opened to receive Mr Deacon. If it was the door to claimed dwelling, then this opens to a hall and nothing more than this can be seen from outside the building. If Mr Deacon had seen through the door in the half of the building used as a 'garage', then there is little in the way of evidence of habitation to be seen anyway. Mr Deacon backs up his evidence from personal observations since October 2007 from his stables building close to the southern boundary of the site. He noted no (outward) sign of habitation of the building. From the period after he moved in, Mr Deacon's evidence also casts doubt on Mr Elliott's claim of residential occupation of the building.
- 7.16 Mr Deacon also raises the issue of Mr Elliott's other address in St George, Bristol. This is corroborated by the bills which Mr Elliott has supplied. However, in respect of the delivery/ supply address, where applicable, these bills state the site address. As has been noted in the statutory declarations, the post box which has been attached to the gate to the property is a recent addition. Mr Elliott claims that he did not apply for a postcode until recently. Under the circumstances, it is considered practical and probable that post intended for Mr Elliott at the site would be sent somewhere else. This in itself is not considered to point to Mr Elliott living at his Bristol address, since no direct proof is offered in the statutory declarations that he lived there over the last four years.
- 7.17 Mr Hurst raises the point about the gates and fencing at the site being erected to enclose the site. He states that before this there were containers and rubbish used to hinder views in. It is considered that this factor corroborates steps taken on Mr Goodall's advice to his client to conceal evidence of residential occupation of the site.

It seems probable that those initial efforts would also have made it difficult to achieve views into the site and after the fence and gates were erected, access to it was also hindered.

7.18 Evidence submitted in letter form

In addition to the three statutory declarations, further evidence has been submitted in letter form. As explained at 7.4 above, this evidence should be given less weight than that in the statutory declarations. It is still evidence, however and does form part of the assessment of this application. Issues which have already been dealt with in the preceding analysis will not be reprised.

7.19 One of the letters refers to hearing gates being opened and closed and a car leaving the site. This evidence is not considered to be capable of being afforded much weight as the writer was not able to see where the vehicles in question were or who was driving them. This evidence is also limited to recent times since other evidence presented makes clear that they were erected since 2007. More pertinently, it was observed that in the last 6 years, the *Old Furnace* differed from other properties in the locality in that, while they showed evidence of occupation through their (chimney) smoke, lights, comings and goings and interaction with the neighbours, the site did not. However, occasional activity was noted at the site, although allegedly not enough to support the claim for full time occupation. Even though lower in the hierarchy of evidence than the statutory declarations, the 6 year period of observation is considered to build up a picture which again contradicts Mr Elliott's claim of residential occupation of the *Old Furnace* for the past four years. The evidence put forward regarding the same car being parked at the site and outside Mr Elliott's other address in St George falls outside the four year period claimed in this application and is therefore not considered to be relevant to the determination of this application.

7.20 Another of the letters states that because the building was constructed as a house and not a barn, that the four year rule should not apply. However, the four year rule specifically applies to residential development, which is the case here.

7.21 The final letter was sent by another neighbour of the site, stating that the *Old Furnace* had been used as a dwelling and smallholding for many years up to 2005, when the writer moved in. This letter is the only one which corroborates Mr Elliott's statutory declaration on this matter. However, the weight of this evidence is considered to be somewhat diminished in that it concentrates on the period up to 2005 and that the writer did not become a neighbour until that point. No details are given as to what happened on the site after 2005

7.22 Curtilage issues

Case law has established that the ground which is used for the comfortable enjoyment of a house or other building may be regarded in law as being within the curtilage of that house or building and thereby as an integral part of the same although it has not been marked off or enclosed in any way. It is enough that it serves the purpose of the house or building in some necessary or reasonably useful way.



7.23 The extent of the claimed residential curtilage was reduced by the applicant's agent. The extent of the curtilage now for consideration as part of this application for a certificate of lawfulness is shown on plan CJE2 attached to the statutory declaration of Mr Elliott dated 6<sup>th</sup> January 2011.

7.24 There are three distinct areas to the curtilage as shown on this plan – an area of amenity space, an area for access and parking, and a vegetable plot. In his statutory declaration, Mr Elliott confirms that the land as shown on plan CJE2 has all been used ancillary to his residential occupation of the barn for the whole length of the time that he has been living on the site (since 2004). No contrary evidence has been put forward to dispute this claim or make Mr. Elliott's version of events less than probable. An aerial photograph held by the Council dated 2005 appears to corroborate Mr. Elliott's claim. The vegetable patch does indeed appear to be in use as a vegetable plot, the access and parking areas appear to contain just one car, and the amenity space appears to be rough grass. The photograph shows no evidence of any use other than that claimed by Mr. Elliott.

7.25 Use of Garage and Workshop

In the statutory declarations of Mr Elliott, it is maintained that the whole of the building including the areas marked as a garage and workshop on plan CJE1 has been used as a single dwelling. Mr Elliott states that the garage and workshop are used incidentally to the enjoyment of the dwellinghouse. No specific evidence has been put forward to dispute the claimed use of the garage or workshop elements of the building and there are no claims that they were used for any purpose other than that ancillary to the dwelling. There is therefore no evidence to make Mr. Elliott's claims less than probable in this respect.

7.26 Comparison with the Beesley case

The Supreme Court gave judgement on this case on 6<sup>th</sup> April 2011. It allowed the Council's appeal and held that:

- (i) There had been no change of use within section 171B(2) of the Town and Country Planning Act 1990. This section lays down a four year time limit for taking enforcement action where there is a change of use of a building to use as a single dwellinghouse. The normal time limit for changes of use is 10 years.
- (ii) In any event, Mr. Beesley's dishonest conduct meant that he could not rely on section 171B(2) of the Town and Country Planning Act.

However, for the reasons set out below, it is not felt that either of the above points is made out with regard to the current application.

7.27 The judgement in the Beesley case refers to fraud in that planning permission was approved for the erection of an agricultural building, but as it was constructed, a dwelling was created inside that approved building. In the case of this claim, the building in question did not have planning permission and was converted (according to the evidence submitted with the application) to residential use after it had been erected. This is considered to be a significant difference between the two cases.

In Beesley, the fraud was perpetrated when the public expectation of an agricultural building was not met, as a residential building was actually built instead. In this case, no investigation was undertaken when the building was initially erected, although an Enforcement Notice was served in respect of the change of use from agricultural to car repairs and storage which subsequently took place at the site. It is considered to be more likely than not that the residential use commenced after the Enforcement Notice was served, in July 1998, although it is possible that the site could at some stage have been used for both uses simultaneously.

7.28 In Beesley, it was held that it was necessary in that case to prove a ten year period of use as a dwelling. That was because the building was never used as a barn and consequently there had been no change of use from a barn to a dwelling (in respect of which it would only have been necessary to prove a 4 year period of use as a dwelling). However, in this case there appears to have been a subsequent change of use after the barn was constructed and therefore it is necessary to prove a 4 year period of use.

7.29 The other factor in the Beesley case was deliberate deceit. This is again considered to be different from the current claim. The deceit has been alluded to above, in that the planning permission appeared from the outside of the building to be implemented correctly, while the interior (where the planning system only relates to its use) was constructed to support a residential use. The appearance of the building was therefore correct, while the use of the interior, as it was not what had been approved, was considered to amount to deceit. In contrast to this, it is considered that (in common with many Certificate of Lawfulness applications and confirmed in Mr Goodall's statutory declaration) although the four years of residential use may already have been effected, the need for proof of residential occupation necessitated avoiding calling undue attention to of residential activities within the building. It is considered that a better interpretation of the actions of Mr Elliott is that he knew after Mr Goodall's visit to the site that in order for his future Certificate of Lawfulness application to have any chance of success, he would have to keep a low profile in his activities on site. It is therefore considered that the claims in the counter evidence that the two cases have compelling similarities are not borne out.

## **8. CONCLUSION**

8.1 Officers conclude, objectively and on the balance of probability, that, according to the submitted evidence, that the dwelling and its residential curtilage as shown on plan CJE2 (accompanying the statutory declaration signed on 6<sup>th</sup> January 2011) has been occupied residentially as a single dwelling for a period exceeding four years. Evidence has been submitted both in support of and against the certificate and there is a high level of contradiction when examined together. However, the evidence of those objecting to the certificate of lawfulness is based largely on observations of the site and there is little evidence of any internal investigations of the building.

Given that Mr Elliott has confirmed that he was actively trying not to draw undue attention to his residential occupation of the building, on the balance of probability it is accepted that that the residential use has occurred for a continuous period in excess of four years.

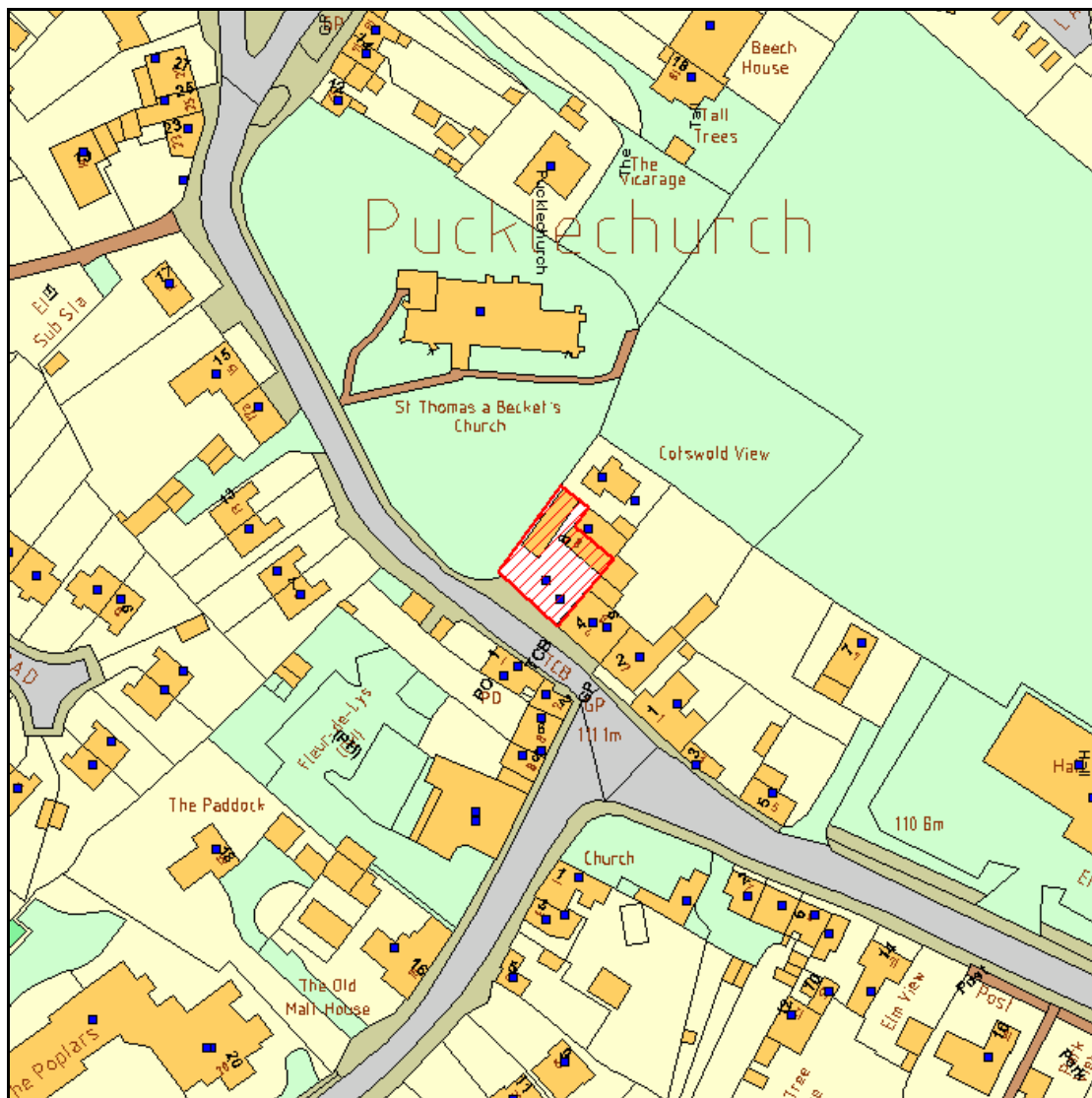
**9. RECOMMENDATION**

9.1 That the Certificate of Lawfulness is granted.

**Contact Officer: Marie Bath**  
**Tel. No. 01454 864769**

**CIRCULATED SCHEDULE NO. 35/11 – 9 SEPTEMBER 2011**

<b>App No.:</b>	PK11/2040/F	<b>Applicant:</b>	Bowling Hill Ltd
<b>Site:</b>	8 Westerleigh Road Pucklechurch South Gloucestershire BS16 9RB	<b>Date Reg:</b>	12th July 2011
<b>Proposal:</b>	Erection of 2 no semi detached dwellings and detached cart barn with associated works. Creation of new access	<b>Parish:</b>	Pucklechurch Parish Council
<b>Map Ref:</b>	369950 176497	<b>Ward:</b>	Boyd Valley
<b>Application Category:</b>	Minor	<b>Target Date:</b>	31st August 2011



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 100023410, 2008. **N.T.S.** **PK11/2040/F**

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

This application appears on the Circulated Schedule due to the receipt of one letter of objection from a local resident.

