



**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. 22/10

Date to Members: 11/06/10

Member's Deadline: 17/06/10 (5pm)

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

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

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

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

NOTES FOR COUNCILLORS - FORMAL ARRANGEMENTS

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

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

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

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

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

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

GUIDANCE FOR 'REFERRING' APPLICATIONS

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

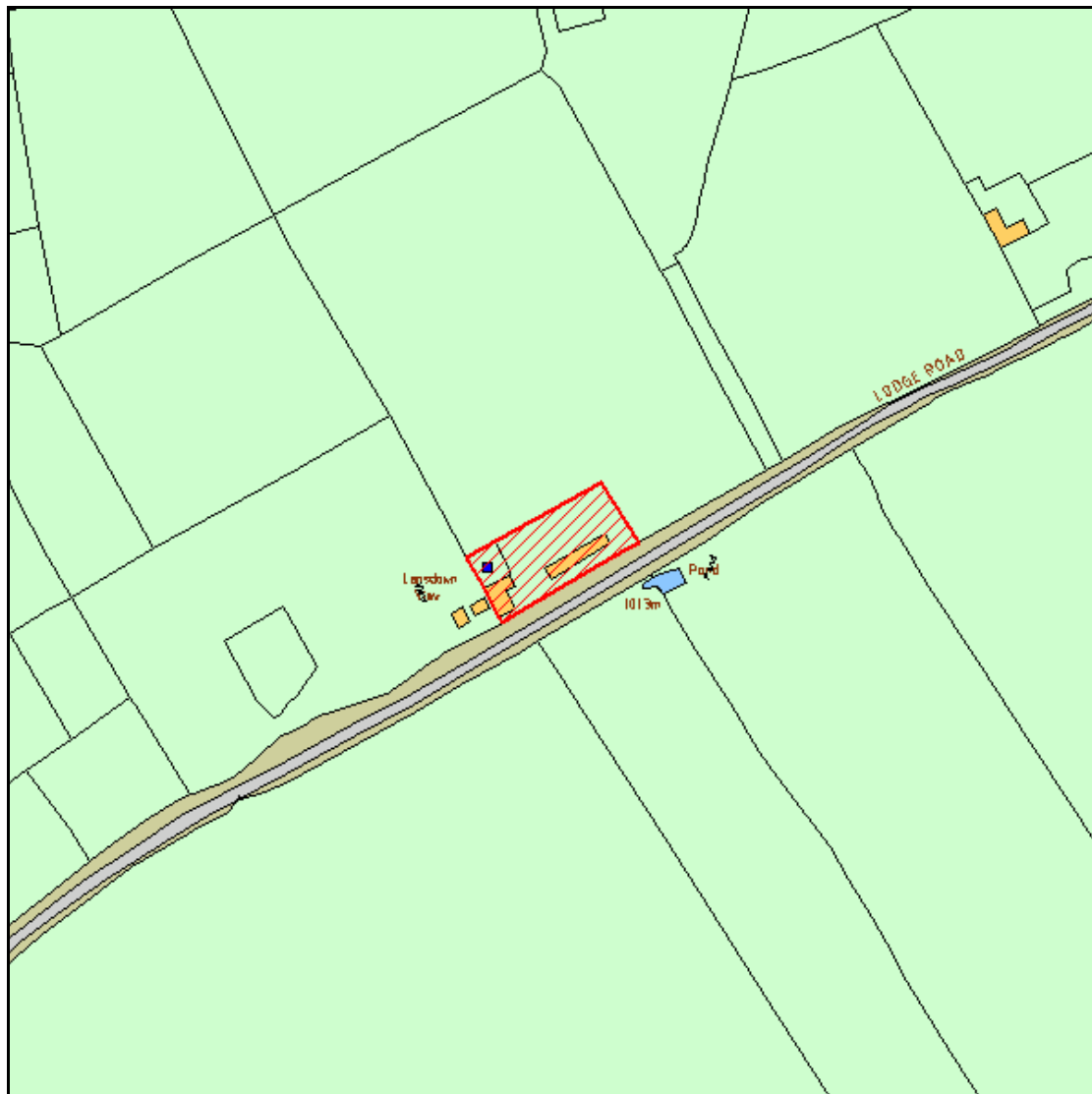
- Before referring an application always speak to the case officer or Area Planning Manager first to see if your concerns can be addressed without the application being referred.
- If you are considering referring in an application outside the ward you represent, as a courtesy, speak to the ward member(s) to see what their views are, before referring the application.
- Always make your referral request as soon as possible, once you have considered all the application details and advice of the case officer. **Please do not leave it to the last minute**
- Always make your referral request by e-mail to MemberReferral@southglos.gov.uk, where referrals can be picked up quickly by the Development Services Support Team. If in exceptional circumstances, you are unable to e-mail you request, please contact 01454 863518, well in advance of the deadline, to discuss alternative arrangements to ensure your response can be received.
- When you refer an application, make clear what the planning reasons are for doing so. This will help the case officer and other members give attention to the specific issues you have raised.
- It may also allow officers to seek to negotiate with the applicant to overcome the Member's concerns and therefore removing the need for a Committee determination.

CIRCULATED SCHEDULE – 11 JUNE 2010

ITEM NO.	APPLICATION NO	RECOMMENDATION	LOCATION	WARD	PARISH
1	PK09/0814/CLE	Refusal	Lansdown View (Northside Stables) Lodge Road Wick South Gloucestershire BS30 5TU	Boyd Valley	Wick And Abson Parish Council
2	PK10/0561/FMW	Approve with Conditions	Shireway Community Centre Shireway Yate South Gloucestershire BS37 8YS	Dodington	Dodington Parish Council
3	PK10/0797/F	Approve with Conditions	30E Cock Road Kingswood South Gloucestershire BS15 9SH	Parkwall	Oldland Parish Council
4	PK10/0800/LB	Approve with Conditions	Green Dragon 44 Badminton Road Downend South Gloucestershire BS16 6BS	Downend	Downend And Bromley Heath Parish Council
5	PK10/0853/F	Approve with Conditions	2 Hyde Park Row Back Street Hawkesbury Upton Badminton South Gloucestershire GL9 1AZ	Cotswold Edge	Hawkesbury Parish Council
6	PK10/0869/F	Approve with Conditions	35 Westons Brake Emersons Green South Gloucestershire BS16 7BQ	Emersons	Mangotsfield Rural Parish Council
7	PK10/0882/F	Approve with Conditions	41 Southey Avenue Kingswood South Gloucestershire BS15 1QT	Kings Chase	
8	PT10/0889/F	Refusal	Almondsbury Cemetery Tockington Lane Almondsbury South Gloucestershire	Almondsbury	Almondsbury Parish Council
9	PT10/1085/F	Approve with Conditions	21 Windermere Road Patchway South Gloucestershire BS34 5PN	Patchway	Patchway Town Council
10	PT10/1090/F	Approve with Conditions	Jasmine House Old Gloucester Road Thornbury South Gloucestershire BS35 3UG	Thornbury North	Thornbury Town Council
11	PT10/1135/F	Approve with Conditions	2 Elmdale Crescent Thornbury South Gloucestershire BS35 2JH	Thornbury North	Thornbury Town Council

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PK09/0814/CLE	Applicant:	Mr V J Woodruff
Site:	Lansdown View (Northside Stables) Lodge Road Wick South Gloucestershire	Date Reg:	5th May 2009
Proposal:	Application for Certificate of Lawfulness for an existing use of land as residential curtilage	Parish:	Wick And Abson Parish Council
Map Ref:	3700780 1747150	Ward:	Boyd Valley
Application Category:	Minor	Target Date:	24th June 2009



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 100023410, 2008. **N.T.S.** **PK09/0814/CLE**

INTRODUCTION

This application is reported on the Circulated Schedule according to the standard procedure for the determination of Certificates of Lawful Use.

1. THE PROPOSAL

- 1.1 This application is for a Certificate of Lawfulness, claiming that a larger area was used as a residential curtilage than that granted with the previous Certificate of Lawfulness (CLE) under ref. no. PK05/0933/CLE, the report for which, is appended to this report. That Certificate of Lawfulness was granted on the basis that the building had been inhabited for a period in excess of four years and that the curtilage claimed on that application had been used in conjunction with the dwelling for that period.
- 1.2 The site lies to the northern side of Lodge Road and comprises a row of single-storey buildings next to the hedgerow along Lodge Road and an open area of hard-standing between the buildings and the field to the northeast and northwest of the site; the site access and a small stable block attached to the southern side of the dwelling house. It is accessed from Lodge Road. The curtilage originally claimed (ref. No. PK05/0933/CLE) for the dwelling lies mainly to the north side of the dwelling and comprises a fenced off grassed area and a small area to the east of the house. The new area now claimed includes the original residential area i.e. house and garden, a strip to the north of the original paddock (shown on the previous site location plan), the original paddock (now laid to hard-standing and the area between the house and Lodge Road, together making a rectangle of land measuring approximately 45 metres long and 22 metres deep.
- 1.3 The original application (PK05/0933/CLE) was assessed (and granted) under the 4 year rule in Section 171B(2) of the Town and Country Planning Act 1990 on the basis that there was a change of use of a building to use as a single dwelling-house. The current application (Pk09/0814/CLE) is submitted on the same basis (except that it is claimed that the residential curtilage which the dwelling house has always enjoyed was larger); it should therefore be assessed on the same basis i.e. under the 4 year rule.

2. POLICY CONTEXT

- 2.1 National Guidance
Town and Country Planning (General Procedure) Order 1995 Article 24

Circular 10/97 Enforcing Planning Control

3. PLANNING HISTORY OF SITE

- 3.1 PK00/0927/F - Erection of barn for storage purposes in connection with the keeping of horses. Refused

- 3.2 CAE/04/0019 - Enforcement Notice for the change of use of a building from agricultural purposes to residential Withdrawn

NB After an appeal was received in respect of the above Enforcement Notice, the Notice was withdrawn on the strength of the evidence put forward by the appellant. This Certificate of Lawfulness was invited as a result of this action.

- 3.3 PK05/0933/CLE - Certificate of Lawfulness for existing use of building as a dwellinghouse and adjoining land as residential curtilage. Granted 2006
- 3.4 CAE 09/0012/1 - Enforcement Notice regarding the stationing of a caravan on the site. Notice served 12 March 2009

4. SUMMARY OF EVIDENCE IN SUPPORT OF THE APPLICATION

4.1 Statutory Declarations

The same statutory declarations were submitted in support of this application as the previous one. The earlier report appears as an appendix to this one. In summary, the statutory declarations are sworn by Mrs V Woodruff , Mr S Woodruff, Mr E Baker, Mr A Coltman, Ms C Fothergill and Mr J M Wintle.

- 4.2 Also provided as evidence is the proof of evidence prepared for the public inquiry intended for March 2005 as a result of an appeal against the Enforcement Notice (now withdrawn). This proof was written by Mr N Cant, who states that, his first involvement with the site was when he was instructed by Mrs Woodruff to submit a planning application.

- 4.3 It should be noted that the plans attached to these affidavits in the evidence submitted all relate to the area of the building and a small curtilage to the north and east of the building, i.e. the site area determined in the original application PK05/0933/CLE. The plan submitted with that application appears on the front of the report, which is an appendix to this report.

- 4.4 The only additional evidence originally submitted in support of this proposal is a covering letter and a copy of a letter sent from a Planning Enforcement Officer to the applicant on 22 June 2006. These are summarised below:

Letter from Enforcement

This states that a site visit in June 2006 established that there was an 'error' in the original application for a Certificate of Lawfulness. This was because the red line area did not include the whole area of the adjoining residential curtilage, which included the area of land consisting of the septic tank, generator, domestic storage and car parking area. It states that the evidence with the original application appeared to be satisfactory in proving the use within this area. The officer's report states that since 1999 the dwelling had the facilities to support residential occupation. These facilities were said to indicate that this land has been used as part of the adjoining residential curtilage for a period in excess of four years. Due to this, it was not considered to be expedient to take enforcement action.

Covering Letter

This letter states that the application for PK05/0933/CLE omitted to include the land on which the septic tank is located, the building housing the generator, the access to the land and the land used for parking vehicles of those living at or visiting the dwelling. The application was for the dwelling itself and its immediate garden area, leaving the remainder of the site unlawful. The original stables were not erected for agricultural purposes, did not benefit from permitted development rights and remain unlawful. However, those structures and the engineering works connected with the house have become lawful due to the passage of time. Four years have passed since the buildings were erected and the engineering works carried out. The buildings have been used in relation to the dwelling or with the hobby use of keeping horses.

The Council's Housing Department has served a notice on Mr and Mrs Woodruff, limiting the occupation of the dwelling to a single person. Therefore they cannot occupy the dwelling together and must either move elsewhere or occupy the caravan on the site.

In conjunction with the letter from Planning Enforcement summarised above, it is considered that the evidence provided with the original application should be sufficient to now grant a Certificate of Lawfulness for the residential use of the site as now claimed.

4.5 Subsequent Evidence Submitted in Support

Letter from Mr C F Candy

Mr Candy first visited the site in 2000 and has periodically done so since. Mr Candy states that the existing buildings and hard standings fully extend to the area indicated on Pegasus drawing BRS 0940.01.1.

Statement from Dr T Johnson

Mrs Woodruff requested to be contacted at her address in Lansdown View, Abson during 1 Jan 1981 to 31 Aug 2000. Dr Johnson visited the site twice in May 1994 and it was evident that the Woodruffs were living there. Dr Johnson observed a vegetable garden and a small area for sun lounging. Dr Johnson parked on a concrete area next to Mrs Woodruff's car and two other cars, which were under a protective sheet. Mrs Woodruff allowed schoolchildren onto her land to rehearse a play.

Statement from Charlotte Stapleton

Ms Stapleton has known the Woodruffs for 14 years and used to work with their daughter Theresa. Ms Stapleton used to ride horses with Theresa Woodruff at Lansdown View and would park on the hard-standing when there and attended barbeques and children's parties there when people parked on the hard standing.

Statement from Theresa Coles

The hard-standing area at Lansdown View is used for parking and for children to play in when visitors attend. The children also play in the outbuildings and in

the field. The horses are moved during the months of April to October so the children would also play in the field.

Statement from Valerie Kendall

Ms Kendall has regularly seen 6 or 7 children playing in the yard. There are always vehicles parked on the site.

Statement from Karen Lester

Ms Lester regularly sees people at the address; the people park on the hard-standing area. Ms Lester has seen more people and children at weekends.

Letter from G.H.Bond

Mr Bond has visited the site since 2003. The hard-standing area next to the house has been a parking area for the house and a play area for Mr and Mrs Woodruff's grandchildren. The boundaries of the hard-standing have not changed during this period. Mr Bond recently supplied gravel and no extra areas were covered.

Letter from Lynne Evans

Ms Evans lived in Lodge Road for 5 years. Ms Evans visited and parked in the premises for many years. The boundary has not changed and children play within it.