### **1. THE PROPOSAL**

- 1.1 This application seeks full planning permission for the erection of a pair of semi-detached cottages on a former garage site in the heart of Pucklechurch. Each of the proposed cottages would be two storeys in height and have two bedrooms each. The scheme also includes the creation of off street parking. The application site is currently a vacant and cleared piece of land.
- 1.2 The application site was previously occupied by a motor garage. In 2009, full planning permission was granted for the comprehensive redevelopment of the site consisting of the removal of the existing garage and the creation of four dwellings in its place – two dwellings at the rear of the site and two towards the front. This existing permission has been partly implemented in that the two dwellings to the rear of the site have been created. This existing permission showed the two dwellings to the front of the site to be attached to the neighbouring building to form a terrace.
- 1.3 Subsequent to the approval, it became apparent that a right of way existed across the site leading to the rear of the adjacent building. For complicated legal reasons relating to the existing right of way, it has become necessary to detach the two dwellings at the front of the site from the neighbouring building so they stand as a pair of semi-detached properties rather than a terrace. This application therefore effectively seeks consent to amend the previously approved scheme to detach the two front dwellings from the neighbouring building.

### **2. POLICY CONTEXT**

#### 2.1 National Guidance

PPS1	Delivering Sustainable Development
PPS3	Housing
PPS5	Planning for the Historic Environment

#### 2.2 Development Plans

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

D1	Design
T7	Cycle Parking
T8	Parking Standards
T12	Transportation Development Control
L12	Conservation Areas
L13	Listed Buildings
EP1	Environmental Pollution

##### South Gloucestershire Core Strategy -Submission Draft (December 2010)

CS1	High Quality Design
CS5	Location of Development
CS9	Managing the Environment and Heritage

- 2.3 Supplementary Planning Guidance  
South Gloucestershire Design Checklist – Adopted August 2007  
Pucklechurch Conservation Area Advice Note

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

- 3.1 PK09/0326/F          Erection of 2 no. terraced dwellings. Extension to existing dwelling to form 2 no. dwellings. Construction of cart barn with access and associated works.  
Approved July 2009
- 3.2 PK09/0330/CA      Demolition of 2 no. buildings in the Pucklechurch Conservation Area.  
Approved July 2009

### 4. **CONSULTATION RESPONSES**

- 4.1 Pucklechurch Parish Council  
Comment that the building materials/colour should be in keeping with the conservation area

4.2 Other Consultees

Council Environmental Protection Officer  
No Objection

Councils Drainage Engineer  
No Objection

Councils Conservation Officer  
No Objection

Councils Highway Engineer  
No Objection

#### **Other Representations**

- 4.3 Local Residents  
One letter of objection has been received from a local resident. A summary of the points of concern raised is as follows:
- Everything has been shoe horned in and whilst it appears to fit, the neighbours are not convinced on a practical basis that it will work.
  - This part of the village already suffers from very high traffic volumes – especially at peak times
  - The lay by area in front of the garage is used on a regular basis by customers to the adjacent business. If this space is used by future residents more problems will be caused

- This junction already suffers very badly from flooding and new build would only exacerbate the problem (a photograph showing the flooding was submitted with the letter)
- There was a crash outside the site in April this year damaging the neighbours property and writing off their car.
- Will make the junction more dangerous for people trying to cross the road
- Traffic in the village is much worse than when the application was first applied for
- The application is in a conservation area on a very small plot of land
- Planning officers should visit the site to see for themselves.

## 5. ANALYSIS OF PROPOSAL

### 5.1 Principle of Development

The site is located within the existing built up area, as defined on the Local Plan Proposals Maps. In accordance with Policy H2, new residential development will normally be permitted subject to compliance with several criteria. The site also lies in the heart of Pucklechurch Conservation area where policy L12 allows for new development providing the character and appearance of the conservation area is not harmed. It is also noted that the site sits at a very busy and heavily trafficked junction and so the requirements of Policies T8 and T12 of the Adopted Local Plan are a strong material consideration.

### 5.2 Design/Visual Amenity

The property is within the Pucklechurch Conservation Area and adjoins the grade 1 listed church and its graveyard. Due to the curve of the main road, the site is visible in views across the church grounds contributing towards its setting. At present, the site – with its wide-open forecourt generally detracts from the character and appearance of the conservation area. A stone building along the boundary of the site with the churchyard helps to partially screen views of the site.

5.3 There are no objections to the principle of the redevelopment of the site, which at present has a harmful visual impact on the character of the conservation area. Any development needs to be in a form, which preserves or enhances the character and appearance of the conservation area and the setting of the adjoining listed building.

5.4 As mentioned in section 1 above, planning permission has already been granted for two identical dwellings across the front of the site. This application is just to detach the two houses from the adjoining building rather than having them attached to it. This is for complicated legal reasons. On the basis of the fact that the proposed dwellings are identical to those previously approved in all other respects, it would be unreasonable to recommend refusal of the application just because the dwellings are now semi-detached. Subject to the attachment of conditions, therefore there are no objections to the proposal on the grounds of visual appearance.

5.5 Residential Amenity

By detaching the proposed dwellings a minimal amount from the neighbouring dwelling, the impact on existing or proposed levels of residential amenity will not alter from that previously deemed acceptable in 2009. The impact on the neighbouring dwellings and no 4/6 Westerleigh Road and The Post Office will remain essentially the same as that previously approved. A modest amount of amenity space will still be provided to serve each of the dwellings as per the previous approval. The impact upon existing levels of residential amenity is therefore deemed to be acceptable.

5.6 Transportation

It is accepted that the site access is onto a busy junction in an area where congestion is high. The road is used extensively at peak times and there are two shops, a post office and a pub all in the vicinity all of which generate on street parking. For this reason, the parking and access arrangements for the site were looked at in great detail in the approval of the application in 2009. The same number of parking spaces are shown on the plans for this application as were shown on the previously approved plans.

5.7 The level of parking being provided for the site as a whole (including the two dwellings at the rear of the site) is in excess of the Councils maximum parking standard. However, given the recognised parking problems in the vicinity of the site, it is essential that the proposed development does not exacerbate the existing problem. By providing two off street parking spaces for each of the proposed dwellings, it is not considered that residents of the proposed two new dwellings will need to park on the highway.

5.8 Adequate manoeuvring space will be provided within the site to ensure that vehicles can both enter and leave the site in a forward gear. Historically, the use of the site as a garage has generated traffic movement in itself. The vehicle movements associated with the garage were on an informal basis with vehicles being parked on the forecourt and edge of the highway. The informal parking arrangement at the garage meant that some vehicles needed to use the public highway to perform manoeuvres. The number of vehicular movements associated with the three additional small dwellings is not likely to be significantly greater than the movements associated with the garage. The proposed scheme includes measures to avoid the need to reverse onto the highway overcoming the concern with the previous garage use. It is considered that the proposed development would actually improve highway safety in the vicinity of the site and therefore impact upon highway safety is acceptable.

5.9 Flooding and Contamination

Evidence was submitted with the 2009 application to identify that the soil is not contaminated and therefore is suitable for residential development. The land has been cleared and not used for commercial purposes since the approval of the 2009 application and therefore there is no risk that it may have been contaminated further

5.10 Again, the issue of flooding was looked at in detail when the 2009 application was approved. By just detaching the two dwellings from the neighbouring



building, impact on drainage and flooding will not be altered significantly from that previously deemed acceptable. Nonetheless, the Councils drainage engineers have been consulted regarding the proposal and the impact it may have on flooding in the area. Subject to the use of permeable hard surfacing, the proposal will not have any detrimental impact upon flooding in the area. In fact, whereas water from the garage site currently flows over the tarmac surface to the road, the water in the new development will be able to flow down between the pavements into the ground below. This should decrease the amount of water flooding onto the road.

## **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 For legal reasons, it is not possible to implement application PK09/0326/F in its entirety hence this application to detach the two dwellings at the front of the site from the adjacent building. Given that the site in its current vacant state has a detrimental impact on the conservation area, and the fact that the design of the dwellings are identical to those previously approved, the design and visual impact of the proposal is deemed to be acceptable. Impact on highway safety and residential amenity has been assessed and are considered to be entirely appropriate. The proposed development will not exacerbate flooding in the vicinity of the site.
- 6.3 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report.

## **7. RECOMMENDATION**

- 7.1 That the application be approved subject to the following conditions.

**Contact Officer: Marie Bath**  
**Tel. No. 01454 864769**

### **CONDITIONS**

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

Reason

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

2. Notwithstanding the submitted plans, the front and side walls of the pair of semi detached dwellings; and all external walls of the proposed cart barn; and all 1.8m stone boundary walls marked on the Site Plan must be constructed of natural stone. Sample panels of stonework, demonstrating the colour, texture and pointing are to be erected on site and approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. Details of the coping for the stone walls must also be submitted. The approved panel shall be kept on site for reference until the stonework is complete. Development shall be carried out in accordance with the agreed sample.

Reason

In the interests of the visual amenity of the area and to maintain and enhance the character and appearance of the Conservation area, and to accord with Policies D1, H2 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

3. Notwithstanding the submitted plans, the roof tiles to be used on the proposed two new dwellings and the cart barn shall be natural clay pantiles. A sample tile shall be submitted to the local planning authority and if acceptable, agreed in writing. All development must take place exactly in accordance with the details so agreed.

Reason

In the interests of the visual amenity of the area and to maintain and enhance the character and appearance of the Conservation area, and to accord with Policies D1, H2 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

4. The render to be used on the rear elevation of the two dwellings hereby approved must match that on the building to the rear of the site covered by application PK09/0326/F both in terms of colour and texture.

Reason

In the interests of the visual amenity of the area and to maintain and enhance the character and appearance of the Conservation area, and to accord with Policies D1, H2 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

5. All new external rainwater and soil pipes shall be formed in cast metal and painted black.

Reason

In the interests of the visual amenity of the area and to maintain and enhance the character and appearance of the Conservation area, and to accord with Policies D1, H2 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

6. All works must be carried out exactly in accordance with the tree protection measures as previously agreed with the Councils tree officer and as set out in the letter dated 1st March 2010 from Paul Hanney in relation to application PK09/0326/F.

Reason

In the interests of the long term health of the trees growing within the churchyard adjacent to the application site, and to accord with Policy L1 of the South Gloucestershire Local Plan (Adopted) January 2006.

7. The off street parking facilities shown on the plan hereby approved shall be provided before the building is first occupied, and thereafter retained for that purpose. Two car parking spaces must be allocated to each of the proposed dwellings and this must be maintained as such at all times thereafter.

Reason

To ensure the satisfactory provision of parking facilities and in the interest of highway safety and the amenity of the area, and to accord with Policies T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

8. Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) (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

Because of the limited plot sizes and to allow the Council to consider the impact of any proposed alterations on the character of the conservation area. To accord with policies D1, H2 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

9. The proposed cart barn must be erected in accordance with the approved plans and conditions prior to the first occupation of the new dwellings hereby permitted.