Petition

A petition of 25 signatures has been submitted. The Petition reads:

'We the undersigned can confirm, that the hard standing area or yard space at Lansdown View, Lodge Road, Abson has always been used by the Woodruff family to park vehicles and as an area for children to play on.'

5. SUMMARY OF CONTRADICTIONARY EVIDENCE

5.1 Eight statutory declarations have been received. In no particular order:

1. Susan Jones has sworn that she has lived in Abson for 19 years and rides along Lodge Road at least twice a week all year round. She has taken particular interest in the site since the previous application. In Spring 2006 she took photographs. Horses were sometimes stabled there and sometimes in the yard, with the gate open for them to wander into the field beyond. She is aware that complaints were made to the Council regarding burning of manure at the end of the stables. The claimed area has changed very little since 2005. It has been used for stabling horses and for no residential purpose, as evidenced by aerial photographs. Before Christmas 2008, two caravans were moved onto the site. Since then the yard has been enlarged and resurfaced, new fences and gates have been erected and a vegetable patch added in Spring 2009. A bench and other household items were introduced on site in recent months.

2. Mary Chalmers has sworn that she has lived in Abson for 10 years, for the past five of which she has passed the site at least 10 times a day. The residential curtilage has grown since Spring 2009, with fences moved to

enlarge an area usually used for parking of vehicles. Cars visiting the site normally park on the hardstanding.

3. Kim Chalmers' affidavit states that she has lived in Abson for 10 years and in Lodge Road for the last 5. She travels up and down Lodge Road at least 4 times each day, passing the site. It has always been used for the keeping of horses and there has been constant burning of manure and straw from the stables. On several occasions, the horses had got out on Lodge Road and there was nobody at the site to put them back. Until Spring 2009 the site has only been used for keeping horses. This year the fenced area has been increased.

4. Jane Attfield has sworn that she has lived in Lodge Road since 1998. She keeps horses and rides past the site 2 or 3 times a week, at various times of the day. The bounded area of the site has been used for keeping horses over the last four years. The horses have had the run of this area in which they are kept. During the summer ponies are alternated between the yard and grazing elsewhere on Lodge Road. During the winter they are alternated between the yard and the field behind. A local farmer delivers hay to the yard and the blacksmith shoes horses there. Rough hardstanding was laid and the fenced area expanded, to take the arrival of the caravan. Over the last few months a vegetable garden has been established and since then new fences erected.

5. Paul Ford has sworn that he has lived in Abson for 15 years. Since late in 2008 new sheds, stables and caravans have been added to the site to extend it. The site has been used as part of a stable yard and not for residential purposes. In the past few months a footpath sign has been taken down and a gate erected into the site. The footpath has been diverted and a second vehicular access gate to the site. A tarmac hardstanding has been added to the enlarged site.

6. Anne Upton swears that she has lived in Lodge Road since 1990, passing the site at least three times a day, on car or by foot. The site has always been used as a stable yard, with a water container stored there and a horse trough on the edge of the yard. Horse manure was piled up and burned. Horses are stabled there over the winter. In March they are walked to graze elsewhere off Lodge Road. In the summer of 2008, a small workman's hut was erected half way down the yard, at its edge. The only changes to the site have been in the last 18 months, including fences, awnings, sunbathing, the introduction of garden furniture, gardening activities and the surface dressing of the yard. The number of visitors to the site has been a further recent change.

7. Robert Upton has sworn that he is retired and passes the site in his car every day. Until recently he has seen horses free in the yard and burning manure. There was a horse trough on the north side of the yard. A building was erected around the turn of 2007/2008. At the turn of 2008/2009 the site was cleared with the aid of a small digging machine. Two caravans appeared and were moved around the site. In Spring 2009 new fencing was put up and the site gravelled. The site has always been used a part of a stable yard and not for residential purposes.

8. Andrew Atfield has sworn that he has worked at home from a house on Lodge Road since 2003, passing the site by car two or three times a week and cycling in the summer. For the last four years he has observed the fenced area and stables used for the keeping of horses and occasional storage of diggers, not for residential use. The boundary of the site has been changed between 2005 and 2006, according to the Google Earth aerial photographs and again in 2008 to accommodate a static caravan. The photographs show the area bounded by fencing consisting of bare earth and paddock grass worn by horse traffic. The only residential characteristic of this land was a picnic table next to the dwelling in the early part of 2009. At around this time the fenced area was increased, extending the area used by horses.

6. OTHER REPRESENTATIONS RECEIVED

6.1 In addition to the statutory declarations summarised above, the consultation process also led to the receipt of a comment from Wick & Abson Parish Council:

Comments from the Parish Council state that the application is flawed, the assessment of the previous Certificate of Lawfulness application was correct and that the land has been used for the recreational keeping of horses.

6.2 7 further replies were received from Messrs D.K.Jones, Anne Upton, K & M.J. Chalmers, J.Ford, Andy Atfield, Anne Upton and Sue Jones stating the following points:

- The site has been used for horses and stabling
- Gates, fencing and footpath changes have all taken place in the first part of 2009
- The aerial photographs prove that the site has been used for keeping horses
- The residential area has not been increased
- If there was an error on the Certificate of Lawfulness in 2005 it should have been noticed by the applicants before now
- There have been vans, cars, two caravans and a digger on the site
- The stable yard has been enlarged and resurfaced
- A vegetable garden has been established (NB this is outside the claimed residential area)
- V. Woodruff's evidence for the previous application for a Certificate of Lawfulness identifies two distinct areas, a garden and land used for the keeping of horses, fenced separately to keep the horses out of the garden
- The submitted block plan is incorrect and the boundary seems to be in flux
- The generator and septic tank would not materially change the use of the land
- No evidence for the septic tank in the form of an Environment Agency Consent to Discharge has been submitted with the application
- No generator (which in any case is portable) on the site has been heard, whereas it should have been generating noise at around 72db(A), audible from a quiet country road

- The stable block is capable of housing five horses. Keeping horses on such a scale precludes the possibility of them being kept in a manner incidental to the residential use of the adjoining dwelling, given the size of that dwelling
- The generator and septic tank only take up about 4% of the application site
- In the evidence supplied, it was suggested that a cesspit was installed on site. A photograph has been provided, taken on 22 June 2009 to show a septic tank above ground. A site visit should be undertaken to see if there is a cesspit underground.
- New fencing has been erected at the site to enclose it and the vegetable garden has been enlarged and walled.

NB Opinions expressed in the letters have been omitted as the relevant test in the determination of this application is evidential.

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, as noted in the 'History' section above, the Enforcement Notice (which is still in effect) relates to the stationing of a caravan and not directly to the residential use of the site.

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 a mix of statutory declarations and letters plus a petition. 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 As noted above, the evidence for the current application includes a number of affidavits, which, while appropriate to the site on the original application, do not relate to the bulk of this site, and crucially they do not relate to the unlawful part of it. As such, this evidence is irrelevant and discounted, leaving only the letter from Enforcement, the covering letter, additional letters/statements from individuals and a petition. The only exception is at para. 25 of Mr Woodruff's statement where he makes reference to a door being stored in 'the stables'. The counter-evidence however has been sworn as a series of affidavits, which, according to the hierarchy of evidence outlined above, carries more weight, irrespective of its content. This content is examined below.

7.6 Examination of evidence

There are considered to be three issues, which need to be resolved in the determination of this application and they form the following paragraph headings. The primary issue is considered to be whether the keeping of horses on land can be considered to be a residential use, i.e. incidental to the use of the dwellinghouse and whether this use has been carried out on the site for a period in excess of 4 years. Beyond this is the effect of installing a generator and septic tank on the site and whether these measures are adequate to confer a residential use on all or part of the site. The final issue to be resolved is the weight that should be given to the letter to the applicant's agent from the Council's Enforcement Officer.

7.7 Use of the site

It has been noted above that all of the sworn evidence for the previous application related to a different site area than that now applied for. The applicants essentially rely on their interpretation of what is ancillary to their residential curtilage and the Enforcement Officer's letter. The counter-evidence is clear in its assertion that the site has been used for the keeping of horses and considerable weight in this assessment is attached to this clear and unambiguous evidence. It is considered that the counter-evidence proves this case, since there is a high frequency of observation of the site by a number of local people over the last four years and this evidence is considered to combine to form a convincing picture of the site. This observation of the site came about not just from vehicles, which could have been fast-moving, but also from people passing on foot and on horseback, from where they would be afforded a

relatively clear view of the site. This leaves the remaining issue under this heading as whether the use of the land for the keeping of horses can be considered to be a residential use. The first factor to take into account is the scale and location of the use.

The stables within the site are capable of accommodating a number of horses. The site visit on 17 July 2009 showed that there were two horses being kept in the stables at that time. There was clearly more space available for accommodating further horses. In any event, the horses do not appear to be kept in the stables all of the time. The counter-evidence explains that the horses graze elsewhere, including the field behind the site. The applicant stated at the site meeting that they were also grazed on land further down Lodge Road and this is corroborated by the counter-evidence. The corollary is that when being kept off the site, they are not being kept there for residential purposes. The question therefore arises about the establishment of the residential use of the site when the horses are kept elsewhere. At the site visit, Officers were informed that when not occupied by the horses, the stables were filled with furniture. There was no evidence of this at the time. However it is considered that this furniture (if it filled the stables) would not be able to be kept within the established residential area when the horses occupy the stables, due to lack of available space. Therefore this is not taken to back up the claim that the application site is used residentially. No evidence has been submitted in support of the residential use of the site occurring through either gaining access to the lawful part of the site, car parking and keeping of horses (residentially). The claim also mentions the generator and septic tank, but these are covered separately.

The photographic evidence available to the Council is a number of aerial photographs. This shows part of the current row of buildings had been erected in 1999 and the rest are evident in 2005 and 2006, making the buildings themselves immune from enforcement action at this juncture, through the passage of time under the four year rule for operational development. No horses are evident on the photographs and no specific evidence of residential use either.

The use of land for keeping horses is a land use separate from both agriculture and residential uses of land in the vast majority of cases. As such, it does not have to be linked with any residential use of the same or adjoining land. Carrying out such a use does not necessarily mean that there has to be a stable situated on the land, although that is often the case.

The residential use of the site would have to stem from the part of the function of keeping horses that is residential. The agent has advanced that this amounts to the stabling of horses used for the enjoyment of the occupiers of the dwelling. If this argument were to be successful then it would first have to be accepted that the site is in fact part of the residential curtilage of the dwelling and therefore part of the same planning unit. However, the planning unit (although this is effectively contested through this application) was established through the grant of a Certificate of Lawfulness on a smaller area. It is considered to be more likely that the site has been used for the keeping of

horses over the past few years and that grooming the horses, for instance, is incidental to *that* use, rather than as proof of the residential use of the land.

In conclusion therefore it is not accepted that the site has been used for residential purposes over a 4 year period. Neither has it been proved over this period that the land has been used for the keeping of horses, although the evidence points to it being more likely than not that the use of land for the keeping of horses is the current, albeit unauthorised, use of the site.

7.8 The Generator and Septic Tank

No specific evidence has been submitted with regard to either the generator or the septic tank. Installation of the latter is operational development for which planning permission is required. It is development under ground, but it does not necessarily follow that it can change the use of land above it. It is considered that, in the absence of compelling evidence otherwise, that in this instance the installation of a septic tank per se does not lead to the land above it being used residentially. Similarly, no evidence has been submitted for a generator within the site area and again it was not pointed out or noted during the site visit. It is understood that the generator is situated in one of the outbuildings. Even if the generator is kept within the site it is considered to be physically de minimis in terms of the change of use applied for. Functionally, the generator could be used to power appliances either within the site or within the lawful residential curtilage, but there is no evidence of it being used for one purpose or the other. In conclusion, on the basis of the evidence submitted, it is considered that these factors do not point to a residential use of the site as claimed.

7.9 The Letter from Enforcement

The letter sent by the Council's enforcement officer does not carry a disclaimer. It makes clear that an error has occurred in the *submission* of the original application for a Certificate of Lawfulness on the (adjoining) site. The letter implies that the site (presumably the current application site) was being used residentially at the time of the site visit in June 2006. As a result of this conclusion, the letter advised that a 'revised site plan' would be all that was required. This advice should have applied to the site plans submitted with the affidavits supplied as evidence in support of this application, but instead it was taken literally to mean the submission of one site plan with this application. The letter concluded that it was not expedient to pursue enforcement action in relation to 'this matter'. Indeed enforcement action has only been pursued since in relation to the siting of a caravan on land outside the residential curtilage: a related, but different matter. It is considered that this letter does not preclude the Local Planning Authority from refusing this application, the assessment of which has been undertaken as detailed at 7.3 above. For the purposes of the determination of this application, and in terms of evidence, the letter only refers to an Officer's opinion on the (residential) use of the site (unspecified) in June 2006.

7.10 Additional Letters/Statements from Individuals

- The letter from Mr Candy offers little evidence other than to say that the submitted plan is accurate.

- The letter from Dr Johnson refers to visits made outside the relevant 4 year period.
- The letters from Charlotte Stapleton, Theresa Coles, Valerie Kendall and Karen Lester do not state the time periods when they visited the site and as such are not precise. There are references to the keeping and stabling of horses. These letters do not relate to the plan submitted with the application.
- The letters from G.H.Bond and Lynne Evans do not refer to the plan submitted with the application.

8. CONCLUSION

8.1 Officers conclude, objectively that on the balance of probability, according to the submitted evidence, the site, other than that part granted CLE in 2006, has not been used residentially for the last 4 years. Instead it appears that the site has been used for the keeping of horses over the last four years and possibly for a longer period than that.