Reason

To protect the setting of the adjacent Grade I listed building and to maintain and enhance the character and appearance of the conservation area, and to accord with Policies L13 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

10. Prior to the commencement of development, full details comprising plans at a scale of 1:20 of the following items shall be submitted to and agreed in writing by the Local Planning Authority. All development shall be carried out exactly in accordance with the agreed details:
- (a) lintols and cills
  - (b) any vents, flues or meterboxes

Reason

In the interests of the visual amenity of the area and to maintain and enhance the character and appearance of the Conservation area, and to accord with Policies D1, H2 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

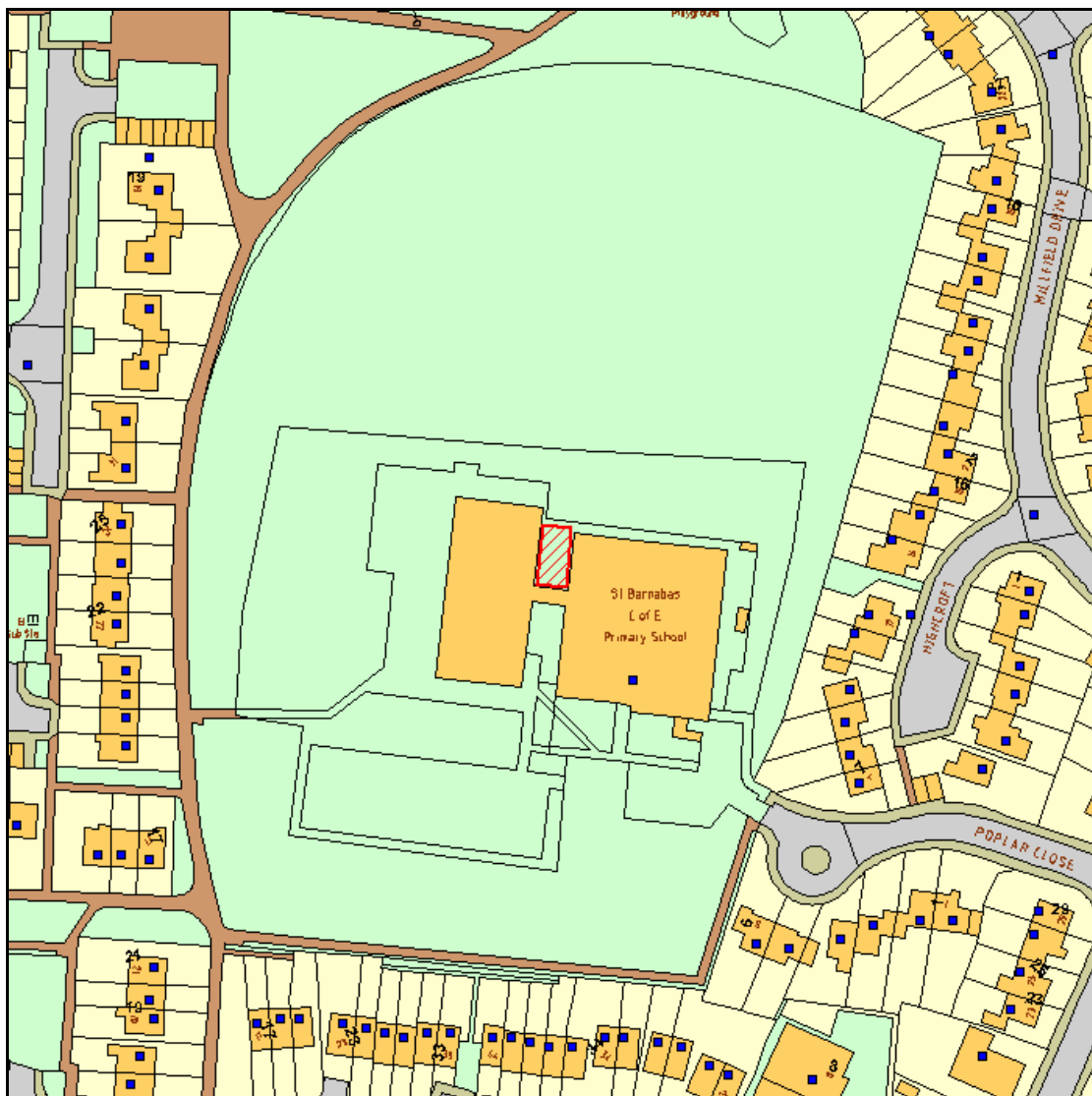
11. The windows in the dwelling and doors on the car port must be implemented exactly in accordance with the letters dated 2nd March 2009 and 17th January 2009 received in relation to application PK09/0326/F.

### Reason

In the interests of the visual amenity of the area and to maintain and enhance the character and appearance of the Conservation area, and to accord with Policies D1, H2 and L12 of the South Gloucestershire Local Plan (Adopted) January 2006.

## CIRCULATED SCHEDULE NO. 35/11 – 9 SEPTEMBER 2011

<b>App No.:</b>	PK11/2200/R3F	<b>Applicant:</b>	South Gloucestershire Council
<b>Site:</b>	St Barnabas C Of E Primary School Poplar Close North Common South Gloucestershire BS30 5NW	<b>Date Reg:</b>	14th July 2011
<b>Proposal:</b>	Erection of canopy over patio area to provide all weather shelter.	<b>Parish:</b>	Bitton Parish Council
<b>Map Ref:</b>	367378 172566	<b>Ward:</b>	Oldland Common
<b>Application Category:</b>	Minor	<b>Target Date:</b>	5th September 2011



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100023410, 2008.

N.T.S.

PK11/2200/R3F

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

This application has been referred to the Circulated Schedule List because it comprises an internal submission.

### **1. THE PROPOSAL**

- 1.1 This application seeks planning permission for the erection of 1no. canopy to provide a shaded area.
- 1.2 The application site comprises St. Barnabas Primary School, which is situated within the residential area of North common. The school has a large playing field sited to the north of the school buildings.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
PPS1 Delivering Sustainable Development
- 2.2 South Gloucestershire Local Plan (Adopted) January 2006  
D1 Achieving a Good Standard of Design in New Development  
LC4 Proposals for Education and Community Facilities within the Existing Urban Area and Boundaries of Settlements
- 2.3 Supplementary Planning Guidance  
The South Gloucestershire Design Checklist SPD (adopted)
- 2.4 South Gloucestershire Core Strategy  
Submission Draft December 2010

### **3. RECENT PLANNING HISTORY**

- 3.1 No recent planning history.

### **4. CONSULTATION RESPONSES**

- 4.1 Bitton Parish Council  
No objection

#### **Other Representations**

- 4.2 Local Residents  
No comments received

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

- 5.1 Principle of Development  
According to the applicant, the proposed canopy is required to provide a shaded outdoor play area, protecting pupils from the sun and rain. The application site relates to a primary school which comprises a collection of mainly single storey buildings. The proposed canopy will be sited on the north

side of the school, between two single storey wings of the school. The shelter is relatively small in scale when compared to the surrounding built form and would be almost entirely screened from the surrounding area by the buildings on the south, east and west sides.

5.2 Policy LC4 is applicable to the proposed development. Given that the proposal is for a canopy, it is considered that there would be no intensification or expansion of the school. On this basis, it is not envisaged that there would be a material increase in terms of traffic to the detriment of local congestion or highway safety. The main consideration is therefore, considered to be the impact on residential amenity.

5.3 Residential Amenity

The canopy would be situated to the north of the site and would be screened from neighbouring properties to the east, west and south by the existing school buildings. There are no residential properties near the north side of the site. It is therefore considered that the surrounding dwellings would not be adversely affected by the development through loss of natural light or privacy.

5.4 Visual Amenity

The proposed structure is freestanding and is screened on three sides by the existing school buildings. The proposed canopy would not easily be viewed from the north as it is sited behind a 1.8 metre metal security fence, and the nearest public path is over approximately 100 metres away. The proposal would measure approximately 5 metres in width, 12 metres in length and would not exceed the existing ridge height of the adjacent single storey buildings. It is therefore considered that the proposed canopy would not have a detrimental impact on the residential amenity of the surrounding area.

## 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 for the following reasons:

The main emphasis of Policy LC4 is applicable to the proposed development. The nature of the development is such that there would be no material increase in terms of vehicular trips and would not conflict with the main aims of Policy LC4 of the South Gloucestershire Local Plan (adopted) January 2006.

The proposal would be situated well clear of the surrounding neighbouring occupiers and would not have a significant adverse impact in terms of residential amenity – Policy LC4 of the South Gloucestershire Local Plan (adopted) January 2006.

It has been assessed that the proposed canopy has been designed to respect and maintain the character of the existing school buildings and therefore accords with Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006.

## **7. RECOMMENDATION**

7.1 Planning Permission is GRANTED subject to the following conditions.

**Contact Officer: Elizabeth Dowse**  
**Tel. No. 01454 862217**

### **CONDITIONS**

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

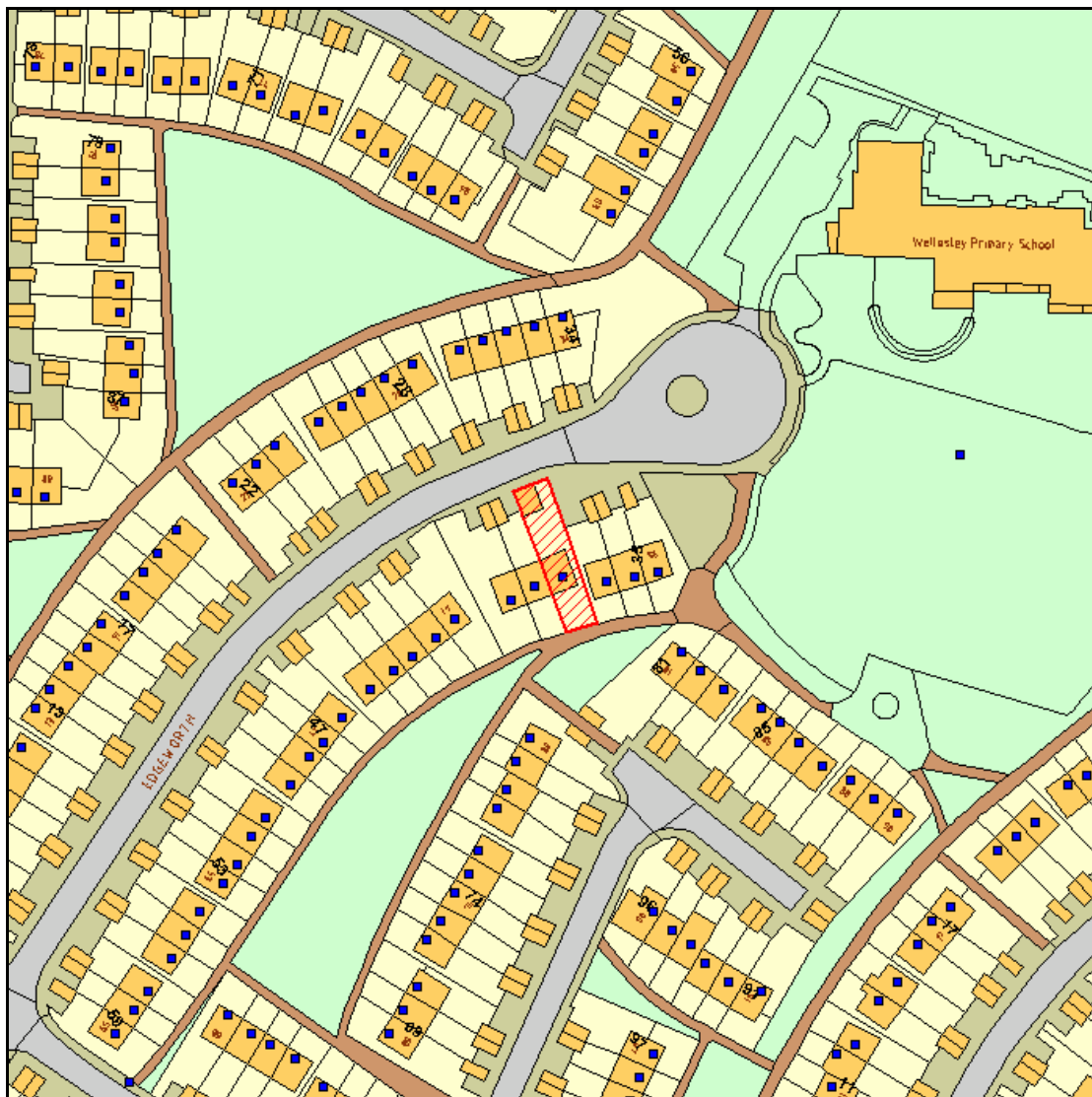
Reason

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



**CIRCULATED SCHEDULE NO. 35/11 – 9 SEPTEMBER 2011**

<b>App No.:</b>	PK11/2298/F	<b>Applicant:</b>	Mr John Goodman
<b>Site:</b>	38 Edgeworth Yate South Gloucestershire BS37 8YN	<b>Date Reg:</b>	29th July 2011
<b>Proposal:</b>	Erection of extension and replacement of flat roof with pitched roof to existing detached garage. (Retrospective).	<b>Parish:</b>	Dodington Parish Council
<b>Map Ref:</b>	370448 180803	<b>Ward:</b>	Dodington
<b>Application Category:</b>	Householder	<b>Target Date:</b>	21st September 2011



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 100023410, 2008. **N.T.S.** **PK11/2298/F**

## **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 concerns contrary to the Officer recommendation.

### **1. THE PROPOSAL**

- 1.1 The application site is situated on the south side of Yate within a residential estate. The site is bounded by residential development to the east and west with pedestrian path and green open space to the south and vehicular access onto Edgeworth to the north. The site comprises a two storey end of terraced dwelling with double garage outbuilding at the rear.

The application site is situated within the urban area as defined in the adopted Local Plan.

- 1.2 The application proposes erection of extension and replacement of flat roof with pitched roof to existing detached garage.

The application is mainly retrospective with the blockwork walling and roof structure having been built. The roof and external facing render are yet to be implemented.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
PPS1 Delivering Sustainable Development  
PPG13 Transport

- 2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006  
D1 Design  
H4 Development within Existing Residential Curtilages  
T12 Transportation for New Development

South Gloucestershire Core Strategy – Submission Draft December 2010  
CS1 High Quality Design

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

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

- 3.1 P84/1692                                  Erection of side garage extension.  
Approved 27.06.1984

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

4.1 Yate Town Council  
No response received

4.2 Other Consultees [including internal consultees of the Council]  
None received

#### **Other Representations**

4.3 Local Residents

6 letters of objection received from the occupiers of 28, 29, 32, 33, 39 Edgeworth and one anonymous letter raising the following concerns:

The proposed window and glazed door would result in a loss of privacy to no.39; the garage has doubled in size from the original garage; the garage would be an eyesore/unsightly and the height and roof pitch are out of keeping with the street; the garage would dominate the neighbouring dwellings and block outlook and obliterate views and would be oppressive and result in overshadowing of neighbouring gardens; no notice has been given under the Party Wall Act; the roof will cause excessive rainwater to fall to the neighbouring dwelling causing water damage; any guttering would overhang onto neighbouring land; concern that the building may be used as a granny annexe in the future.

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

5.1 Principle of Development

Policy H4 of the South Gloucestershire Local Plan is supportive in principle of proposals for alterations and extensions to existing dwellings within their curtilage, providing that the design is acceptable and that there is no unacceptable impact on residential and visual amenity.

The South Gloucestershire Core Strategy Pre-Submission Publication Draft was issued March 2010 and the consultation period expired on 06.08.2010. The Council's response to the representations received was considered at the Council's Cabinet meeting on 13 December 2010 and at the Full Council meeting on 15 December 2010 and the proposed changes to the Core Strategy agreed by Full Council have now been published. The South Gloucestershire Core Strategy Submission Draft was then published December 2010. The South Gloucestershire Core Strategy Development Plan Document was submitted to the Secretary of State on 31 March 2011 for Examination. Whilst this document is a material consideration in the determination of planning applications, it will be afforded less weight than the adopted Development Plan at this stage.

## 5.2 Visual impact

The application site is situated within a residential street. The surrounding residential estate has been designed in a 'Radburn' style with the main vehicle access at the rear of the dwellings and the front areas dedicated to pedestrian only use. The dwellings in the street were originally constructed with the benefit of a single garage at the rear. The garages were single storey with a shallow mono pitch and modest scale.

The applicant has built a garage in place of the original with a pitched roof and extended footprint. The original garage measured 4.7m width, 5.5m length, 2.38m maximum height and 2.1m minimum. The new garage measures 4.7m width, 7.6m length, 2.38m to eaves and 3.6m to ridge. The building is unusual as an outbuilding in the street scene as it has a pitched roof, higher eaves and generally larger volume than other garages in the street. However the garage is not unusual in terms of its form and proportionality in its own right. Although the building is undoubtedly larger than the other garages in the locality this alone is not sufficient to justify the garage as being harmful. The garage sits at the rear of a dwelling within a residential street and the garage is not unusual in terms of its form, design and proportionality. Provided the garage is finished to a good quality in terms of materials and exterior design, it would be difficult to demonstrate in an appeal that the garage is visually harmful. Therefore, subject to conditions related to the external finish material, the development is considered to accord with the criteria of Policy D1.

## 5.3 Residential amenity

The dimensions of the proposed garage and the original garage, which it has replaced, are given in par.5.2. The proposed garage would be situated in the rear garden of no.38 a minimum distance of 8m from no.39 to the south west and 13m from no.37 to the south east. 1.7m high boundary fencing to the east and west provides some limited screening. However, the distance to the neighbouring dwellings is considered to be sufficient not to prejudice the amenity of neighbouring occupiers in terms of loss of outlook, overshadowing or overbearing/bulky development. As the garage would be located to the north of the dwellings 35-40 Edgeworth shadow would be cast onto the highway rather than the private gardens of the neighbouring dwellings. It is therefore considered that the proposal would not prejudice the amenity of neighbouring occupiers in terms of loss of daylight/sunlight or overshadowing.

The proposal would include a window and glazed door in the rear elevation facing south. The finish floor level of the garage would be slightly lower than the existing ground level within the garden of no.38. Considering the existing boundary screening from the 1.7m high fence, the lower ground level than the existing garden within the garage and that there is already the ability to view the neighbours ground floor windows and rear garden from within the garden of no.38, the proposal would not prejudice the amenity of neighbouring occupiers in terms of additional loss of privacy.

## 5.4 Other issues

The proposal would result in no obstruction to vehicle parking and manoeuvring within the site in addition to the existing arrangement. A condition is recommended to ensure that the garage is retained for parking of a minimum of one vehicle within the garage. On this basis it is considered that the proposal would not prejudice private parking within the site and would result in no materially detrimental impact in relation to highway safety.

A neighbour raised concern that the proposal could result in problems related to surface water run off and collection on neighbouring land. The applicant has indicated guttering on the east and west elevations as shown on the application drawings. A condition is recommended to require the applicant to submit details of the proposed surface water drainage system for approval prior to commencement of development. This will ensure that surface water is treated in an appropriate manner. Concern was also raised that proposed guttering would encroach onto neighbouring land. Issues of land ownership are Civil matters which normally do not fall within planning control. As such little weight can be attached to this matter in determination of this application. Matters which relate to the Party Wall Act which were also referred to in representations received are also Civil matters and as such do not carry any significant weight.

Concern has been raised that the building could be used as a granny annexe in future. A condition is recommended to ensure that a parking space is retained within the building. Otherwise the building can be used as an ancillary function to the main dwellinghouse or for purposes incidental to the enjoyment of the dwellinghouse without the need for planning permission. If the building were to be used as an independent dwelling, then the change of use would fall within planning control and an application would be invited.

## 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 its scale and position 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 building has been designed to respect and maintain the 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.
- c) The proposal would not prejudice the existing private parking arrangement or manoeuvring of vehicles. The development therefore accords to Policy T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006

## **7. RECOMMENDATION**

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

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

### **CONDITIONS**

1. Space shall be retained with in the garage hereby approved for parking for one vehicle at all times.

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.

2. The tiles to be used in the development hereby permitted shall match those of the existing dwelling in colour, texture and profile.

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. Within 1 month of this decision details/samples of the external facing render proposed to be used shall be submitted to and approved in writing by the Local Planning Authority. The building shall be finished in accordance with the approved details within 3 months of the date of this decision.

Reason

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

**CIRCULATED SCHEDULE NO. 35/11 – 9 SEPTEMBER 2011**

<b>App No.:</b>	PK11/2357/CLE	<b>Applicant:</b>	P And D Alway
<b>Site:</b>	1 Lodge Road Wick South Gloucestershire BS30 5TU	<b>Date Reg:</b>	29th July 2011
<b>Proposal:</b>	Application for Certificate of Lawfulness for existing use as residential without compliance with agricultural occupancy condition C attached to planning permission N516	<b>Parish:</b>	Wick And Abson Parish Council
<b>Map Ref:</b>	370375 174824	<b>Ward:</b>	Boyd Valley
<b>Application Category:</b>	Minor	<b>Target Date:</b>	21st September 2011



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 100023410, 2008. **N.T.S.** **PK11/2357/CLE**

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

This application is for a Certificate of Lawfulness based on the breach of a condition and under the Council's current scheme of delegation must appear on the Circulated Schedule.

By way of information, Members should be aware, that the test to be applied to this application for a Lawful Development Certificate, is that the applicant has to prove on the balance of probability, that the development as described, has occurred for a period of 10 years consecutively, prior to the receipt of the application on the 26th July 2011.

### **1. THE PROPOSAL**

- 1.1 The application has been submitted under Section 191 (1) of the Town and Country Planning Act 1990 for a Lawful Development.
- 1.2 The application relates to no. 1 Lodge Road, located in a rural location to the north of Wick. The site is accessed via Lodge Road.
- 1.3 The dwelling was built by a Mr A.P.Alway following the grant of planning permission N.516 in 1974. Condition c) of the permission restricted the occupation of the house to persons employed solely or mainly or last so employed locally in agriculture.
- 1.4 The applicant submits that the house has been lived in continuously for a period in excess of 10 years prior to the submission of the application, by persons not employed in agriculture.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
Town and Country Planning (General Procedures) Order 1995 Article 24  
Town and Country Planning (Use Classes) Order 1897 (as amended).  
Circular 10/97: Enforcing Planning Control.
- 2.2 Development Plans  
As the application is for a Certificate of Lawfulness, the policy context is not directly relevant, as the land use merits are not under consideration. The applicant need only demonstrate that on the balance of probability, the development has taken place for an uninterrupted period of at least 10 years prior to the receipt of the application (26<sup>th</sup> Aug 2010).

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

- 3.1 N516 - Erection of dwellinghouse for agricultural worker.  
Approved 13 March 1975



4. **SUMMARY OF EVIDENCE SUBMITTED IN SUPPORT OF THE APPLICATION**

The applicant has submitted the following evidence in support of the application :

**Letter from David Alway dated 20 June 2011**

David Alway states that during his time at 1 Lodge Road he can confirm that he has never been employed within agriculture in any way and that his employment history is as follows:

December 2001 – Present Day. Employed full time as a Police Officer within Avon & Somerset Constabulary.

February 2001 - December 2001. Employed full time as Night Manager at Somerfield Supermarket, Downend Road, Downend, Bristol.

September 2000 - February 2001. Employed full-time as Assistant Manager at Forboys Newsagents, Filton Avenue, Filton, Bristol.

September 1997 - September 2000. Full time student at King Alfred's University, Winchester.

**Letter dated 11 May 2011 from South Gloucestershire Council Revenues Officer to David Alway**

The letter confirms that David Alway was liable for Council Tax at 1 Lodge Road for the periods 20 July 2003 to 22 October 2005 and 1<sup>st</sup> November 2009 to 11 May 2011.

The letter also states that for the period 28 March 2005 to 22 October 2005 Mr Edward Alway was also resident at the property.

Commencing 1 November 2009 a sole occupancy discount was awarded.

**Letter from Philip Alway dated 24 June 2011**

Mr P Alway states that in March 2001 his parents Mary and Arthur Alway moved from 1 Lodge Road, Abson to a new home in Cornwall. Mr Philip Alway remained living in the property with his girlfriend (who subsequently became his wife in 2002).

Whilst Mr P Alway lived at the property from March 2001 to July 2003, he was employed as a Secondary School Teacher in Swindon and later as an Accountancy Assistant in Devizes. During the same period Mr Alway's wife was employed as a Library Assistant at the University of the West of England. Neither Mr or Mrs Alway were employed in Agriculture.

**Letter dated 11 May 2011 from South Gloucestershire Council Revenues Officer to Philip Alway**

The letter confirms that Mr Philip Alway was liable for Council Tax of the property for the period 17 March 2001 to 19 July 2003.

5. **SUMMARY OF CONTRARY EVIDENCE**

5.1 None

## 6. OTHER CONSULTATIONS

- 6.1 Wick and Abson Parish Council  
No response
- 6.2 Local Councillor  
No response
- 6.3 Sustainable Transport  
No comment

## 7. ASSESSMENT

- 7.1 The issues, which are relevant to the determination of an application for a Lawful Development Certificate are whether or not, in this case, the use described has been carried out for a continuous period exceeding 10 years and whether or not the breach of condition is in contravention of any Enforcement Notice which is in force.
- 7.2 Dealing with the latter point, as noted in the 'History' section above there are no enforcement notices relating to this property. Furthermore the Council has never suggested that the residential occupation of the building has been abandoned.
- 7.3 The relevant test of the submitted evidence  

The onus of proof is firmly on the applicant and the relevant test of the evidence on such matters is "on the balance of probability". For a certificate to be issued, the land and buildings within the red edged application site plan must have been continuously occupied in breach of the condition for a 10 year period prior to 26 July 2011 i.e. the date of receipt of the application. Advice contained in Circular 10/97 states that a certificate should not be refused because an applicant has failed to discharge the stricter criminal burden of proof, i.e. "beyond reasonable doubt." Furthermore, the applicant's own evidence need not be corroborated by independent evidence in order to be accepted. If the Council has no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous. The planning merits of the use are not relevant to the consideration of the purely legal issues, which are involved in determining an application. Any contradictory evidence, which makes the applicant's version of events less than probable, should be taken into account.
- 7.4 Hierarchy of Evidence  
The evidence submitted comprises letters from existing and previous occupiers of the house, plus supporting letters from the Council's Revenues Officer. Inspectors and the Secretary of State usually value and give weight to evidence in the following order of worth:-

1. Personal appearance, under oath or affirmation, by an independent witness whose evidence can be tested in cross-examination and re-examination, especially if able to link historic events to some personal event that he/she would be likely to recall.
  2. Other personal appearance under oath or affirmation.
  3. Verifiable photographic evidence.
  4. Contemporary documentary evidence, especially if prepared for some other purpose.
  5. Sworn written statements (witness statements or affidavits), which are clear as to the precise nature and extent of the use or activity at a particular time.
  6. Unsworn letters as 5 above.
  7. Written statements, whether sworn or not, which are not clear as to the precise nature, extent and timing of the use/activity in question.
- 7.5 As noted above the evidence to support the case is in the form of un-sworn letters and supporting documents only. There is however no evidence against.