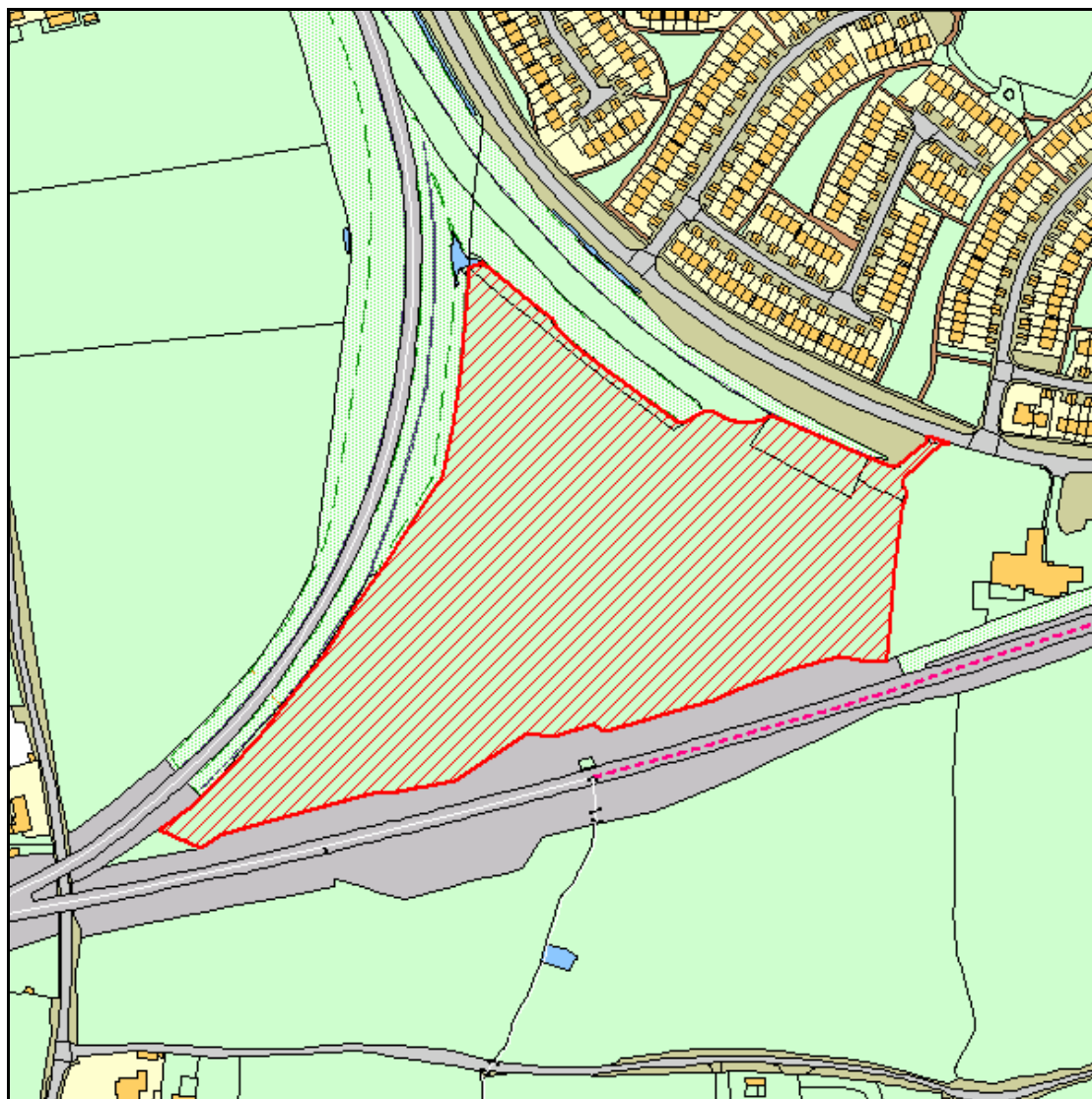
9. RECOMMENDATION

9.1 That the Certificate of Existing Lawful Use applied for is refused.

Contact Officer: Roger Hemming
Tel. No. 01454 863537

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PK10/0561/FMW	Applicant:	Shireway Community Association
Site:	Shireway Community Centre Shireway Yate Bristol South Gloucestershire	Date Reg:	12th April 2010
Proposal:	Change of use from Landfill site (Class Sui Generis) to Playing Fields (Class D2) as defined in the Town & Country Planning (Use Classes) Order 1987 (as amended).	Parish:	Dodington Parish Council
Map Ref:	370264 180494	Ward:	Dodington
Application Category:		Target Date:	18th May 2010



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INTRODUCTION

This application appears on the Circulated Schedule as a result of representations received to the consultation process.

1. THE PROPOSAL

- 1.1 The proposal seeks permission for the change of use of the former landfill site on Shire Way to playing fields. This would in part be achieved through the importation of up to 56,100 cubic metres of inert soils and sub-soils to a depth of 2 metres in order to both level the land and provide a suitable upper capped surface above the former landfill material, to a standard acceptable for recreational use. This would then be top-soiled and seeded accordingly. The vacant land would provide for two football pitches, a cricket pitch, tennis courts and a training pitch, associated with the adjoining Shire Way Community Centre.
- 1.2 The site itself is a former landfill site. The site was used for landfill from the mid 1980's to the early 1990's. Since then the site has remained dormant and vacant pending suitable restoration and re-use proposals, the culmination of which is this current planning application for change of use. Whilst the land has 'greened' over to some extent it remains derelict and disused. The land is in part now Shire Way Community Centre owned with a proportion of it in South Gloucestershire Council's ownership, this part is under long term lease to the Community Centre.
- 1.3 The application site consists of a triangular shaped parcel of land. To the south and western borders the site is enclosed by railway lines. To the northern edge the site is bordered by the Shire Way main road, access to the site would be gained via an existing gated access off Shire Way in the north-eastern corner of the site, as per the original landfill. To the immediate east is Shire Way Community Centre. The nearest residential properties lie between 40 and 60 metres away to the north across Shire Way. The site is located within the Bristol/Bath Green Belt

2. POLICY CONTEXT

2.1 National Guidance

PPS1	Delivering Sustainable Development
PPS2	Green Belt
PPG10	Planning and Waste Management
PPG23	Planning and Pollution Control

2.2 South Gloucestershire Local Plan (Adopted) January 2006

D1	Achieving Good Quality Design in New Development
EP1	Environmental Pollution
EP6	Contaminated Land
GB1	Development within the Green Belt
LC5	Proposals for Outdoor Sports and Recreation Outside Existing Urban Area and Defined Settlement Boundaries
L17/L18	Drainage

L9	Species Protection
T7	Cycle Parking
T8	Parking Standards
T12	Transportation

2.3 South Gloucestershire Minerals and Waste Local Plan

Policy 6	Landscape Protection
Policy 9	Green Belt
Policy 20	Water Resources
Policy 21	Drainage
Policy 22	Residential/Local Amenity
Policy 24	Traffic Impact
Policy 28	Restoration

3. RELEVANT PLANNING HISTORY

- 3.1 P84/1130 – Landraising application. Granted by Avon County Council on 1st June 1984. The restoration requirement of this consent was not met.
- 3.2 P92/1613 - Laying out of playing fields. Approved by Northavon District Council, subject to a Section 106 Agreement. Agreement was never signed and therefore the permission was never issued.
- 3.3 P97/1873 – Change of use of former landfill site to playing fields. This was originally approved by South Gloucestershire Council on 11 December 1997, subject the completion of a Section 106 Agreement to secure highway improvements. This was never signed due to ownership issues and other legal issues. The delays in securing the Agreement and changes in circumstance eventually superseded the need for the works. The proposals was reported to Committee in 2001 for a further recommendation for approval to vary the previous resolution and negate the need for the Section 106 Agreement. This consent was approved and issued on 15th November 2001. This consent was time restrained and the commencement date lapsed without implementation.
- 3.4 PK06/1989/F - Change of use from Landfill site (Class Sui Generis) to Playing Fields (Class D2) as defined in the Town & Country Planning (Use Classes) Order 1987 (as amended). Approved 6 July 2007. This application expired, unimplemented.

4. CONSULTATION RESPONSES

- 4.1 Dodington Parish Council
Dodington Parish Council strongly supports this application, subject to suitable planning conditions regarding:
(a) Drainage - to reconsider the drainage design bearing in mind recent problems with flooding at Besom Lane
(b) Tipping - suitable controls to be put in place regarding the import of topsoil - number and hours of lorry trips, control of mud etc.
- 4.2 Other Consultees
Network Rail

No objection in principle subject to compliance with advice in respect of protection of the adjacent rail land from encroachment in terms of drainage, security, safety, ground levels near embankment land and landscaping/planting

4.3 Sport England

Support the proposal on the basis of the provision of additional of new facilities.

4.4 The Environment Agency

No objection to the proposed development subject to recommended conditions to address potential contamination issues and protect the water environment and the management of surface water.

4.5 Local Residents

One letter of raising concerns and objection to the proposal on the basis of over provision of sports pitches, the issue of increased traffic on an already busy road, disturbance resulting from the proposed use of the site through and potential unsociable behaviour and through potential disturbance through floodlighting. The site is not considered appropriate for this manner of use and will be disruptive.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The above site history shows various applications for the site and provides a background for its approved and proposed uses. The principle of waste development has been long established by the previous consents and the importation of material to the levels experienced today. This application seeks to satisfactorily finish the site as a usable piece of land. The more recent consents for use of the land for recreational purposes demonstrate that the principle has been considered acceptable in the past. This needs to be tested against current policy requirements. What is also demonstrated is that the land has remained derelict for a considerable number of years. It is therefore considered that land improvement to a beneficial afteruse would bring a reasonably sized plot of land on the urban fringe back into some form of beneficial use and is considered acceptable in principle.

5.2 Green Belt

The site is located on the edge of the Green Belt, on the border with the Yate settlement boundary. The proposal, final landform and use are considered to be compatible with Green Belt policy objectives and would retain the openness of the Green Belt.

5.3 Local Amenity

The site is located on an enclosed parcel of land, further separated from the nearest residential properties by Shire Way road. The proposed development and end use is not considered to raise significant material concerns in respect of local amenity. The transportation/importation phase of the development can be adequately contained, taking into account the local highway network, the amount of material and the timescale over which it is proposed to import. Operations will be limited to standard daytime working. The end use of sports pitches is not considered inappropriate for this location and it is not considered

would give rise to significant amenity issues in its own right. The site will in addition result in derelict and un-used land being put into practical and locally beneficial use.

5.4 Contaminated Land

The developers on site would take responsibility for protecting the environment from contamination both from existing deposited material and any materials brought in to cap the site. In this respect the Council's Contaminated Land Officer as well as the Environment Agency has recommended the inclusion of a condition that ensures satisfactory investigation, monitoring and where necessary remediation of any contamination issues encountered which would be incorporated on any consent.

5.5 Highways

Whilst some stockpiles of topsoil remain on site and will be re-used in the project, the importation of material in order to facilitate the full restoration of the site to a condition suitable for re-use will inevitably involve importation and HGV movements. It is recommended that the duration of the consent for importation be spread over an 18 month period. This allows a suitable and reasonable time for completion taking into account the drier and wetter seasons whilst spreading the length of time over which the development is implemented to reduce traffic movements. A condition is also recommended that ensures satisfactory development in highway terms on issues of visibility splays, additional parking provision available on the site, condition of the local highway and lorry routing. This is considered to satisfactorily address highway issues relating to the proposals

5.6 Drainage

There have been historic issues with a culvert running across the site, which in areas appears from surveys to be damaged. Investigations are continuing to determine what impact, if any, this may have on down stream receptors. The proposals have been amended to avoid development in and around the culverts and as such they it will be unaffected by the development work itself. A drainage scheme would be required through condition of any consent to ensure that the restored land would not significantly impact upon the existing drainage infrastructure, incorporating sustainable drainage requirements, or compromise the existing culvert further. The responsibility of the provision of adequate drainage, including the culvert remains the responsibility of the landowner and although this proposal itself is unlikely to have any significant further impact upon the culvert itself statutory powers can be used if its considered that works need to be undertaken to the culvert to prevent downstream flooding.

5.7 Landscape

The land at present is a relatively flat parcel of land, not widely visible from many public vantage points and somewhat enclosed by a combination of the Community Centre itself, the rail embankment and the relatively mature hedgerow/tree border. It is at present derelict with scrubby overgrowth and of little landscape value. There are no objections in landscape terms, however it is recommended that further landscaping details are sought through a further scheme to improve internal landscaping.

5.8 Ecology

It is considered that areas of the site, possibly due to its dereliction and re-growth may provide an element of ecological value. This is partly acknowledged in the application submission. It is recommended however that a fuller appraisal is provided as condition of any consent, prior to the commencement of development and such a scheme that identifies any area of potential ecological benefit provides safeguarding and/or mitigation. It is considered that any such details can be incorporated within the context of the proposed development of the site and the relative ownership boundaries under the control of the applicant. It should also be noted that works should be undertaken in accordance with the Wildlife and Countryside Act 1981 or the

CROW Act 2000, and that legislation also prevents harm to any protected species that may be affected. It is also understood to be a condition of the Environment Agency's licensing exemption requirements that ecological benefit is provided as part of the proposals.

5.9 Design and Access Statement

Not applicable

5.10 Use of Energy and Sustainability

The scheme will restore a former landfill site to required environmental standards and bring the brownfield derelict land into beneficial recreational use, utilising waste materials derived from other projects.

5.11 Improvements Achieved to the Scheme

The current application represents the results of ongoing negotiations to the remediation of the site and the provision of sports pitches. Conditions recommended and attached would further secure benefit in terms of ecology and landscape.

5.12 Section 106 Requirements

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

6. CONCLUSION

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

6.2 The application is in essence similar to that of PK06/1989/F, referred to in the site history section above, this consent has expired and therefore this proposal cannot be considered as a renewal application. Notwithstanding this the

principles and issues remain as before. The previous application required several pre-commencement schemes in particular in relation to ecology, landscape, contamination control, drainage, which will provide mitigation and further benefit in each case in respect of the development. It is stated that these are in the process of being addressed but the work is not as yet complete. The applicants propose that it is their intention to submit these as one complete document to address the sites outstanding issues and provide a clear and concise way forward under which the proposals can be satisfactorily implemented. There are not considered to have been any additional issues that have not previously been covered and therefore any proposed conditions will reflect the previous requirements for the site.

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

7. RECOMMENDATION

- 7.1 That planning permission is granted subject to conditions.

Background Papers **PK10/0561/F**

Contact Officer: **Simon Ford**
Tel. No. **01454 863714**

CONDITIONS

1. The development hereby permitted shall commence within two years from the date of this permission. Written notification of the date of the commencement of works shall be sent to the Local Planning Authority at least 7 days prior to such commencement.

Reason.

To comply with Section 91 of the Town and Country Planning Act 1990, to allow any pre-commencement investigations and works to be undertaken and to enable Local Planning Authority to monitor the operations.

2. The importation of material for the development hereby permitted shall cease on or before the expiry of 18 months from the date of commencement. Upon completion of importation operations the site shall thereafter be restored, in accordance with the approved plans, to a condition suitable for recreational use within a further 6 months.

Reason.

To ensure the importation of material to the site is completed within a reasonable timescale and to secure the satisfactory restoration of the site, in accordance with Policies 22 and 28 of the South Gloucestershire Minerals and Waste Local Plan.

3. The development hereby permitted shall not commence until the developer has submitted to the Local Planning Authority, for prior written approval, the following

information detailing any potential land contamination and a proposed scheme of works:

- (i) a preliminary investigation including a desk study report detailing the history of the site and identifying risks to human health and the environment,
- (ii) a main investigation (if identified as being required) including a site investigation report, documenting the types, nature and extent of contamination present, risks to receptors and potential for migration within and beyond the site boundary as identified in the preliminary investigation. The investigations and assessments shall be in accordance with current Government and Environment Agency guidance.
- (iii) a detailed remediation scheme (if identified as being required) including a method statement and measures to be taken to avoid risk to human health and the environment, as identified by the desk study and site investigation, from contaminants and gases.

Reason.

To ensure that adequate measures have been taken to mitigate against soil contamination and contaminated land and to prevent pollution or harm to the wider environment, and to accord with Policies EP1 and EP6 of the South Gloucestershire Local Plan (Adopted) January 2006.