7.6 Examination of evidence

The main issue, which needs to be resolved in the determination of this application, is whether or not, the land and buildings within the red edged application site plan have been continuously occupied by persons employed solely or mainly, or last so employed locally in agriculture or in forestry and the dependants (which should be taken to include widow or widower) of such persons, for a 10 year period prior to 26 July 2011 i.e. the date of receipt of the application. The evidence relates to historical occupation of the house for the 10-year period. Evidence has been provided which relates to the 10-year period and indicates that the property has been continuously occupied by messrs. P and D Alway respectively for that period in breach of the condition and given that there is no counter evidence, it is accepted that the evidence provided is correct and unambiguous.

**8.0. CONCLUSION**

- 8.1 The submitted evidence covers the relevant 10- year period prior to receipt of the application. The letters from Messrs, P & D Alway together with the supporting documents provides sufficient evidence in favour of granting a certificate and there is no counter evidence whatsoever.
- 8.2 The evidence indicates that for the 10 years continuous to the receipt of the application the land and buildings shown edged red on the submitted plan were occupied for domestic purposes (C3) contrary to condition c attached to planning permission N516.
- 8.3 In the absence of any contrary evidence, it is the considered view therefore that on the balance of probability the applicants have provided the evidence to support the claim.

**9. RECOMMENDATION**

- 8.1 That a Certificate of Existing Lawful Use be GRANTED for the continued unrestricted occupation of the site for residential (C3) purposes as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) without compliance with agricultural occupancy condition C attached to Planning Permission N516.

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

## CIRCULATED SCHEDULE NO. 35/11 – 09 SEPTEMBER 2011

<b>App No.:</b>	PK11/2363/F	<b>Applicant:</b>	Mr Paul Allen
<b>Site:</b>	4 Wedgewood Road Downend South Gloucestershire BS16 6LT	<b>Date Reg:</b>	27th July 2011
<b>Proposal:</b>	Erection of 1 no. detached dwelling with access, parking and associated works. (Amendment to previously approved scheme PK11/1219/F).	<b>Parish:</b>	Downend And Bromley Heath Parish Council
<b>Map Ref:</b>	364820 178110	<b>Ward:</b>	Downend
<b>Application Category:</b>	Minor	<b>Target Date:</b>	19th September 2011



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100023410, 2008.

**N.T.S.**

**PK11/2363/F**

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

This application has been referred to the circulated schedule in accordance with Council procedures due to the comments received from the parish council.

### **1. THE PROPOSAL**

- 1.1 The applicant is seeking full planning permission for the erection of a detached dwelling at 4 Wedgewood Road, Downend. The proposed dwelling would follow the building line of the existing dwelling and would measure 6.5 metres wide by 10.3 metres in depth and would have an overall height to ridge of 8.4 metres.
- 1.2 The application property is a two storey semi-detached dwelling and is located within a residential area of Downend.
- 1.3 This application is a resubmission of a previously approved scheme for a detached dwelling. The main differences between the current application and the previously approved application reference PK11/1219/F include, the increase in footprint by approximately 1.3 metres in depth and the mirroring of the front elevation so that the front door is adjacent to the neighbouring dwelling. The application also proposes the installation of a chimney on the south elevation.

### **2. POLICY CONTEXT**

#### **2.1 National Guidance**

PPS1 Delivering Sustainable Development  
PPG3 Housing as revised June 9<sup>th</sup> 2010  
PPG13 Transport  
Ministerial Statement 9<sup>th</sup> June 2010

#### **2.2 Development Plans**

South Gloucestershire Local Plan (Adopted) January 2006

D1 Achieving Good Quality Design in New Development  
H4 Development within Existing Residential Curtilages, Including Extensions and New Dwellings  
H2 Proposals for Residential Development within the Existing Urban Area  
L17 & L18 The Water Environment  
EP1 Environmental Protection  
L1 Landscape Protection and Enhancement  
T8 Parking Standards  
T12 Transportation Development Control

South Gloucestershire Core Strategy, submission Draft December 2010

CS1 High Quality Design  
CS5 Location of Development

#### **2.3 Supplementary Planning Guidance**

South Gloucestershire Design Checklist (Adopted) 2007.

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

- 3.1 PK11/1219/F                      Erection of 1 no. detached dwelling with access, parking and associated works.  
Approved June 2011

### **4. CONSULTATION RESPONSES**

- 4.1 Downend and Bromley Heath Parish Council  
No objection in principle, but want the Scotts Pine in the rear garden to be protected during building works.
- 4.2 Sustainable Transport  
No objections
- 4.3 Tree Officer  
No objections

#### **Other Representations**

- 4.4 Local Residents  
No response received

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

- 5.1 Principle of Development  
The principle of the development has already been approved as part of the previous application, however for the avoidance of doubt all issues will be readdressed here. Policy H4 of the South Gloucestershire Local Plan is supportive in principle of proposed new dwellings within the existing residential curtilage, providing that the design is acceptable, highway safety would not be compromised, adequate parking and amenity space is provided and that there is no unacceptable impact on residential and visual amenity.

PPS3 has been reissued on 9<sup>th</sup> June 2010 to reflect concerns regarding the redevelopment of neighbourhoods, loss of Green Space and the impact upon local character. The changes involve the exclusion of private residential gardens from the definition of previously land and the removal of the national indicative density target of 30 dwellings per hectare. The existing policies in the local plan, policies H2, H4 and D1 already require that proposals are assessed for their impact upon the character of the area and that proposals make efficient use of land.

The South Gloucestershire Plan (Adopted) 2006 identifies the site as lying within the urban area. With the exception of design, Policy H2 of the adopted Local plan encompasses all the relevant issues of the above policies. Policy H2 allows for new residential development providing that the following criteria are complied with:-

**5.2 (a) Development would not have unacceptable environmental or transportation effects; and would not significantly prejudice residential amenity.**

In the interests of clarity these two issues will be discussed in turn.

Transportation Issues

The existing garages and conservatory serving the existing dwelling would be removed and instead, parking facilities will be added to the front for both the existing dwelling and the new property. The proposed development now includes an additional upstairs room designated as a study/bedroom and as such could require an additional parking space to be provided. However, there is evidence that occasional on street parking already occurs in the vicinity of the proposed development. As such, the Council's transportation officer is satisfied that adequate parking provision can be provided for both properties. Therefore, there are no highway objections to the proposal however it is recommended that the a condition is attached to any permission to ensure that the parking spaces are provided prior to the first occupation of the dwelling and to ensure that the parking areas are constructed from permeable bound surfaced material.

Residential Amenity

The proposed dwelling would be located on the corner of Wenmore Close and Wedgewood Road and would be accessed off Wedgewood Road. Given the location of the dwelling, situated over 22 metres away from the opposite dwelling, No. 11 Wedgewood Road and over 15 metres away from the front elevation of No. 1 Wenmore Close. It is not considered that the proposal would have any overshadowing or overbearing effect on the neighbouring dwellings.

The proposal includes the addition of six new first floor windows, two on the rear elevation, two on the front elevation and one on each of the side elevations. Given the location of these windows, it is not considered that the proposal would result in any significant increase in overlooking or loss of privacy over and above that from the first floor windows of the existing dwelling. It is therefore considered that there are no issues of inter-visibility or loss of privacy.

The plans show adequate private and useable amenity space would be provided to serve both the existing and proposed dwelling. The impact on residential amenity is therefore considered to be entirely acceptable.

**5.3 (b) The maximum density compatible with the sites location, it accessibility and surroundings is achieved.**

Under new government guidance whilst there is no longer a national minimum density target, PPS3 seeks to ensure the most efficient use of land. Officers are satisfied that having regard to the sites constraints, the pattern and scale of existing development, access and impact on residential amenity, no more than one additional dwelling as proposed could be accommodated on the site.



**5.4 (c) The site is not subject to unacceptable levels of noise disturbance, air pollution, smell, dust or contamination.**

The new dwelling would be subjected to no greater levels of noise, dust, pollutants etc than the existing dwellings in the vicinity.

**5.5 (d) Provision for education, leisure, recreation etc. in the vicinity is adequate to meet the needs arising from the proposal.**

The proposal is only for 1 dwelling and therefore would not have a significant impact on the area in terms of service provision.

**5.6 Design / Visual Amenity**

The existing garage and side conservatory would be demolished to facilitate the proposed works. The proposed dwelling would be designed to match the existing property, as such it is considered that the proposal is of an appropriate standard in design and reflects the character of the main dwelling house and surrounding properties. Furthermore, the proposed dwelling would be finished in materials to match those of No. 4 Wedgewood Road, assisting the successful integration of the dwelling within the street scene.

Alterations to the previously approved scheme include the increase in footprint by approximately 1.3 metres. The increase in footprint would be to the rear of the dwelling, furthermore it is considered that the proposed dwelling is still well proportioned and would remain in keeping with the scale of the surrounding properties. In addition the front elevation would still match the neighbouring dwelling as such it is not considered that the proposed amendments would result in any demonstrable harm to the character and appearance of the site.

Whilst the area is characterised by semi detached properties, the style of the dwelling, its proportions, hipped roof and materials all replicate the existing dwelling allowing it to integrate well within the street scene, as such the fact that the proposal is for a detached dwelling is not considered to be of sufficient concern to warrant the refusal of the application. It is therefore considered that the proposal would not be harmful to the character and appearance of the principal dwelling and street scene.

**5.7 Trees on site**

The parish council have raised concerns regarding the trees on the site. There are two semi-mature Scots pines growing on the southern boundary of the property adjacent to Wenmore Close. The tree situated to the side of the existing property will need to be removed to accommodate the proposed development. Scots Pine have the potential to become very large trees, if retained it would undoubtedly have an impact on the amenity of the existing and proposed property. Whilst this is regrettable it is considered that the tree is too small to be considered a significant feature of the landscape and would therefore not fulfil the criteria for a Tree Preservation Order.

The second tree is situated within the rear garden and should, if adequately protected, be unaffected by the proposed development. To ensure the retention and longevity of this tree a condition would be attached to any permission to ensure the submission of a tree Protection Plan in accordance with BS5837:2005. As such there are no objections to the proposed development.

#### 5.8 Environmental and Drainage Issues

Whilst there would inevitably be some disturbance for neighbouring occupiers during the construction phase, this would be on a temporary basis only and could be adequately mitigated for by attaching an informative outlining the hours of construction. There are therefore no objections on environmental grounds. In terms of drainage the Councils Drainage Engineer has raised no objection to the proposal. A condition would however be required to secure the submission of a full drainage scheme for approval before development could commence.

### 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 siting and scale of the proposal has fully taken account of neighbouring residential amenities and the amenity of future occupiers to accord with Policy H2 of the South Gloucestershire Local Plan Adopted January 2006

The scale of the proposal is appropriate to the site and to the wider area and will make a positive contribution to the character and appearance of the area to accord with Policy D1 and H2 of the South Gloucestershire Local Plan Adopted January 2006

The proposal offers adequate parking provision and will not adversely affect the surrounding highway network to accord with Policies T8 and T12 of the South Gloucestershire Local Plan Adopted January 2006

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

### 7. RECOMMENDATION

7.1 That the application be approved subject to the following conditions:

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

## **CONDITIONS**

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

### Reason

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

2. Prior to occupation of the new building, two parking spaces for the existing dwelling and two parking spaces for the new house shall be provided. These parking spaces shall then be maintained satisfactory thereafter.

### Reason

To ensure the satisfactory provision of parking facilities and in the interest of highway safety and the amenity of the area, and to accord with Policies T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

3. All parking areas for the existing and the new property shall be constructed from permeable bound surfaced material (and not by loose stones or gravel) or provision shall be made to direct run off to a permeable or porous area within the curtilage of the dwellinghouse.

### 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.

4. Prior to the commencement of development drainage detail proposals incorporating Sustainable Drainage Systems SUDS and confirmation of hydrological conditions e.g. soil permeability, watercourses, mining culverts) within the development shall be submitted for approval in writing to the Local Planning Authority. Development shall be carried out in accordance with the approved details.

### Reason

To ensure that a satisfactory means of drainage is provided, and to accord with policies L17/L18 and EP1 of the South Gloucestershire Local Plan (Adopted) January 2006.

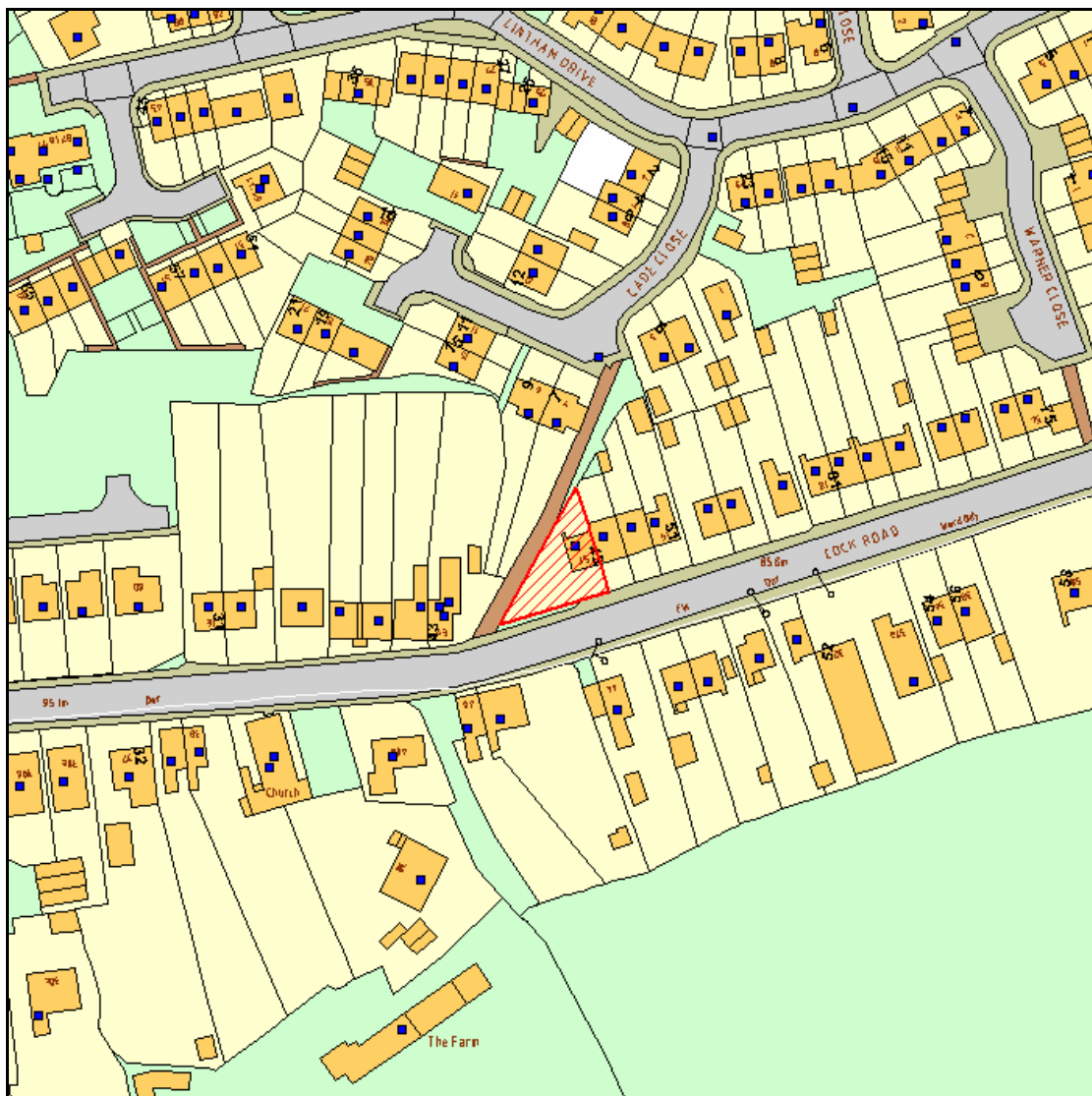
5. No development shall take place until the a Tree Protection Plan in accordance with BS5837:2005 is submitted and approved by South Gloucestershire Council. Development shall be carried out in accordance with the agreed details.

### Reason

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

## CIRCULATED SCHEDULE NO. 35/11 – 9 SEPTEMBER 2011

<b>App No.:</b>	PK11/2419/EXT	<b>Applicant:</b>	Mr A White
<b>Site:</b>	45 Cock Road Kingswood South Gloucestershire BS15 9SQ	<b>Date Reg:</b>	2nd August 2011
<b>Proposal:</b>	Erection of two storey side extension to provide additional living accommodation (Consent to extend time limit implementation for PK08/1844/F)	<b>Parish:</b>	None
<b>Map Ref:</b>	365681 172815	<b>Ward:</b>	Woodstock
<b>Application Category:</b>	Householder	<b>Target Date:</b>	23rd September 2011



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PK11/2419/EXT

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

This application appears on the circulated schedule due to the receipt of two letters of objection from local residents.

### **1. THE PROPOSAL**

1.1 This application is seeking an extension on the time limit attached to application PK08/1844/F at 45 Cock Road, Kingswood. The original application was for the erection of a two-storey side extension to provide additional living accommodation. The original application was approved on 7<sup>th</sup> August 2008 and the consent therefore lapsed on 7<sup>th</sup> August 2011. As this EXT application was submitted before the 3 year expiry date (it was received on 28th July 2011), the application to extend the time limit for implementation is valid.

### **2. POLICY CONTEXT**

#### 2.1 National Guidance

PPS1 Delivering Sustainable Development

#### 2.2 Core Strategy (Submission Draft) – December 2010

CS1 High Quality Design

CS5 Location of Development

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

D1 Design

H4 Development within Existing Residential Curtilages

T8 Parking Standards

T12 Transportation Development Control for New Development

#### 2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist (Adopted)

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

3.1 PK08/1844/F Erection of two-storey side extension to provide additional living accommodation.  
Approved August 2008

3.2 PK06/2976/F Alterations to roofline to and erection of two storey side extension to facilitate 2 no flats with parking and associated works.  
Refused by the Council December 2006  
Refused at Appeal – December 2007

### **4. CONSULTATION RESPONSES**

#### 4.1 Town/Parish Council

The area is un-parished

4.2 Councils Highway Engineer  
No Objection

**Other Representations**

4.3 Local Residents

Two letters of objection have been received from local residents. A summary of the points of objection raised is as follows:

- More occupants at the property mean more motor vehicles
- This is a dangerous section of cock road with residents struggling to park as it is
- Not suitable for off street parking as joining Cock Road at this point on a blind bend would be dangerous
- Vehicles travelling towards Westons Way are forced out to the central white line towards on coming traffic
- Busses are forced onto the opposite carriageway
- Road layout has not changed since the refusal of the first application
- As highways have always commented there is not enough visibility on this point of Cock Road
- Pedestrians have to walk in the road to gain sight of on coming traffic regardless of any parked cars.

**5. ANALYSIS OF PROPOSAL**

5.1 Principle of Development

The principle of development was accepted as a part of the previous application PK08/1844/F. Since the determination of the previous application the South Gloucestershire Core Strategy (Submission Draft) has been issued as identified in section 2.2 of this report. All other policy considerations are the same as those previously considered in 2008.

5.2 Analysis of Proposal

In assessing this application to extend the time limit for implementation, it is necessary to assess any material changes in either policy and any other material considerations since the approval of the previous application.

5.3 The local plan policy against which the application must be tested remains the same as that considered in 2008 – that is policies D1, H4 and T12 of the adopted Local Plan. In addition to the above, the South Gloucestershire Core Strategy Submission Draft has also been published – this was not available at the time of the assessment of the 2008 application. Policy CS1 of the emerging Core Strategy focuses on achieving high quality design.

5.4 The physical site circumstances have not change since the determination of the 2008 application. Whilst it is accepted that neighbours are concerned about the impact of the development on highway safety, this was fully investigated as part of the 2008 application. Two off street parking spaces will remain to serve the extended dwelling and no new or different access arrangements are proposed. Highway officers are therefore satisfied that the transport

assessment made in 2008 is still correct and raise no objection to this application to extend the period for implementation.

- 5.5 Both conditions attached to the previous application will be carried forward to this extension of time application.

## **6. CONCLUSION**

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 Despite the additional policy consideration in the form of South Gloucestershire Core Strategy (Submission Draft) December 2010, the proposal is still considered to comply with the requirements of both Central and Local Government policy. The extension demonstrates an appropriate standard of design and existing levels of residential amenity will be protected as a result of the development. Sufficient off street parking will remain to meet the needs of the extended dwelling.
- 6.3 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report.

## **7. RECOMMENDATION**

- 7.1 That the application be approved subject to the following conditions;

**Contact Officer: Marie Bath**  
**Tel. No. 01454 864769**

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- Reason  
To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).
2. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- Reason  
To ensure a satisfactory standard of external appearance and to accord with Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006.

**CIRCULATED SCHEDULE NO. 35/11 – 9 SEPTEMBER 2011**

<b>App No.:</b>	PT11/0803/F	<b>Applicant:</b>	McCarthy & Stone Retirement Lifestyles Ltd and Tesco Ltd.
<b>Site:</b>	Land At Savages Wood Road Bradley Stoke Bristol South Gloucestershire BS32 8HL	<b>Date Reg:</b>	22nd March 2011
<b>Proposal:</b>	Erection of four storey and three storey buildings to form 50no. Category II type apartments for the elderly and 24no. Affordable Housing Apartments with associated communal facilities, landscaping, car parking and associated works.	<b>Parish:</b>	Bradley Stoke Town Council
<b>Map Ref:</b>	361600 181726	<b>Ward:</b>	Bradley Stoke South
<b>Application Category:</b>	Major	<b>Target Date:</b>	20th June 2011



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 100023410, 2008. **N.T.S.** **PT11/0803/F**



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

The application is referred to the Circulated Schedule as there is public comment that is contrary to the officer recommendation.

### **1. THE PROPOSAL**

- 1.1 The site is located within Bradley Stoke Town Centre at the junction with Savages Wood Road and Bradley Stoke Way. The site is currently undeveloped. The site is adjacent to the Willow Brook Centre to the North and the Three Brooks Public House to the West. The development site encroaches into the Three Brooks Public House car park and would result in the loss of part of it. The proposal includes a new footpath giving pedestrian access direct from Savages Wood Road to the Willow Brook Centre.
- 1.2 The application details a residential development of flats with vehicular access onto Savages Wood Road. The development is split into two blocks. The largest block to the East side of the site provides 50 private retirement flats with associated communal facilities whilst the smaller block to the West of the site provides 24 flats as affordable units with associated communal facilities. The development has 74 flats in total and provides limited off street parking.
- 1.3 The proposed development is three and four storeys and fronts onto Savages Wood Road and Bradley Stoke Way. The proposal includes landscaping to the frontage of the site. There are also communal gardens provided to the rear of the development.

### **2. POLICY CONTEXT**

#### 2.1 National Guidance

PPS1	Delivering Sustainable Development
PPS3	Housing
PPS4	Planning and Sustainable Economic Growth
PPG13	Transport

#### 2.2 Development Plans

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

RT1	Development in Town Centres
RT4	Emerging Town Centre at Bradley Stoke
D1	Achieving Good Quality Design in New Development
H2	Residential Development in the Urban Areas
H6	Affordable Housing
T12	Transportation Development Control
L18	The Water Environment (Sustainable Drainage Systems)
LC1	Community Services Provision
EP4	Noise Sensitive Development

##### South Gloucestershire Core Strategy -Submission Draft (December 2010)

CS1	High Quality Design
CS18	Affordable Housing
CS25	Location of Development

- 2.3 Supplementary Planning Guidance  
 South Gloucestershire Design Checklist (Adopted)  
 South Gloucestershire Bio-diversity Action Plan (Adopted)  
 South Gloucestershire Affordable Housing SPD

- 2.4 Other Considerations  
 Draft National Planning Policy Framework  
 Ministerial Statement on Growth

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

- 3.1 There is a long and complex planning history affecting the area associated with Bradley Stoke Town Centre. The most relevant planning history associated with this site is as follows;
- 3.2 PT05/1920/O Development of 0.87 hectares of land for hotel and restaurant (Outline) (All matters to be considered)  
 Approved 13<sup>th</sup> November 2006

*A 'reserved matters' application was not submitted and the permission has now expired.*

### 4. **CONSULTATION RESPONSES**

- 4.1 Bradley Stoke Town Council  
 No Objection

- 4.2 South Gloucestershire Highways Authority

*Transportation Development Control*

The proposed level of off street parking is sufficient in this location and therefore acceptable. The proposed access arrangements would be sufficient to provide a safe means of access and egress for vehicular traffic and as such the proposed development is acceptable in highway safety terms.