- 4. No development shall take place until drainage details proposals incorporating Sustainable Drainage Systems (SUDS) and confirmation of hydrological conditions (eg soil permeability, watercourses, mining culverts) within the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason.

To ensure that a satisfactory means of drainage is provided, and to accord with Policies L17 and L18 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 21 of the South Gloucestershire Minerals and Waste Local Plan.

- 5. No development shall take place until a detailed scheme of highways and traffic management containing the following has been submitted and approved in writing by the Local Planning Authority:

- (i) details of improved visibility splays from the junction of the access road onto Shireway
- (ii) details of wheelwash facilities for vehicles operating from the site
- (iii) details of the route that lorries will use to access and egress the site and measures used to ensure that the agreed routes are adhered to
- (iv) details of a schedule of dilapidation, including details of schedule area affected and terms of making good any defects found to be attributable to the operation hereby permitted

Upon such written approval of each detail the scheme approved shall be implemented prior to the commencement of operations at the site.

Reason.

In the interests of highway safety and local amenity and to accord with T12 of the South Gloucestershire Local Plan (Adopted) January 2006, and Policy 24 of the South Gloucestershire Minerals and Waste Local Plan.

6. No development shall take place until details of on-site provision of the following is submitted and approved in writing by the Local Planning Authority:

(i) details for the additional provision of car and cycle parking facilities within the site in accordance with the standards set out in Policies T7 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006, and in addition to those within Shireway Community Centre car park itself, also including details for provisional coach parking and turning head sufficient for coach size vehicles on the access road.

(ii) details of the surfacing of the access road and additional car-parking areas

(iii) details of access provision between the Community Centre and playing fields

Such approved details shall be implemented prior to the use of the site as a recreational facility.

Reason.

In the interests of highway safety and local amenity and to accord with Policies D1 and LC5 of the South Gloucestershire Local Plan (Adopted) January 2006, and Policies 22 and 24 of the South Gloucestershire Minerals and Waste Local Plan.

7. Prior to the commencement of the development hereby permitted the following landscape details shall be submitted for the written approval of the Local Planning Authority:

(i) a tree and shrub planting scheme consisting of native and/or semi-native species, including details of species and location, numbers and sizes and planting and maintenance specifications, such a scheme to be implemented in the next available planting season following completion of restoration

(ii) details of tennis and training court fencing

(iii) details of any floodlighting proposed

Such details shall thereafter be implemented as approved.

Reason.

In the interests of local amenity and to ensure a satisfactory development in accordance with Policies D1, L1 and LC5 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policies 6 and 22 of the South Gloucestershire Minerals and Waste Local Plan.

8. Within 3 months from the completion of restoration at the site an aftercare scheme, including details of the management of the playing fields, the additional planting and any areas of ecological interest identified in Condition 7 above, shall be submitted to the Local Planning Authority for written approval and thereafter implemented for a period of 5 years.

Reason.

To ensure a satisfactory form of development and to accord with Policy LC5 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 30 of the South Gloucestershire Minerals and Waste Local Plan.

9. No development shall take place until details including a full ecological survey have been undertaken. Such details should also include safeguarding and mitigation of any areas of value found. Such details shall be submitted to the Local Planning Authority for written approval prior to any development occurring.

Reason.

In the interests of the local ecology of the area and in accordance with Policies D1 and L9 of the South Gloucestershire Local Plan (Adopted) 2006 and Policy 14 of the South Gloucestershire Minerals and Waste Local Plan.

10. No more than 56,100 cubic metres of material shall be imported to the site. A written record shall be maintained at all times during the construction of the playing fields and made available to the Local Planning Authority upon request which gives full details of all inert landfill material brought to the site.

Reason.

To ensure a satisfactory form of development in accordance with the approved plans and in the interests of local amenity, in accordance with Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 22 of the South Gloucestershire Minerals and Waste Local Plan.

11. No more than 2 metres depth of fill, including a final topsoil layer of 300mm, shall be deposited on the site.

Reason.

To ensure a satisfactory form of development in accordance with the approved plans and to accord with Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 22 of the South Gloucestershire Minerals and Waste Local Plan.

12. Within 3 months from the completion of the development hereby approved and prior to the use of the site as recreational fields, a survey of the final levels achieved shall be submitted to the Local Planning Authority.

Reason.

To ensure a satisfactory form of development in accordance with the approved plans and in accordance with Policy D1 of the South Gloucestershire Local Plan (Adopted) 2006 and Policy 28 of the South Gloucestershire Minerals and Waste Local Plan.

13. No materials other than non contaminated soils and sub-soils shall be deposited at the site.

Reason.

To prevent pollution of the water environment and to ensure that development is carried out to an acceptable environmental standard, in accordance with Policies D1

and EP1 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policies 20 and 28 of the South Gloucestershire Minerals and Waste Local Plan.

14. No top soils shall be removed from the site unless agreed in writing by the Local Planning Authority.

Reason.

To ensure a satisfactory form of development utilising materials within the site and in accordance with Policy LC5 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policies 24 and 28 of the South Gloucestershire Minerals and Waste Local Plan.

15. No mud, dust or other debris shall be deposited on the highway. No vehicle shall leave the site unless its wheels and chassis are clean.

Reason.

In the interests of highway safety and to prevent materials from being deposited on the highway and to accord with Policy LC5 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 24 of the South Gloucestershire Minerals and Waste Local Plan.

16. No construction traffic shall enter or leave the site nor any plant or machinery be operated on the site outside the hours of 08.00 to 19.00 hours Monday to Friday and 08.00 to 13.00 hours on Saturdays. There shall be no working on Sundays, Bank Holidays or Public Holidays.

Reason.

In the interests of local amenity and to accord with Policy LC5 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 22 of the South Gloucestershire Minerals and Waste Local Plan.

17. With the exception of any provision referred to in condition 7 above, no floodlighting shall be erected at the site unless agreed in writing by the Local Planning Authority.

Reason.

In the interests of the amenity of the locality and to accord with Policy LC5 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 22 of the South Gloucestershire Minerals and Waste Local Plan.

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

Reason.

To prevent pollution of the water environment and to accord with Policy L17 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy 20 of the South Gloucestershire Minerals and Waste Local Plan.

19. The existing trees and hedgerows within and immediately adjoining the site shall be retained and shall not be felled, lopped or topped without the prior written consent of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998: 1989 (Tree Works). Any trees and hedgerows

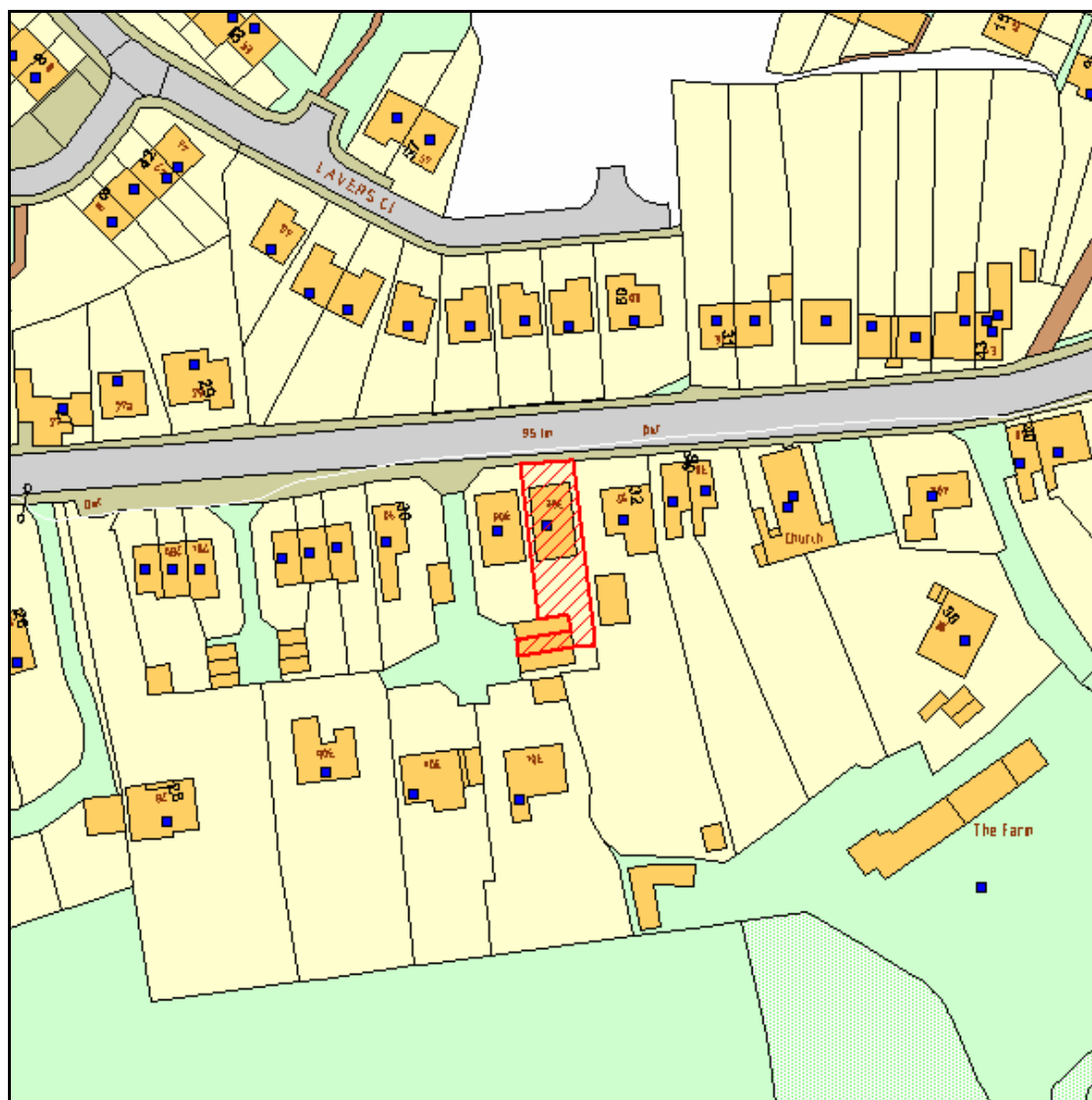
removed without such consent or dying, or becoming damaged or diseased shall be replaced in the next planting season with trees and hedgerows of such size and species as may be specified by the Local Planning Authority.

Reason.

To protect the character, appearance and ecology of the area and to accord with Policies D1 and LC5 of the South Gloucestershire Local Plan (Adopted) January 2006, and Policies 9 and 22 of the South Gloucestershire Minerals and Waste Local Plan.

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PK10/0797/F	Applicant:	Alexander Homes (Bristol) Ltd
Site:	30E Cock Road Kingswood Bristol South Gloucestershire BS15 9SH	Date Reg:	27th April 2010
Proposal:	Change of use from residential (Class C3) to residential care home (Class C2) as defined in the Town and Country Planning (Use Classes) order 1987 (as amended.)	Parish:	Oldland Parish Council
Map Ref:	365572 172765	Ward:	Parkwall
Application Category:	Minor	Target Date:	15th June 2010



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N.T.S.

PK10/0797/F

INTRODUCTION

The application has been forwarded to the Council's Circulated Schedule of applications for Member consideration as representations have been received which raise views that are contrary to the Officer recommendation.

1. THE PROPOSAL

- 1.1 The application site is situated on the south side of Cock Road within a predominately residential suburb of Kingswood. The application site (30E) forms one of two large identical three storey detached dwellings which were constructed in 2002/3. A row of three garages are situated at the rear of the site providing three off street parking spaces to each of 30D and 30E.

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

30D was converted to a residential care home in 2008.

- 1.2 The application proposes change of use from residential (Class C3) to residential care home (Class C2).

The applicants, Alexandra Homes, provide specialist residential care for adults ranging fro 18-65 years with Asperger Syndrome and Autistic Spectrum disorders. The purpose of the care facility is to provide care and support for residents with the aim of assisting them towards eventual integration into the community.

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
H2 Residential Institutions
T7 Cycle parking
T8 Car parking
T12 Transportation

South Gloucestershire Core Strategy Pre Submission Publication Draft – March 2010

CS20 Extra Care Housing

from the Church; staff already park over drives and disabled parking spaces; There have been 7 accidents in the proximity of 30E; there was no residents consultation prior to the previous and current applications; on street parking dangers are increased in the area due to the hump in the road and position of bus stops; 8-10 cars park on the highway during meetings;

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy H2 of the adopted Local Plan seeks to control residential development including the provision of residential institutions. The policy can support the provision of residential institutions within the urban area subject to meeting certain relevant criteria. In this respect the development in question should not result in unacceptable environmental or transportation effects, noise disturbance, air pollution, smell, dust or contamination and leisure/community facilities within the vicinity are adequate.

5.2 Transportation and sustainable development

The application site is situated on a main through road from Hanham and parts of Kingswood to the A4174 Ring Road. Bus stops in both directions are situated directly outside the site on Cock Road. The bus services using this route provide access to Bristol centre, Staple Hill, Longwell Green and Cribbs Causeway. The application site is also located within walking distance of local shops, church and leisure park. As such it is clear that the site is situated in a sustainable location.

In terms of off street parking provision, the existing dwelling benefits from a garage at the rear of the site which could accommodate two cars in tandem. A further space is available in front of the garage. The existing care facility at 30D has the same arrangement. When planning permission was given under PK08/0032/F for provision of the care home at no.30D the Highways Officer raised objection to the scheme and their concerns read as follows,

'It is acknowledged that the existing dwelling has three parking spaces but these are in a tandem style arrangement which is acceptable for a single dwelling but for the change of use proposed will result in only one parking space being available, resulting in additional on-street parking. I would accept this proposed change of use if one additional space was provided within the site boundary but in the absence of this the proposal is recommended for refusal for the following reason:-

The development proposes inadequate vehicular parking which will result in additional on-street congestion thereby interrupting the safe and free flow of traffic on the public highway, all the detriment of highway safety. This is contrary to Policy T12 of the South Gloucestershire Local Plan.'

The Case Officer determined that although the parking provision proposed would be tandem, as three cars could be provided off street for three staff,

residents would be unlikely to drive and on the basis that the Highways Officer would remove their objection if one additional off street parking space were to be provided, the objection was considered 'marginal'. The application was subsequently approved. This application raises the same issues as considered under PK08/0032/F as the same use is proposed providing the same number of residents. The proposal would result in 3 staff being provided on site which would replicate the provision for the adjacent facility. The close physical relationship between the two car homes would allow one manager to oversee both facilities. The applicant has provided staff rota records to support these staff numbers. Local residents have raised concerns that following provision of the care home at no.30D, on street parking has increased to the detriment of highway safety.

The applicant has agreed to provide two further off street parking spaces within the site adjacent to the existing garages at the rear. This would result in an overall provision of 8 off street parking spaces for the two care homes. On this basis the Highways Officer raises no objection to the scheme subject to a condition requiring parking to be provided prior to occupation in accordance with a layout plan to be first agreed. This is also consistent with the Highways Officer's previous view. In addition to this, due to the highly sustainable location of the site it is reasonable to assume that some staff will travel by bus or walk to the site. As such it is considered that the tandem parking arrangement and the 8 spaces proposed is an acceptable off street parking provision for the proposal and as such the proposal is considered to be acceptable in highway safety terms.

Local residents have raised additional concerns that the site is used for staff meetings and training thus generating further on street parking at certain points in the week. In response the applicant has indicated that the site is not used for these purposes and that training is undertaken at Bristol City Council sites, as it would not be feasible or appropriate for training to take place in a home where residents live. It is not possible to control on site meetings by condition due to questions over enforceability. However, due to the sustainable nature of the location and a good resultant off street parking provision it is considered that the proposal would not result in material harm to highway safety in this respect.

5.3 Residential amenity

The occupiers of no.32 have raised a concern that a condition requiring a fence screen to be erected between no.32 and the new dwellings to the west was never enforced. When planning permission was originally given for residential development comprising the two dwellings 30D and 30E (PK02/2506/F) a condition was attached to the decision which read,

'The screen walls/fences shown on the approved plan shall be erected in the positions indicated before the dwellinghouses to which they relate are occupied.'

A fence measuring 1.8m from ground level was proposed on the east boundary adjacent to no.32. The reason for the condition was to protect the privacy of the neighbouring occupiers. The condition was never complied with and the fence was not erected. On the basis that the proposal is likely to result in

maximum occupation by residents, the applicant has agreed to provide a fence on the east boundary. This will resolve the current privacy issues created by the original construction of no's 30D and 30E under permission PK02/2506/F.

The application proposes no operational development. It is therefore considered that the proposal would create no further issues in relation to residential amenity.

5.4 Other issues

The occupiers of no.32 raised a concern that a condition requiring finish floor levels to be submitted in relation to planning permission PK02/2506/F was never complied with. No post decision records could be found in relation to this decision. As the development has been completed and occupied for more than 4 years, the Council would now be unable to take enforcement action in this respect had the condition not been complied with.

5.5 Design and Access Statement

A Design and Access Statement is not required for this type of application.

5.6 Use of Energy and Sustainability

Due to the reasons as specified above, namely location and proximity to amenities and facilities, the proposal is considered to represent a sustainable form of development.

5.7 Improvements Achieved to the Scheme

Through the application process the applicant has agreed to provide an enclosure screen on the east boundary and two additional off street parking spaces.

5.8 Section 106 Requirements

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

6. CONCLUSION

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

6.2 The 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) The applicant has agreed to provide a fence screen on the east boundary of the site. 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 H2 of the South Gloucestershire Local Plan (Adopted) January 2006.
- b) Subject to condition the proposal would provide 8 off street parking spaces serving the existing and proposed care facilities. The proposal is therefore considered to accord with the Council's adopted maximum parking standard and is considered to be acceptable in relation to highway safety considerations. The development therefore accords to Policies T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

7. RECOMMENDATION

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

Contact Officer: Sean Herbert
Tel. No. 01454 863056

CONDITIONS

1. The 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. Within 3 months of the use hereby permitted commencing a means of enclosure shall be provided on the east boundary of the site edge in red on the approved plan to a minimal height of 1.8m from ground level measured from within the site, in accordance with details to be first submitted to and approved in writing with the Local Planning Authority.

Reason

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

3. The use hereby permitted shall not commence until detailed plans showing the provision of (car and cycle parking facilities) in accordance with the standards set out in Policies (T7 and T8) of the South Gloucestershire Local Plan (Adopted) January 2006 have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall proceed in accordance with the agreed scheme, with the parking facilities also provided prior to the use hereby permitted

commencing; and thereafter the parking areas as indicated on the approved plan shall be retained for vehicle parking only and for no other purposes whatsoever.

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 T7, T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

INTRODUCTION

This application has been referred to the Circulated Schedule due to the receipt of an objection letter.

1. THE PROPOSAL

1.1 The applicant submitted a retrospective listed building application for the display of 2 no. externally illuminated pictorial panels, 1 no. externally illuminated amenity board, 1 no. set externally illuminated timber letters and 2 no. non-illuminated signwritten text at Green Dragon, 44 Badminton Road, Downend. The property is a Grade II listed building.

2. POLICY CONTEXT

2.1 National Guidance
PPS5 Planning for the Historic Environment

3. RELEVANT PLANNING HISTORY

The site has been subject to a number of planning history in the past, however the following is the most relevant to the determination of this application.

3.1 PK08/1836/LB Internal and external alterations to facilitate improvements to public house. Approved 15.08.08

4. CONSULTATION RESPONSES

4.1 Downend and Bromley Heath Parish Council
No objection

4.2 Other Consultees

Downend Local History Society

The Society is concerned that the loss of the traditional pub signs and the proposed illuminated signs should be equally in sympathy with the rest of the upgraded building.

Conservation Officer
No objection.

Other Representations

4.3 Local Residents
None received.

5. ANALYSIS OF PROPOSAL

5.1 The principle of the development

PPS 5 states that when considering whether to grant listed building consent for works which affects a listed building or its setting, special regard should be had to the desirability of preserving the building, or its setting, or any features of architectural or historic interest which it possesses.

5.2 Impact upon listed building

This period property is a two storey building with rendered walls and clay pantile roof dating from the 18th Century. The proposal is to update the signage on the building to reflect its new management.

The proposal includes:

- The erection of a 2 side pictorial sign in painted timber on the post to the frontage, which is in keeping with traditional pub signs.
- Timber amenity board information sign to side of door.
- Main Mezze Green Dragon sign comprised of individual letters attached to front of building.
- Traditional sign- written name sign painted directly on face of building.
- Traditional sign- written 'restaurant' sign painted directly on face of building.

Most of the signs are already in place. Officers consider that the proposal would not result in a cluttered appearance to the listed building allowing its pleasant architectural character and form to dominate. It is also considered that the design of proposed signs is acceptable and the proposed signs are an improvement on the signage previously on the building.

5.3 Design and Access Statement

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

5.4 Use of Energy and Sustainability

Given the nature of the development, this does not require above building regulations.

5.5 Improvements Achieved to the Scheme

None necessary.

5.6 Section 106 Requirements

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

6. CONCLUSION

6.1 The recommendation to grant Listed Building Consent has been taken having regard to the section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Government advice contained in PPG 15 (Planning and the Historic Environment).

7. RECOMMENDATION

7.1 Listed building consent is to be GRANTED subject to the following conditions:

Contact Officer: Olivia Tresise
Tel. No. 01454 863761

CONDITIONS

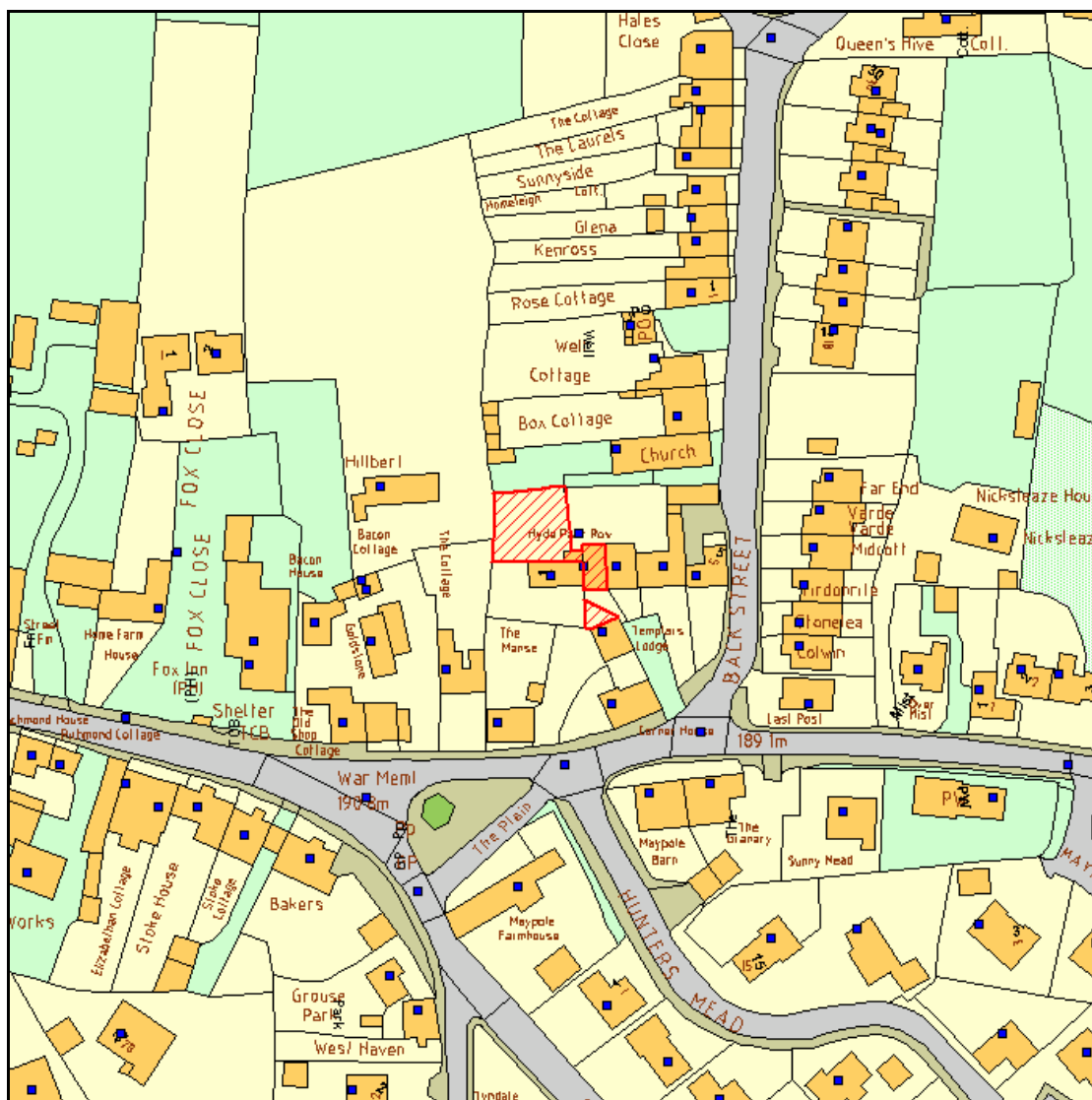
1. The works hereby permitted shall be begun before the expiration of three years from the date of the consent.

Reason

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

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PK10/0853/F	Applicant:	P Cordier
Site:	2 Hyde Park Row Back Street Hawkesbury Upton Badminton South Gloucestershire	Date Reg:	21st April 2010
Proposal:	Erection of single storey rear extension to form additional living accommodation. Replacement of flat roof with pitched roof over existing rear dormer window. (Amendment to previously approved scheme PK09/0057/F).	Parish:	Hawkesbury Parish Council
Map Ref:	378027 186990	Ward:	Cotswold Edge
Application Category:	Householder	Target Date:	11th June 2010



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 100023410, 2008. **N.T.S.** **PK10/0853/F**

INTRODUCTION

This application has been referred to the Circulated Schedule due to the receipt of an objection from the Hawkesbury Parish Council.

1. THE PROPOSAL

1.1 This application concerns a two-storey mid-terraced cottage at No. 2 Hyde Park Row, Back Street, Hawkesbury Upton. The site lies within the settlement boundary and the Conservation Area of Hawkesbury Upton. This applicant seeks full planning permission to amend the previous approved scheme (PK09/0057/F) to replace with a single storey rear extension. The proposal also includes the replacement of flat roof with a pitched roof over the existing rear dormer window.

2. POLICY CONTEXT

2.1 National Guidance

PPS1	Delivering Sustainable Development
PPS5	Planning for the Historic Environment

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1	Design
H4	Development within Existing Residential Curtilages including Extensions
L12	Conservation Areas

Supplementary Planning Guidance

Hawkesbury Upton Conservation Area SPG

3. RELEVANT PLANNING HISTORY

3.1 P95/1487 Erection of garden shelter / fuel store
Approved 06.06.95

3.2 P95/1488/C Demolition of existing garden shed / fuel store.
Approved 06.06.95

3.3 P95/2064/C Demolition of existing front porch.
Approved 23.08.95

3.4 PK03/3065/F Erection of single storey rear extension and first floor extension to form additional living accommodation.
Approved 09.12.03

3.5 PK08/1019/F Erection of two storey rear extension to form additional living accommodation.
Approved 24.07.08

- 3.6 PK09/0057/F Erection of two storey rear extension to provide additional living accommodation. Construction of chimney stack. (Amendment to previously approved scheme PK08/1019/F)
Approved 02.03.09

4. **CONSULTATION RESPONSES**

- 4.1 Hawkesbury Parish Council
The Parish Council objects the proposal as the size and scale of the proposal would have an impact onto neighbouring properties. In addition to take into account the concerns raised by the neighbours.

Other Representations

- 4.2 Local Residents
No comments received.

5. **ANALYSIS OF PROPOSAL**

- 5.1 Principle of Development
Policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006 allows for extensions to existing dwellings subject to criteria relating to scale and design, highways, and impact upon visual and residential amenity.

An additional consideration is the affect of the proposed scheme upon the character and appearance of the Hawkesbury Upton Conservation Area.

- 5.2 Conservation Issues / Visual Amenity
This proposal involves amendments to a previously approved application PK09/0057/f. The proposed amendments include the erection of a single storey rear extension with pitched roof, alterations to the rear roof slope and a pitched roof over the flat roof dormer.

The property forms part of a group of traditional cottages within the historic core of the village. A number of amendments are now sought to the previously approved scheme. The amendments are fairly minor in scope in relation to the approved scheme and are also located to the rear of the property and would not be visible in public views. The proposal would therefore have minimal impact on the character and appearance of the conservation area.

- 5.3 Residential Amenity
A planning permission was previously granted a two-storey rear extension, and the applicant proposes to erect a single storey rear extension instead of two-storey rear extension.

Although the proposed extension would attach to the rear elevation of the neighbouring property, No. 1 (Coldharbour Cottage), no existing window will be blocked by the proposal.

The new windows are proposed in the rear elevation of the extension, and they would look over the applicant's garden. A small conservation rooflight is proposed above the hallway of the new extension. It is therefore considered that the proposal would not cause significant loss of privacy to the neighbouring properties.

The applicant also proposed to erect a pitched roof above the existing rear dormer and to replace the existing roof tiles with Double Roman clay tiles on the main roof. As there is no new window will be installed and the height of the building remains unchanged, officers therefore consider that the proposal would not cause any adverse impact upon the neighbouring properties.

The Parish Council is concerned that the proposal would have an impact upon the neighbouring properties. Although the proposed further projection of the new extension would be immediately adjacent to the side boundary, the projection would only be adjacent to the applicant's toilet window. It is therefore considered that the proposal would not cause significant adverse impact to warrant a refusal of this application.

5.4 Design and Access Statement

This is a householder application, therefore the Design and Access Statement is not required.