*Public Rights of Way Team*

No Objection

- 4.3 Internal Consultees

*Urban Design Officer*

No Objection in principle. The hard and soft landscaping should be designed to a high standard

Landscape Officer

No Objection in principle. The landscaping should be designed to a high standard. The officer has requested amendments to the planting scheme to address concerns raised.

Archaeology Officer

No Objection

Ecological Officer

No Objection subject to further information in respect of landscape planting and management; and the provision of Bat and Bird Nest boxes.

Community Services Officer

A commuted sum of £7965 for library service provision is required. The provision of public art as part of the development is also encouraged. There is no requirement for public open space provision.

Housing Enabling Officer

In accordance with the South Gloucestershire Local Plan Policy H6 the Council will require 33.3% of the 74 dwellings to be delivered as affordable housing, as defined in PPS3; this equates to 24.6 affordable dwellings. However the Council will accept 24 dwellings.

The affordable housing should be provided for social rent at nil-subsidy on the basis of 16 x 1 bed flats and 8 x 2 bed flats.

Drainage Engineer

No Objection in principle

4.4 Other External Agencies

Wessex Water

No Objection in principle

Avon Wildlife Trust

No Objection in Principle. The Trust suggests that the landscaping of the site uses more native species of planting

**Other Representations**

4.3 Local Residents

Seven sets of comments have been received from local residents. The comments are summarised below and comprise of four letters in objection and two letters in support. There is also one letter which is in support in principle which raises certain concerns. The comments are summarised below;

- The proposal is a great idea and should be built.
- The proposal would provide much needed accommodation for the elderly.

- The proposal will allow access to local facilities without the need to travel by car.
- The height and location of the proposed development is not suitable for the elderly as it is in close proximity to a busy highway network; and potential noise impact from the supermarket service yard and the adjacent public house
- The proposed development will overlook nearby gardens as the buildings are four storeys high with narrow landscaping.
- The proposed development also overlooks the nearby primary school play ground without provision for the privacy of the school children
- The proposed development will have a negative impact upon the highway safety and amenity in the locality and will potentially cause congestion in the area.
- There is not sufficient off street parking provision for the development.
- The local area has high levels of traffic generation from the Local Shopping Centre, local pub and local primary school.
- The proposed development is not in keeping with the character of the locality and will be harmful to it
- The development would increase the risk to pedestrians who cross the access to the delivery yard associated with the superstore.
- The proposed pedestrian footway should be guaranteed, should be lit at night and should be wide enough to take cycle usage
- Concern is raised as to the ownership and status of the pedestrian footpath

## 5. **ANALYSIS OF PROPOSAL**

- 5.1 The proposal details the provision of new residential development in the form of 74 flats. The development is principally for the provision of 50 specialist retirement flats (Retired Living Apartments) and will also provide a further 24 affordable housing apartments.
- 5.2 The site is located within the Bristol North Fringe Urban Area and is within the locality associated with Bradley Stoke Town Centre and is in close proximity to The Willow Brook Shopping Centre.
- 5.3 Principle of Development  
Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006 is relevant to this planning application. The policy indicates that new residential

development in this location is acceptable subject to the considerations outlined below.

- 5.4 As the site is located within Bradley Stoke Town Centre, Policy RT4 of the South Gloucestershire Local Plan is also relevant to this application. The policy envisages an element of residential development within the Town Centre to provide a mix of uses in the interests of sustainability. However, given that Bradley Stoke Town Centre is materially complete and (in particular) The Willow Brook Centre is now established, it is considered that this policy has become superseded by events. Policy RT1 of the South Gloucestershire Local Plan (Adopted) January 2006 has become more relevant as it relates to established Town Centres. Bradley Stoke is no longer emerging and has become established. The Policy indicates that the retail and other development appropriate to a town centre is acceptable in principle provided that (amongst other issues that are addressed in this report) the development would not have a detrimental impact upon the vitality and viability of the town centre. In this instance, The Willow Brook Centre has established itself as a town centre which offers retail and community facilities. Bradley Stoke Town Centre is also well catered for in terms of library and leisure facilities and schools. Although the site has been subject to an approval for a hotel (in outline), it is not considered that the development of the site for permanent dwellings would undermine the vitality and viability of Bradley Stoke Town Centre. Indeed, the development would promote a positive development and increase the mix and vitality of the town centre. Significant weight can be afforded in favour of the provision of new housing and in particular specialist 'retirement' accommodation and affordable housing.
- 5.5 It is therefore considered that the proposed development is acceptable in principle and that it is broadly compliant with Policy H2 and RT1 of the South Gloucestershire Local Plan (Adopted) January 2006. It is also considered that the development of this site for housing is compliant with the emerging Policy CS25 of the South Gloucestershire Core Strategy – Submission Draft (December 2010).
- 5.6 Housing Density  
PPS3 encourages new residential development that makes the most efficient use of land having regards to the context of the site and its surroundings. This approach is supported by Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006. The development of 74 residential units on this site amounts to approximately 142 dwellings per hectare.
- 5.7 Specific concern has been raised by local residents as to the density of the proposed development. In this instance, the site is located within a town centre in close proximity to public transport and within easy reach of shopping, services and leisure activities. It is generally expected that in such a location, the density of new residential development would be high. The immediate locality of this site is dominated by three and four storey buildings containing apartments (although it is noted that there are dwelling houses also located nearby), particularly at Savages Wood Roundabout and the roundabout giving access to The Willow Brook Shopping Centre. The general feel of the location is one of higher density which is commensurate with the designation as a Town

Centre. The proposed development is consistent with the locality and is considered acceptable in density terms; and is consistent with the requirements of Policy H2 of the South Gloucestershire Local Plan (adopted) and PPS3.

5.8 Design and Sustainability

The proposed development is made up of two blocks of one and two bedroom apartments. The smaller block to the West of the site (containing 24 affordable units) consists of a four storey building fronting onto Savages Wood. The larger block to the East of the site is made up of three and four storey buildings. The four storey element of the building fronts onto the Savages Wood roundabout. The design of the buildings is contemporary using traditional materials with modern detailing and styling to address the context of the site. The facing materials are made up of render and brick. The rendered elements of the development are proposed to be at the front of the site onto Savages Wood Road.

5.9 Comments have been received which raise concern over the impact of the development on the character of the locality; and in particular that the scale of the development is not consistent with the character of the surrounding area. The site is located in Bradley Stoke Town Centre where generally high density residential development sits closely with retail, leisure and community development (schools, library and leisure centre). The residential development in the immediate locality is generally in the form of apartment buildings of three and four floors. The previous outline planning permission related to a hotel development. Such development would normally consist of multi storey development and it has always been anticipated that the development of this site would involve a building of relatively large scale that would be consistent with the character of the surrounding development.

5.10 The proposed development is arranged in two buildings of three and four floors. The general design and appearance of the development is consistent with the surrounding locality. The development would be split into two areas with a central access road, which in turn gives access to parking and servicing at the rear of the buildings. Private gardens are proposed within the site, and formal planting along the frontage of the site would enclose the development. The scale of the development is also consistent with the locality and would act to complete the enclosure of Savages Wood Roundabout in a positive manner; and consistently with the vision for the Town Centre. Furthermore, it is considered that the currently empty site would benefit from development and would act to improve the visual appearance of the locality. In particular the development would act to screen the service area of the adjacent shopping centre.

5.11 The landscaping of the proposed development is considered to be acceptable in principle. It is considered that the approach would provide a good quality setting to the development and would facilitate the provision of quality private garden and amenity areas for its new residents. However, the exact planting schedule and species should be further agreed to ensure that the development can provide for a strong biodiversity into the site and the town centre generally. As well as plant species, bird and bat boxes can be installed as part of the landscaping scheme to further assist biodiversity to become established. This

- can be adequately addressed by way of a condition in the event that this application is approved.
- 5.12 The Design and access statement envisages that the retirement apartments will achieve Code for Sustainable Homes Level 3. Given that the up to date Building Regulation Legislation requires that the equivalent standard is achieved in the construction of building itself, the site is in a sustainable location and that additional biodiversity measures will be provided as part of the development it is considered that this level is achievable. The affordable units are required to achieve Code for Sustainable Homes Level 3 as a matter of course.
- 5.13 Having regards to the above, it is considered that the proposed development is acceptable in design and sustainability terms and is consistent with policies D1 and H2 of the South Gloucestershire Local Plan (Adopted) January 2006; and the South Gloucestershire Design Checklist.
- 5.14 Residential Amenity  
Comments have been received that raise concerns over the impact of the development upon the privacy and residential amenity of the occupants of nearby dwellings from over-looking. Comments have also questioned the appropriateness of the location of the site for retirement dwellings given the proximity with potentially noise generating uses such as the adjacent public house, shopping centre and highway network.
- 5.15 The amenity of the occupants of the proposed development is a material consideration. It is acknowledged that site is located in close proximity to uses that could generate relatively high levels of noise generally. However, it is not expected that normal day-to-day activities would be out of character with a town centre site such as this. Indeed, there are already considerable numbers of dwellings in existence in close proximity to this site. The fact that the future occupants will be retired does not necessitate a quiet site; and the location of the site is an issue of choice that would be considered by a potential resident of the development and this would be backed against the benefits of a sustainable location. Positive noise attenuation can be provided as part of the development and can be secured by way of planning condition. In the event that there is particularly noisy or rowdy behaviour generated by the public house this is a matter for Environmental Protection Legislation or the Police.
- 5.16 There are areas of informal public open space associated with Savages Wood. However, the development will include quality private garden and amenity space within the site for the benefit of the new residents. As such it is considered that there is good access to adequate amenity space for the occupants of the proposed development.
- 5.17 It is acknowledged that the proposed apartments will be up to four storeys and that this height will potentially afford views across the wider area generally and may include views across existing garden areas. The most affected residential properties are those associated with Snowberry Close that back onto Savages Wood Road. In particular the dwellings at 14, 13, 15 and 17 Snowberry Close have rear gardens which share a boundary with the back edge of the pavement

on Savages Wood Road. The gardens are enclosed by a shared 2metre high brick boundary wall. In this instance, the development would be approximately 20 metres from the back edge of the boundary wall and there would be a further 10 to 12 metres to the back edge of the dwellings at 13,15 and 17 Snowberry Close. The dwelling at 14 Snowberry Close is 'side on' to the development. There will be views across these gardens from the proposed development and there would also be views across the garden associated with 12 Snowberry Close. However, these views would be interrupted by Savages Wood Road itself across a distance of 30 metres. It is considered that this relationship is consistent with a town centre location. Indeed the dwellings referred to each have more direct and closer views of each of its neighbours garden area. Although the development would increase the amount of views that could be taken, the proposed development would allow more passive views from it and more generally across the wider locality. Whilst there would be some impact, it is not considered that the proposed development would have an impact to the point that it would be detrimental or significantly material when compared to the existing situation.

- 5.18 Similarly, the proposed development would allow views across the play areas of the nearby primary school. Again, views across these play areas are already available from the existing apartment development nearby and it is not considered that the additional views from the proposed development would materially alter the situation. On this basis, it is considered that the proposed development would not have an unacceptable impact upon the privacy of the children attending the school.
- 5.19 On this basis it is considered that the proposed development is acceptable in privacy and residential amenity terms and is consistent with the requirements of Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006.
- 5.20 Transportation and Highway Safety  
Concern has been raised as to the impact of the development upon highway safety and capacity in the locality. In particular, there is concern that the development does not provide sufficient off street parking to cater for the future occupants.
- 5.21 Through the course of the assessment of this application, the developer has agreed to increase the level of off street parking to allow the development to accommodate sufficient off street parking for the development notwithstanding that it is located in a sustainable town centre site, close to services, shopping and public transport. Essentially, the site is located such that there is less reliance on the motor car to get access to those facilities. Furthermore, it is acknowledged that the nature of the occupants of the retirement living accommodation generally have a lower car ownership. On this basis, it is considered that the level of off street parking is sufficient to serve this development without compromising highway safety. Similarly, it is considered that the proposed development would not generate a level of vehicular movements that would materially impact upon the capacity of the local highway network. The proposed access road and junction with Savages Wood Road is designed to an adoptable standard and is considered adequate to safely serve the proposed development. The proposed development therefore complies with



Policy T12 and T8 of the South Gloucestershire Local Plan (adopted) January 2006.