5.5 Use of Energy and Sustainability

Given the nature of the development, this does not require above building regulations.

5.6 Improvements Achieved to the Scheme

None.

5.7 Section 106 Requirements

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

6. CONCLUSION

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

6.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted)

January 2006 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

7.1 That planning permission be granted subject to the following conditions.

Contact Officer: Olivia Tresise

Tel. No. 01454 863761

CONDITIONS

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

Reason

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

2. Prior to the commencement of development a sample panel of new facing roughcast render of at least one square metre shall be constructed on site to illustrate the proposed render finish and colour. The sample panel shall be approved in writing by the local planning authority and thereafter retained on site until the completion of the scheme to provide consistency.

To ensure a satisfactory for of development which serves to preserve the character and appearance of the conservation area, in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, national guidance set out at PPS5 and policy L12 of the Adopted South Gloucestershire Local Plan. These are important details which need to be constructed in the traditional local manner to ensure that the development is compatible with its surroundings.

3. Notwithstanding previously submitted details, prior to the commencement of development a representative sample of clay roofing tile shall be submitted and approved in writing by the local planning authority. The development shall be carried out strictly in accordance with the approved sample. The replacement roofing tiles for the roof of the existing building shall be re-clad using reclaimed clay tiles to match the adjacent roof slopes.

To ensure a satisfactory for of development which serves to preserve the character and appearance of the conservation area, in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, national guidance set out at PPS5 and policy L12 of the Adopted South Gloucestershire Local Plan. These are important details which need to be constructed in the traditional local manner to ensure that the development is compatible with its surroundings.

4. Notwithstanding the submitted details, all woodwork shall be of paint finished.

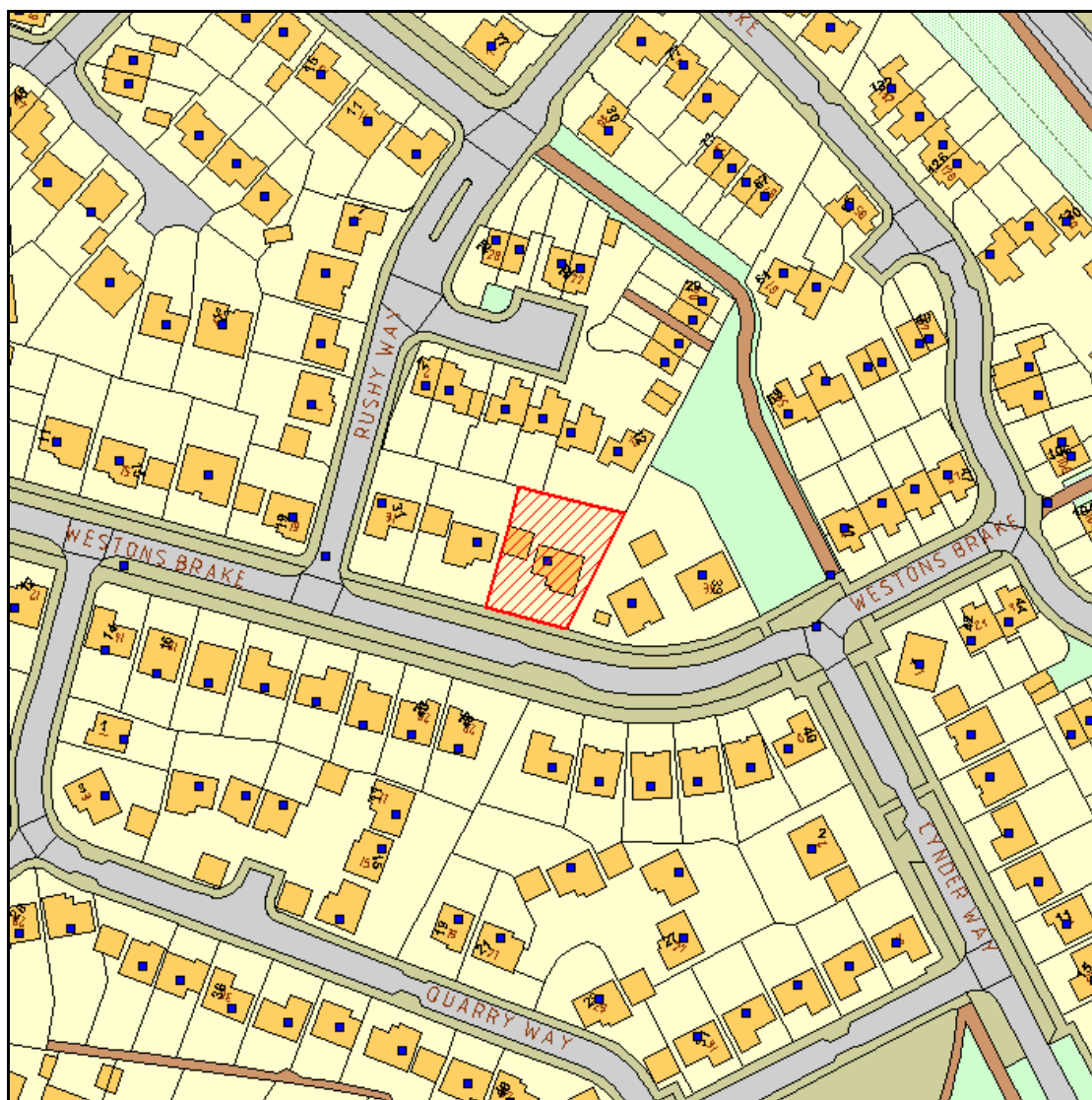
To ensure a satisfactory for of development which serves to preserve the character and appearance of the conservation area, in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, national guidance set out at PPS5 and policy L12 of the Adopted South Gloucestershire Local Plan. These are important details which need to be constructed in the traditional local manner to ensure that the development is compatible with its surroundings.

5. Prior to the commencement of development a sample panel of new stonework of at least one square metre shall be constructed on site to illustrate the proposed finish and colour. The sample panel shall be approved in writing by the local planning authority and thereafter retained on site until the completion of the scheme to provide consistency.

To ensure a satisfactory for of development which serves to preserve the character and appearance of the conservation area, in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, national guidance set out at PPS5 and policy L12 of the Adopted South Gloucestershire Local Plan. These are important details which need to be constructed in the traditional local manner to ensure that the development is compatible with its surroundings.

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PK10/0869/F	Applicant:	Mr And Mrs Arshad
Site:	35 Westons Brake Emersons Green Bristol South Gloucestershire BS16 7BQ	Date Reg:	19th April 2010
Proposal:	Erection of single storey side extension to provide additional living accommodation. (Resubmission of PK10/0255/F).	Parish:	Mangotsfield Rural Parish Council
Map Ref:	366250 178291	Ward:	Emersons Green
Application Category:	Householder	Target Date:	4th June 2010



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N.T.S.

PK10/0869/F

INTRODUCTION

This application has been referred to the Circulated Schedule due to the receipt of objections from local residents.

1. THE PROPOSAL

- 1.1 This is a re-submitted application seeking planning permission for the erection of a single storey extension to the side of No. 35 Westons Brake, Emersons Green. The applicant does not propose to erect a two-storey extension with this application. The proposed single storey extension would measure 2.8 metres wide (maximum) by 8.3 metres deep and 3.8 metres high to its ridge. During the course of the application, a revised drawing is submitted to omit the fascia board from the western elevation.
- 1.2 The property is a two-storey detached dwelling and is located within a residential area of Emersons Green.

2. POLICY CONTEXT

- 2.1 National Guidance
PPS1 Delivering Sustainable Development
- 2.2 Development Plans

South Gloucestershire Core Strategy Pre-Submission Draft (March 2010)
CS1 High Quality Design

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
- 2.3 Supplementary Planning Guidance
Design Checklist
South Gloucestershire Council Advice Note 2 – House Extensions

3. RELEVANT PLANNING HISTORY

- 3.1 PK07/0387/F Erection of rear conservatory. Approved 02/04/07
- 3.2 PK10/0255/F Erection of single and two storey side extension to provide additional living accommodation. Refused 09.03.10

4. CONSULTATION RESPONSES

- 4.1 Mangotsfield Parish Council
No objection.

Other Representations

4.2 Local Residents

One letter of objection has been received and the local residents raised the following concerns:

- From the diagrams shown due to the closeness of the structure to the boundary fence the eaves would encroach upon the boundary.
- In order to construct the extension the boundary fence would need to be demolished/removed and the local resident of No.37 Westons Brake would refuse to give access for the development and erection of scaffolding.
- Local residents of No.37 have not received any notice with regards to a party wall agreement.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006 allows for extensions to existing dwellings subject to there being no adverse impact on the existing visual and residential amenities within the immediate area. Therefore subject to these constraints, the proposal is considered acceptable in principle.

5.2 Design and Visual Amenity

The proposal is to erect a single storey at the side of the property. The proposed extension would be approximately 150 mm away from the side boundary. The proposed single storey extension would be slightly set back from the front elevation of the host dwelling. Officers therefore consider that the proposed extensions are subservient to the host dwelling.

Local residents raised concerns with regard to the encroachment of boundary, the removal of the existing boundary fence, and the party wall agreement. These would be the applicant's responsibility to ensure that the development would be within the applicant's ownership. The dispute of the ownership would be a private civil matter between the applicant and the adjoining owners. In addition, if the applicant needs to gain access from the adjoining owners to carry out the construction works, the applicant will need to obtain prior approval from the adjoining owners under the Party Wall Act.

5.3 Residential Amenity

Two windows are proposed on the ground floor of the side elevation of the proposed extension. As there is an existing boundary fence along the side boundary, it is therefore considered that the proposal would not cause significant loss of privacy upon the neighbouring properties. In addition, the proposal is only single storey extension with a hipped roof, it is considered that the proposal would not cause significant overbearing impact upon the neighbouring properties.

5.4 Highway Issues

There are off-street parking facilities to the side of the property. The proposal would not change the existing parking arrangement, and therefore there is no highway objection.

5.5 Design and Access Statement

This is a householder planning application, therefore the Design and Access Statement is not required.

5.6 Use of Energy and Sustainability

Given the nature of the development, this is not required above the building regulations.

5.7 Improvements Achieved to the Scheme

None.

5.8 Section 106 Requirements

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

6. CONCLUSION

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

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

7. RECOMMENDATION

7.1 That planning permission be granted subject to the following conditions.

Contact Officer: Olivia Tresise

Tel. No. 01454 863761

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).

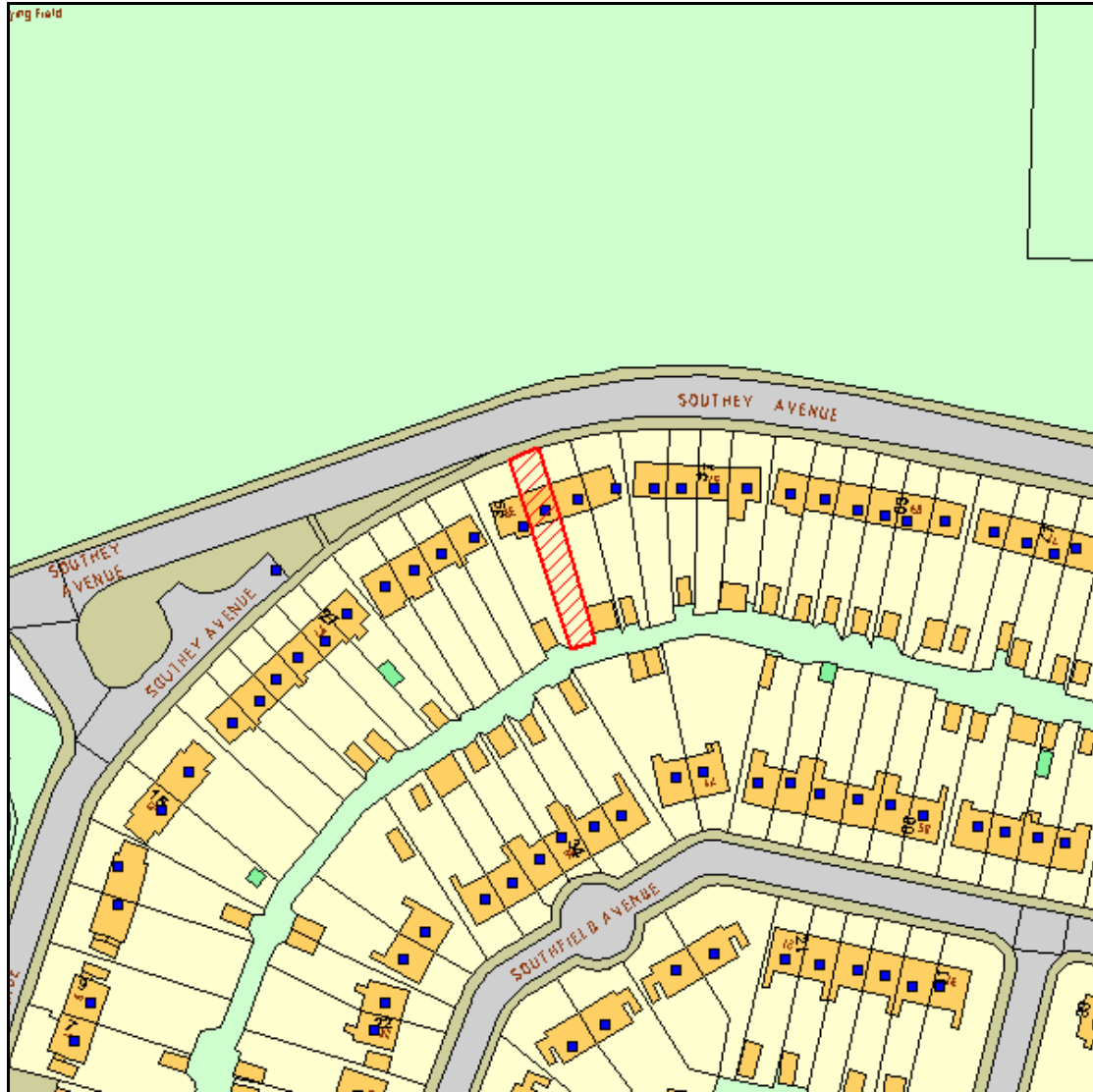
2. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Reason

To ensure a satisfactory standard of external appearance and to accord with Policy D1 of the South Gloucestershire Local Plan (Adopted) January 2006 and Policy CS1 of the South Gloucestershire Core Strategy Pre-Submission Draft March 2010.

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PK10/0882/F	Applicant:	Mr M Darby
Site:	41 Southey Avenue Kingswood Bristol South Gloucestershire BS15 1QT	Date Reg:	4th May 2010
Proposal:	Erection of two storey rear extension to provide additional living accommodation	Parish:	
Map Ref:	365077 174175	Ward:	Kings Chase
Application Category:	Householder	Target Date:	22nd June 2010



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 100023410, 2008. **N.T.S.** **PK10/0882/F**

1. THE PROPOSAL

- 1.1 This planning application seeks planning for the erection of a two storey rear extension.
- 1.2 The application site relates to a two storey terraced dwelling within the residential area of Kingswood.