5.22 The proposed development includes the provision of a footpath along the Western side of the site which would then be available for public use. It should be noted that this does not provide a diversion of the existing Public Right of Way LSG3 which follows a definitive route in front of The Three Brooks Public House and then on in a Northerly direction. The current situation is such that there is a very short link giving pedestrian access to the public house car park, beyond which there is no demarcated route towards the Willow Brook Centre. However, it is acknowledged that pedestrians do cut through the car park to the Willow Brook Centre. The proposed footpath would provide a better demarcated route for pedestrians to the Willow Brook Centre rather than cutting through the public house car park.

5.23 Concern has been raised as the purpose of the route and that it should also be capable of accommodating cycling traffic; and that the footpath should lead to a pedestrian crossing to aid pedestrians across the super market service road. In this instance, the footpath would be constructed to adoptable standards and can be adopted as a public highway. It is considered that it is not necessary for the footpath to have further lighting as the locality already benefits from street lighting generally. It should be noted that the footpath would not be enclosed and a reasonable level of visibility can be taken across it from the general locality. However, the route leads onto private land and as such it is not possible to provide a formal 'zebra crossing' under highway legislation. However, it is acknowledged that such a crossing would assist pedestrians and that informal crossings are in place throughout the Willow Brook Centre Car Park. As such an informative can be added to any approval such that the developer is advised that a crossing would be desirable and can be provided on the same basis as the crossings located within the Willow Brook Shopping Centre Car Park. In respect of providing a route for cyclists, the foot path is not sufficiently wide to cater for this on a formal basis. The formal cycling route follows a route along Savages Wood Road and this gives access to the Willow Brook Centre. On this basis, the provision of a cycle route along this footpath is not required.

5.24 Drainage

The site is located with easy access to foul drainage systems and it is reasonable for the development to connect to it. The developer has indicated that the development would achieve Code for Sustainable homes Level 3. As part of this, it would be expected that Sustainable Drainage Methods would be used in respect of surface water. This would be consistent with the requirements of Policy L18 of the South Gloucestershire Local Plan (Adopted) January 2006.

5.25 Developer Contributions and Planning Obligations

The following developer contributions and works will be required to be secured through an appropriate section 106 legal agreement.

i) Affordable Housing

The proposed development triggers the requirement for affordable housing in accordance with Policy H6 of the South Gloucestershire Local Plan (Adopted)

January 2006. The target ratio of units is 33.3%. In this instance, this would equate to 24.6 dwellings. The developer has agreed to provide 24 apartments. Although this is slightly below the target ratio, officers are of the opinion that this is acceptable based upon the nearest whole unit within the target level (to require 25 units would increase the level beyond 33.3%). It is acknowledged that Policy CS18 of the South Gloucestershire Core Strategy (Proposed Changes Version) does raise the target level to 35%. However, at this time, the policy carries less weight than policy H6 of the South Gloucestershire Local Plan and as such that level cannot be insisted upon at this stage.

The 24 units would be provided in a stand-alone building located in the West part of the site. Given the nature of the site and the specialist type of accommodation proposed for the remaining 50 dwellings it is considered that such a large cluster of affordable units is acceptable in this instance and would assist in the management of the units. The building is designed to appear as part of the development as a whole. The developer has agreed to provide the units on the basis of 16 x 1 bed flats and 8 x 2 bed flats all for Social Rent (100%) and with nil public subsidy. This is consistent with the requirements of the locality and is in line with the Housing Enabling Officer request.

On this basis the proposed development is consistent with Policy H6 of the South Gloucestershire Local Plan (Adopted) January 2006.

ii) Library Services

In accordance with Policy LC1 of the South Gloucestershire Local Plan, the development generates a requirement to contribute £7965 towards library services in the locality. The developer has agreed to this provision. The provision by the developer for public art in new development (or a contribution towards it in the locality of the development) is voluntary. In this instance, the developer is concerned that the development would not allow for general public access and as such a public art installation would not be of benefit to the community. Similarly, there are significant art installations located within the Willow Brook Centre and as such a passive installation within the development is not considered necessary. The proposed development is therefore consistent with policy LC1 of the South Gloucestershire Local Plan (Adopted) January 2006.

iii) Highway Works

The development involves the creation of a new access onto Savages Wood Road from the site; and the provision of a new footpath for pedestrian access to the Willow Brook Centre. Certain works for the access will take place within the highway and will need to be provided to fully adoptable standards. Similarly, as the footpath would effectively provide public access this will also need to be provided to an adoptable standard. This should also form part of the section 106 legal agreement.

- 5.26 The Community Infrastructure Levy Regulations 2010 set out the limitations of the use of Planning Obligations (CIL). Essentially the regulations (regulation 122) provide 3 statutory tests to be applied to Planning Obligations and sets out that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is;

- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.
- 5.27 In this instance, it is considered that the planning obligations required to secure affordable housing, improvements library services, the provision of the footpath and the works within the highway to an adoptable standard are consistent with the CIL Regulations (Regulation 122). The Local South Gloucestershire Members have been consulted on these terms and raise no further issues.

## **6. CONCLUSION**

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 It is concluded that the proposed development is designed to an acceptable standard and is consistent with the scale, form and density of the site and its context. The proposed development would not have a detrimental impact upon the character and visual amenity of the site and the surrounding locality. The proposed development is consistent with Policy D1 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006
- 6.3 It is concluded that the proposed development would not have a detrimental impact upon the privacy and residential amenity of the occupants of the nearby dwellings; and would provide an acceptable level of amenity for its new occupants. The proposed development is therefore consistent with Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006.
- 6.4 It is concluded that the proposed development would provide adequate off street parking within the site and would provide an acceptable means of access. The proposed development would not have a detrimental impact upon highway safety and complies with Policy T12 and T8 of the South Gloucestershire Local Plan (Adopted) January 2006
- 6.5 It is concluded that the agreed developer contributions would meet the needs of the community in respect of Affordable Housing and Library Service Provision and that these are the only issues that generate a requirement for contributions having regards to the nature of the development. The proposed development complies with Policies LC1 and H6 of the South Gloucestershire Local Plan (Adopted) January 2006.
- 6.6 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report.

## 7. **RECOMMENDATION**

- 7.1 That authority be delegated to the Director of Planning, Transportation and Strategic Environment to grant planning permission, subject to the conditions set out below and the applicant first voluntarily entering into an agreement under section 106 of the Town and Country Planning Act 1990 (as amended) within 6 months to secure the following:

### Affordable Housing

The provision of 24 affordable housing units on the following basis;

- 100% Social Rent within a single apartment block
- At nil public subsidy
- The affordable housing units shall consist of 16 x 1 bed apartments (minimum floor area of 48 square metres) and 8 x 2 bed apartments (minimum floor area of 65 square metres)
- The affordable housing units shall achieve a rating of Code for Sustainable Homes Level 3 or better.
- A mechanism whereby the affordable housing units are retained as Social Rented in perpetuity.
- A mechanism to secure the Tenure Cascade is agreed with the Director of Community Care and Housing
- A mechanism whereby the affordable housing units are allocated as appropriate to meet the identified housing needs of South Gloucestershire.
- 100% of initial occupants and 75% of subsequent lettings to be nominated by South Gloucestershire Council.

### Reason

To ensure that the development adequately caters for the housing needs of South Gloucestershire and to comply with the requirements of Policy H6 of the South Gloucestershire Local Plan (Adopted) January 2006; and PPS3

### Library Services

- £7965 as a commuted sum towards the provision of improvements to library services.

Reason

To ensure that the impact of the development upon library services is adequately addressed and to comply with Policy LC1 of the South Gloucestershire Local Plan (Adopted) January 2006

Highway Works and Footpath Provision

- The provision of a new access junction into the site from Savages Wood Road to the South Gloucestershire adoptable highway standards.
- The provision of a new footpath to the immediate West of the site to the South Gloucestershire adoptable highway standards.

Reason

In order to ensure that the development provides the appropriate level of standards in the construction of new highway and footpaths associated with the development, in the interests of highway safety and amenity and to accord with Policy T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

- 7.2 That the Head of Legal and Democratic Services be authorised to prepare and seal the agreement.
- 7.3 Should the Section 106 Agreement not be completed within 6 months of the date of determination then the application be refused or returned to the Circulated Schedule for further consideration on this basis.

**Contact Officer: Simon Penketh**  
**Tel. No. 01454 863433**

**CONDITIONS**

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

Reason

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

2. Prior to the commencement of development details and/or samples of the roofing, external facing, balcony railings and window frame materials proposed to be used 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 ensure a satisfactory standard of external appearance and to accord with Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006.

3. Notwithstanding the submitted details, prior to the commencement of development full details of both hard and soft landscaping works shall be submitted in writing to the Local Planning Authority for approval and these works shall be carried out as approved. These details shall include hard surfacing materials; minor artefacts and structures (e.g. street furniture, signs and lighting). Soft landscape landscaping shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, (noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme]. For the avoidance of doubt, plant species shall include indigenous species and the landscaping shall include the provision of bat and bird boxes.

Reason

To protect the character and appearance of the area to accord with Policies D1 and H2 of the South Gloucestershire Local Plan (Adopted) January 2006, and the South Gloucestershire Design Checklist (Adopted SPD); and in the interests of encouraging bio-diversity on the site and to accord with Policy L9 of the South Gloucestershire Local Plan (Adopted) and the South Gloucestershire Bio-diversity Action Plan (Adopted SPD).

4. Prior to the commencement of development a schedule of landscape maintenance for a minimum period of 3 years shall be submitted to the Local Planning Authority for approval. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason

To protect the character and appearance of the area to accord with Policies D1 and H2 of the South Gloucestershire Local Plan (Adopted) January 2006.

5. Prior to the commencement of the construction works a scheme for protecting the occupants of the approved development from noise from the adjacent Willow Brook Centre Service Area and the adjacent highway; shall be submitted and approved in writing by the Local Planning Authority; all works which form part of the scheme shall be completed before any part of the approved development is occupied.

Reason

To protect the amenities of the occupiers of the approved residential development, and to accord with Policy D1, H2 and EP4 of the South Gloucestershire Local Plan (Adopted) January 2006.

6. Prior to the commencement of development drainage detail proposals incorporating Sustainable Drainage Systems SUDS and confirmation of hydrological conditions e.g. soil permeability, watercourses, mining culverts)within the development shall be submitted for approval in writing to the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason

To ensure that a satisfactory means of drainage is provided, and to accord with policies L18 of the South Gloucestershire Local Plan (Adopted) January 2006.

7. The hours of working on site during the period of construction shall be restricted to 07:30 until 18:30 on Monday to Friday inclusive, and 07:30 until 13:00 on Saturday; and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.

Reason

To minimise disturbance to occupiers of dwellings at Snowberry Close and to accord with Policy EP4 of the South Gloucestershire Local Plan (Adopted) January 2006.

8. Prior to the commencement of development a Construction Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall proceed in accordance with the agreed details. For the avoidance of doubt the Construction Management Plan shall include the location of construction compound, traffic routing and timing of deliveries and construction phases.

Reason

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

9. The development shall not be occupied until the associated vehicular access, car parking areas and manoeuvring areas and the new footpath to the West of the site (as shown on Plan Number AO1-1741-03 rev c) have been completed in accordance with the South Gloucestershire Councils adoptable standards; unless otherwise agreed in writing by the Local Planning Authority. Thereafter the vehicular access, car parking areas and manoeuvring areas shall be retained for that purpose.

Reason

In the interests of highway safety and to ensure that adequate parking facilities are available, and to accord with Policy T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

10. Prior to the commencement of the development hereby approved the developer shall provide the Local Planning Authority with details of how the scheme will achieve a good standard of energy conservation and protection of environmental resources; which shall be agreed in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the details and measures so agreed.

(For the avoidance of doubt a pre-assessment certificate proving Code for Sustainable Homes Level 3 achievement for each dwelling carried out by a Building Research Establishment Licensed Code for Sustainable Homes Assessor will be accepted as evidence of attaining good design for the purposes of discharging this condition)

Reason

In order to ensure that the proposal attains the requisite good standard of design in relation to energy conservation and the protection of resources in accordance with

policy D1 of the South Gloucestershire Local Plan (adopted) January 2006; the adopted South Gloucestershire Design Checklist SPD (2007)