2. POLICY CONTEXT

- 2.1 National Guidance
PPS1 Delivering Sustainable Development

- 2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1 Design
H4 Extensions

South Gloucestershire Core Strategy Pre-submission Draft March 2010
SC1 High Quality Design

- 2.3 Supplementary Planning Guidance
SPD Design

3. RELEVANT PLANNING HISTORY

- 3.1 None

4. CONSULTATION RESPONSES

- 4.1 Parish/Town Council
Not covered

Other Representations

- 4.2 Local Residents
Two letters have been received from local residents raising concerns and objections regarding the proposed development, which have been summarised by the Planning Officer as follows:
- Proposed extension will come onto my boundary
 - Permission will have to be given to allow proposed extension to be built on my extension
 - Impact on conservatory by reason of loss of light
 - Extension not in keeping
 - Impact on outlook
 - Will not grant permission to erect scaffolding on my property

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy H4 of the South Gloucestershire Plan allows for extensions to existing dwellings, subject there being no adverse impact on existing visual and residential amenities. Policy CS1 of the Core Strategy seeks to achieve high quality design.

5.2 Visual Amenity

The application site relates to a two storey terraced dwelling with cream painted render finish within the established residential area of Kingswood. The terrace is staggered in terms of height. This planning application seeks planning permission for the erection of a 2.80m deep two storey rear extension with gable frontage roof.

5.3 An objection has been raised on the grounds that the proposed two storey extension will be out of keeping with other properties. Whilst the Officer accepts the proposed two storey rear extension will alter the appearance of the dwelling, due the introduction of a gable roof and different size windowing openings, regard must be had for the fact the extension is on the rear but is of a scale considered in keeping with the existing dwelling. Three adjoining properties further along the terrace i.e. no.77, 79 and 8 1 have carried out similar extensions, although they have hipped frontage roofs. No. 29, five doors along has carried out a two storey rear gable extension. It is considered that the proposed extension by reason of its scale, design and sitting would not have an adverse impact on the character of the existing dwelling and visual amenities of the immediate surrounding area.

5.4 Residential Amenity

This application proposes a two-storey rear extension measuring 2.80m in length, sited adjacent the adjoining boundaries of no.39 & 43. No.39 has a single storey rear extension, with no windows on the side elevation. The proposed extension will fall in line with the adjacent single storey rear extension. It is considered that an extension of this scale in this location would not have an adverse impact on the existing amenities of no.39 in terms of loss of privacy or overbearing impact.

5.5 Objections have been raised by the occupiers of no.43 on the other side of the application site property, on the grounds of loss of light to conservatory and outlook. No. 43 has a rear conservatory and single storey rear extension. The ground floor window next to the adjoining boundary is that of a ground floor bathroom window. The proposed extension will measure 2.80m in length. Whilst it is accepted the proposed extension will result in the loss of some light after midday given the proposed extension is south facing, it is considered however that an extension of this scale and in this location would not have a detrimental impact on the existing living conditions of no.43 in terms of overbearing impact and loss of day light. Members are advised to consider that generally it is Council practice to permit extensions up to 3.0m in length where they adjoin a neighbouring property

5.6 Other Issues

Concern has been raised by the neighbour regarding the proximity of the proposed extension on the neighbours land and adjacent extension. The agent has confirmed that the proposed extension will not encroach on either property. A revised plan has been submitted showing the proposed extension set of the adjoining boundaries. Issues of encroachment and permission to erect scaffolding on neighbouring land are civil matters.

5.7 Design and Access Statement

Not required with this particular type of householder planning application.

5.8 Use of Energy and Sustainability

No specific measures proposed above current Building Regulations.

5.9 Improvements achieved to the scheme

None required.

5.10 Section 106 Requirements

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

6. CONCLUSION

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.

The decision 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) The proposed extension has been designed to have regard for the character and appearance of the dwelling and area taking account of materials, height and scale of the development-Policies D1 and H4.
- b) The proposed extension has taken account of neighbouring residential amenities and through careful design, the proposal will not materially harm the amenities of neighbouring properties by reason of loss of privacy or overbearing impact-Policy H4

7. RECOMMENDATION

7.1 Planning permission be granted subject to the following planning conditions.

Contact Officer: Tracey Price
Tel. No. 01454 863424

CONDITIONS

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

Reason

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

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

Reason

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

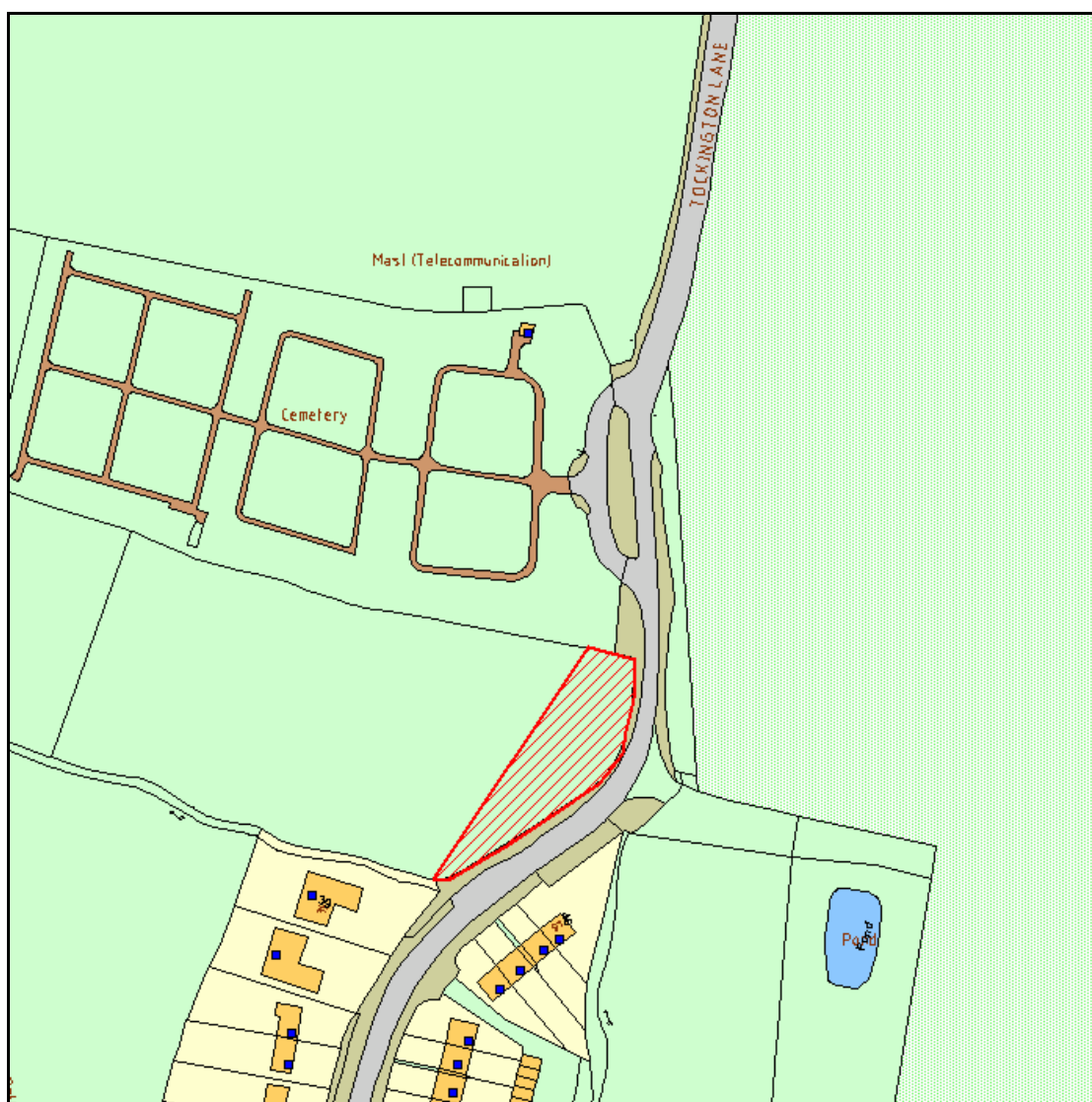
3. No windows other than those shown on the plans hereby approved shall be inserted at any time in the side elevations of the two storey rear extension hereby approved.

Reason

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

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PT10/0889/F	Applicant:	Almondsbury Joint Burial Committee
Site:	Almondsbury Cemetery Tockington Lane Almondsbury Bristol South Gloucestershire	Date Reg:	4th May 2010
Proposal:	Change of use of agricultural land to land for use as a car park in connection with Almondsbury Cemetery. Creation of new vehicular and pedestrian access.	Parish:	Almondsbury Parish Council
Map Ref:	360156 184628	Ward:	Almondsbury
Application Category:	Minor	Target Date:	22nd June 2010



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100023410, 2008.

N.T.S.

PT10/0889/F

INTRODUCTION

This application appears on the Circulated Schedule as support has been received for the application, contrary to the Officer's recommendation.

1. THE PROPOSAL

- 1.1 The applicant seeks full planning permission for the change of use of agricultural land to land for use as a car park in connection with Almondsbury Cemetery. The proposal also consists of the creation of new vehicular and pedestrian access.
- 1.2 The application site relates to a strip of land located to the south of the existing cemetery. The land lies outside of the defined settlement boundary of Almondsbury in open countryside within the Bristol/Bath Green Belt.
- 1.3 The application relates to an area of approximately 560 square metres. The proposal consists of provision for 12 car parking spaces including 2 disabled spaces. A new access would also be constructed at the south of the site, leading onto Tockington Lane. The existing field gate is to be stopped up with a wall. A pedestrian footpath provides access through the site into the lay by to the front of the existing cemetery.

2. POLICY CONTEXT

2.1 National Guidance

PPS1	Delivering Sustainable Development
PPG2	Green Belts
PPG13	Transport

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1	Achieving Good Quality Design
EP1	Environmental Pollution
GB1	Development in the Green Belt
H4	Development within Existing Residential Curtilage
L1	Landscape Protection and Enhancement
L9	Species Protection
T12	Transportation Development Control Policy for New Development

Emerging Development Plan

Core Strategy Pre-Submission Publication Draft (March 2010)

2.3 Supplementary Planning Guidance

Development in the Green Belt (June 2007)
South Gloucestershire Design Checklist (Adopted) 2007

3. **RELEVANT PLANNING HISTORY**

3.1 No relevant history.

4. **CONSULTATION RESPONSES**

4.1 Almondsbury Parish Council

Object on the following grounds:

- Location of site is incorrect, road is prone to flooding
- The road is dangerous due to speeding motorists
- Residents use the lay-by to park in as the infilling of land with dwellings in the road has caused increased parking on the road, they would have this facility removed causing more problems in Tockington Lane.

4.2 Other Consultees

Highways

No objection.

Other Representations

4.3 Local Residents

One letter was received raising support for the principle of providing a car park for the cemetery but objecting to this specific scheme. Two further letters of objection were received. The following concerns were raised by local residents:

- Visibility from proposed entrance is severely limited
- Cars break speed limit on Tockington Lane
- The road and site flood
- Car park should be sited opposite cemetery as it is a more suitable site
- Proposal would not solve parking problems for very large funerals
- Location of entrance would cause safety hazard for people leaving and entering the site due to cars parked on opposite side of road
- Siting of entrance would lead to loss of existing off street parking

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy GB1 of the Local Plan allows for the change of use of land that lies within the Green Belt where it would not have a materially greater impact than the present authorised use on the openness of the Green Belt and would not conflict with the purpose of including land in it. It is also stated that any proposals for development within the Green Belt which would have an adverse impact on the visual amenity of the Green Belt will not be permitted.

It is noted that in principle the construction of new buildings for cemeteries is acceptable under Policy GB1, however this application seeks permission for a car park which although its use would be ancillary to the cemetery it cannot be considered as a 'new building'. This proposal has therefore been assessed under part B, criterion 1 of Policy GB1 in relation to a change of use of land.

5.2 Impact of Proposal on Green Belt

The current use of the site is agricultural although on visiting the site there seemed to be no active farming taking place. The field is grassed over with a hedgerow to the frontage on Tockington Lane. It is proposed that the area of land will be used as a car park for up to 12 vehicles for mourners attending Almondsbury cemetery. The 'openness' of the Green Belt is its most important attribute. Every application for development in the Green Belt is assessed against a number of criteria, with the most important test being the harm the development would have on openness. The Council's Development in the Green Belt - Supplementary Planning Document states that 'openness can be harmed by...car parking'. The car park will compromise a 'grass tarmac' surface although it is unclear exactly what this would entail. The construction notes on drawing 5440/1 states a geotextile membrane will be used beneath this with Type 1 aggregate. Planting is proposed to the west of the parking spaces in a bid to soften the impact of the development on the landscape. Specific details are not provided however a condition could be added requiring a landscape scheme to be submitted.

Despite the partial mitigation of the impact of the proposed scheme on the openness of the Green Belt it is considered that there is a fundamental objection to the use of the land as a car park. The current use of the field for agricultural purposes is appropriate in Green Belt terms however the use of land for car parking would have a materially greater impact than this use and harm the openness of the Green Belt.

Some limited special circumstances have been put forward in the Design & Access statement which centre around highway safety issues. It is argued that extra parking is required for the larger funerals that take place at the adjacent cemetery, as parking within Almondsbury village is limited. In turn, it is suggested that this will reduce the need for people to walk along an unsafe, narrow lane to get to the cemetery because a footpath will also be provided from the car park to the cemetery. It is acknowledged that the current situation is not ideal, particularly having pedestrians walking along Tockington Lane from

the village to the cemetery along a narrow (all be it two lanes) road, with a relatively sharp, unsighted bend. However, on visiting the site it was apparent that within the settlement boundary (to the south of the application site) Tockington Lane is a wide road with on street parking available on both sides. It is therefore not considered that the provision of extra parking for the cemetery would outweigh the principle harm to the openness of the Green Belt.

It is also considered that the proposal would not fulfil any of the objectives for the use of land in the Green Belts, as set out in PPG2, paragraph 1.6, that are reflected in Policy GB1 of the Local Plan. The proposal is therefore unacceptable and should be refused accordingly.

5.3 Transportation

The Council's Highways Officer was consulted as a part of this application. At times existing parking facilities have insufficient capacity and so this additional parking area will reduce the level of on-street parking in the vicinity. There is no objection to the formation of the access itself as this could be formed without the need for planning permission given that Tockington Lane is unclassified. However, it is noted that the visibility splays meet minimum guidelines.

5.4 Landscape / Ecology

The Council's Ecology Officer raises no objection to the scheme subject to conditions requiring that a landscape management plan be drawn up and that the existing access way be planted up with a mixture of native shrub species and agreed with the Council. In terms of the proposals impact on the landscape, the site is not in a specific protected area and it is considered that the visual impact could be mitigated to an acceptable level by way of planning conditions.

5.5 Drainage

The Council's Drainage Engineer raises no objection subject to a condition requiring surface water drainage details including SUDS (Sustainable Drainage Systems) be attached to any consent.

5.6 Other Matters

A resident suggested another site that they felt was more suitable for the car park. In this instance this cannot be considered a material consideration and the Local Planning Authority has to determine this application on its own individual merits.

5.7 Design and Access Statement

The Design and Access Statement submitted with the application is not considered to demonstrate that the applicant has adopted a design approach consistent with the Council's Design Checklist Supplementary Planning Document.

6. **CONCLUSION**

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

7. **RECOMMENDATION**

- 7.1 That planning permission is **REFUSED** for the following reason.

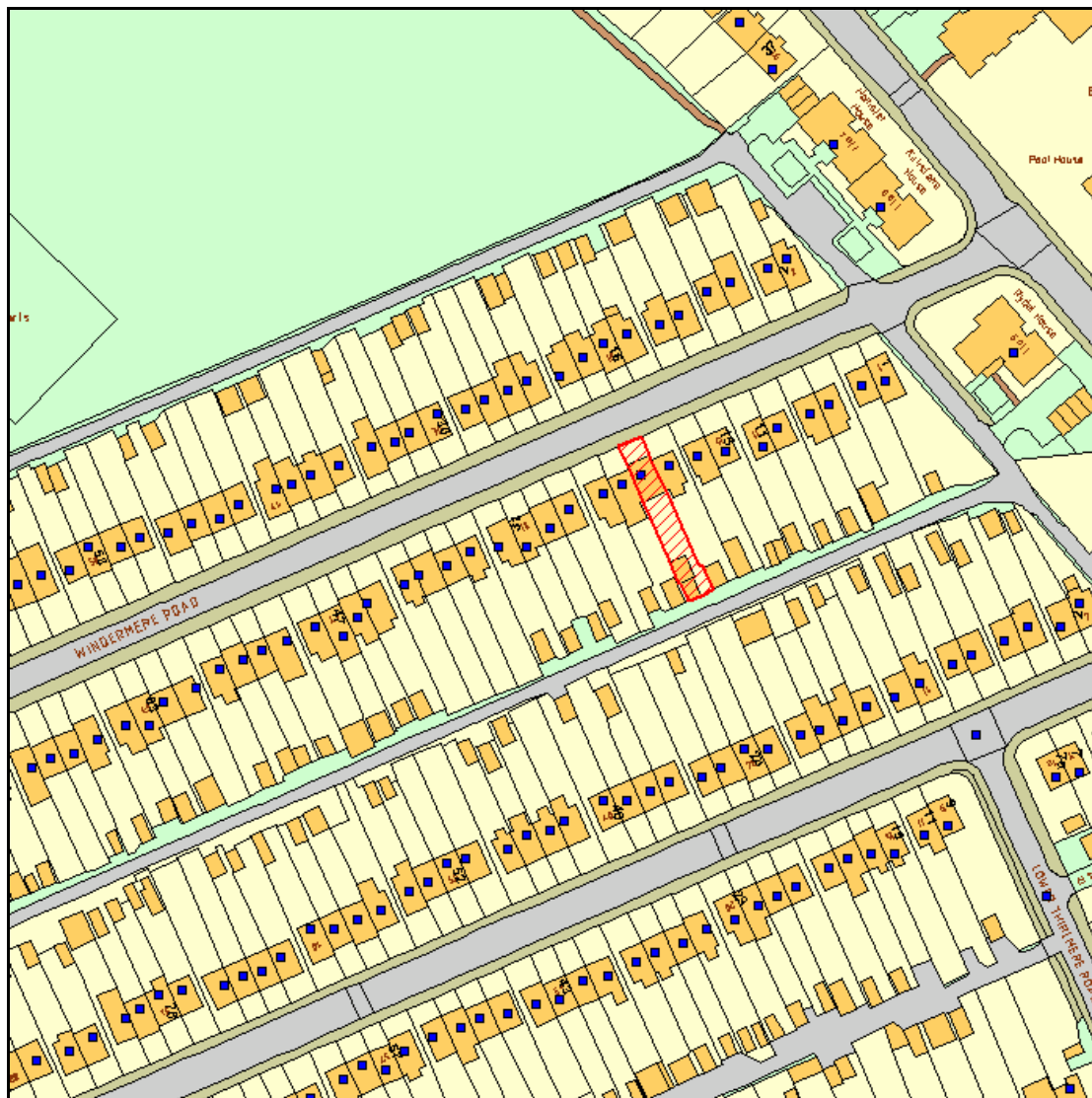
Contact Officer: William Collins
Tel. No. 01454 863819

REASONS FOR REFUSAL

1. The site is located within the Bristol/Bath Green Belt beyond the limits for development of the settlement. The proposal would have a materially greater impact than the present authorised use on the openness of the Green Belt and it is considered that the limited circumstances advanced in support of the application do not justify the granting of planning permission. The proposal is therefore contrary to the provisions of PPG2, Policy GB1 of the South Gloucestershire Local Plan (Adopted) 2006 and Supplementary Planning Document 'Development in the Green Belt (June 2007)'.

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PT10/1085/F	Applicant:	Mrs Susan Moon
Site:	21 Windermere Road Patchway Bristol South Gloucestershire BS34 5PN	Date Reg:	17th May 2010
Proposal:	Erection of single storey rear extension to form additional living accommodation.	Parish:	Patchway Town Council
Map Ref:	360345 181763	Ward:	Patchway
Application Category:	Householder	Target Date:	30th June 2010



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1. **INTRODUCTION**

- 1.1 This application has been referred to the Circulated Schedule due to a letter of objection received from a local resident.

2. **THE PROPOSAL**

- 2.1 This full application relates to the erection of a single storey rear extension at 21 Windermere Road, Patchway. The proposal has a depth of 3.8m, extends the width of the house and has a pitched roof with maximum height of 3.6m, falling to 2.3m at eaves level.
- 2.2 The application site is a mid-terraced property located within the urban area of Patchway. Vehicular access and parking is located to the rear and front of the property. The adjoining dwelling of 23 Windermere Road has a similar sized single storey rear extension and many other rear extensions are evident along Windermere Road.

3. **POLICY CONTEXT**

- 3.1 National Guidance
PPS1 Delivering Sustainable Development
- 3.2 Development Plans
South Gloucestershire Local Plan (Adopted) January 2006
D1 Design
H4 Development within Existing Residential Curtilages, Including Extensions and New Dwellings
T12 Transportation Development Control Policy for New Development
- 3.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist (Adopted)
- 3.4 Emerging Policy
South Gloucestershire Core Strategy Pre-Submission Publication Draft March 2010
CS1 High Quality Design

4. **RELEVANT PLANNING HISTORY**

- 4.1 None.

5. **CONSULTATION RESPONSES**

- 5.1 Patchway Town Council
No response received.

- 5.2 Other Consultees
Sustainable Transport
No objection.

Other Representations

- 5.3 Local Residents
1 letter has been received objecting to the proposal on the following grounds:-
- a) depth exceeds maximum depth of 3m for an attached house as detailed on Government Planning portal;
 - b) loss of light/sun;
 - c) kitchen window is only 1m from boundary line and proposal will be extremely overbearing.

6. ANALYSIS OF PROPOSAL

- 6.1 Principle of Development
In assessing applications for residential extensions, policies D1 and H4 of the adopted local plan are particularly relevant. Policy D1 solely relates to design considerations whereas policy H4 sets out the relevant policy criteria for assessing new residential development, including extensions. Such development is normally permitted provided the design, scale and massing is in keeping with the existing property and area as a whole; would not prejudice the residential amenity of neighbouring occupiers; allows for the retention of private amenity space and is acceptable in terms of highway safety.
- 6.2 It is considered that the application, on balance, accords with the above policy criteria. The design of the extension is in keeping with the existing property. Although the depth of the extension measures some 3.8m, it is single storey in height and the same depth as the extension of the adjoining property of 23 Windermere Road. It is considered that loss of light or any overbearing impact to 19 Windermere Road will not be so significant as to warrant a refusal. To ensure that no loss of privacy will occur, a condition will be imposed requiring that no windows be inserted in the side elevation. Adequate garden area will remain and access/parking arrangements are unaffected by the proposal.
- 6.3 Section 106 Requirements
In relation to the issues raised by this planning application, consideration has been given to the need for a Section 106 Agreement. Circulars 11/95 and 05/2005 relate to the use of planning conditions and planning obligations under Section 106 of the Town and Country Planning Act (as amended). Circular 05/2005 particularly advises that if there is a choice between imposing a condition and entering into a planning obligation, the imposition of a condition is preferable. In this instance, planning conditions are the most appropriate, and a Section 106 Agreement is unnecessary.

7. CONCLUSION

- 7.1 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.
- 7.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report.
- 7.3 The recommendation to grant permission is for the following reasons:-
1. The proposed extension due to its limited size, single storey nature and design is considered to be acceptable in terms of visual and residential amenity. The proposal would therefore accord with Planning Policies D1 (Achieving Good Quality Design in New Development) and H4 (Development within Existing Residential Curtilages, Including Extensions and New Dwellings) of the South Gloucestershire Local Plan (Adopted) January 2006.
 2. The proposal has no impact in highway safety terms. As such the proposal is considered to be compliant with Planning Policy T12 (Transportation Development Control Policy) of the South Gloucestershire Local Plan (Adopted) January 2006.

8. RECOMMENDATION

- 8.1 Planning permission be granted subject to the following conditions:

Contact Officer: Vivian Butt
Tel. No. 01454 863427

CONDITIONS

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

Reason
To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).
2. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Reason
To ensure the satisfactory external appearance of the development in the interests of visual amenity and to accord with Policy D1 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006.

3. No window shall be inserted at any time in the side (east) elevation of the extension hereby permitted.

Reason

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

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PT10/1090/F	Applicant:	Mr & Mrs T Butcher
Site:	Jasmine House Old Gloucester Road Thornbury Bristol South Gloucestershire	Date Reg:	17th May 2010
Proposal:	Erection of two storey and single storey rear extensions to form annexe ancillary to main dwelling with porch. Creation of new vehicular access.	Parish:	Thornbury Town Council
Map Ref:	365316 191350	Ward:	Thornbury North
Application Category:	Householder	Target Date:	30th June 2010



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100023410, 2008.

N.T.S.

PT10/1090/F

INTRODUCTION

This application is being circulated to Members because the officer's recommendation is contrary to a written representation received from a local neighbour. The formal consultation period has not yet finished and therefore this recommendation of approval is subject to final drainage comments and any further consultation replies from local residents. Should any be received that materially affect the recommendation, the application will be returned to a later Circulated Schedule.

1. THE PROPOSAL

- 1.1 This application seeks planning permission for a two-storey rear extension to form an annexe to the main house for ancillary residential use and single storey rear extension to form a rear porch.
The application also seeks planning permission for the creation of a vehicular access.
- 1.2 The proposed rear porch would measure approximately 1.3 metres in depth and 3 metres in width with a ridge height of approximately 3.5 metres falling to circa 2 metres at the eaves. This would infill a recess created by an existing single storey extension with matching ridge and eaves height. The proposed annexe would measure approximately 5.3 metres in depth from the rear of the host dwelling and 5 metres in width with a ridge height of approximately 6 metres falling to circa 5 metres at eaves height to be in line with the existing eaves height of the main property.
- 1.3 The proposed access would be relocated approximately 3.8 metres to the east from its current position closely adjacent to the main property, to the far side of the existing residential curtilage with the old access being stopped up in materials to match the existing.
- 1.4 The application site comprises a modest detached two storey rendered dwelling house situated in a rural residential area in Thornbury. It is located off the Old Gloucester Road in the open countryside outside of the defined Thornbury Settlement Boundary but not in the Green Belt as defined on the Local Plan Proposals Map (adopted) 2006.

2. POLICY CONTEXT

- 2.1 National Guidance
PPS1: Delivering Sustainable Development
PPG13: Transportation
Circular 3/99: Non Mains Drainage
- 2.2 South Gloucestershire Local Plan (Adopted) January 2006
D1: Achieving Good Design
H4: Development within Existing Residential Curtilages
T12: Transportation in New Development

- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist Supplementary Planning Document
2007
- 2.4 Emerging Policy
South Gloucestershire Council Core Strategy Pre-Submission Publication Draft
March 2010:
CS1: High Quality Design

3. RELEVANT PLANNING HISTORY

- 3.1 P85/1145 Erection of single storey rear extension to form kitchen, toilet and rear lobby.
Approved. 20 March 1985.
- 3.2 P85/1138 Erection of detached dwellinghouse; construction of vehicular access; installation of septic tank.
Refused. 24 April 1985.
- 3.3 PT09/5575/F Erection of agricultural building and creation of new vehicular access to serve the existing property and new building.
Refused. 18 December 2009.
- 3.4 PT10/0032/F Creation of vehicular access for existing dwelling.
Withdrawn. 17 March 2010.
- 3.5 PT10/0334/F Erection of detached granny annexe.
Withdrawn. 23 March 2010.

4. CONSULTATION RESPONSES

- 4.1 Thornbury Town Council
No objection
- 4.2 Transportation
No objection in principle provided that proposed access is constructed in consultation with South Gloucestershire Council's Highway Maintenance team and a condition is attached to any recommendation of approval ensuring that upon construction of the new access, the existing access shall be permanently stopped up and abandoned.
- 4.3 StreetCare
No objection in principle provided that the new access is carried out in conformity with South Gloucestershire Council's Highway Maintenance team. It is recommended that a condition requiring satisfactory SUDs and drainage details be submitted for approval prior to development and an informative attached highlighting the required formal consent of the Environment Agency and Council as Land Drainage Body regarding the piping of the ditch.

Other Representations

4.3 Local Residents

1 letter of objection received from a neighbour objecting on the following grounds:

- a) Object to annexe due to smell from cess-tank pipe outlet;
- b) Object to new access as farm now used as builders yard with no change of use application;
- c) If the new access is granted planning permission, they expect their previously refused new access to be approved.

These concerns will be addressed in the relevant sections of the following report. If these fall outside the remit of the section they will be addressed in the 'Other Matters' section to be found towards the end of the report.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The proposed development consists of extensions to a dwelling within an existing residential curtilage. Policy H4 of the Local Plan permits this type of development in principle subject to the following considerations.

5.2 Residential Amenity

The nearest residential properties are located a minimum of approximately 40 metres from the proposed access. The proposed development is therefore considered sufficiently far removed from any neighbouring occupiers so as to maintain the existing residential amenity thereby meeting criteria within Policy H4 of the South Gloucestershire Local Plan (adopted) 2006.

5.3 Design/Visual Amenity

The existing dwelling is constructed of brick and finished with cream render. It has brown double roman roof tiles and a mixture of dark wood timber and white uPVC windows and doors. Materials used in the proposed rear porch and annexe would match the existing. The eaves height of both the annexe and porch would match the existing with the ridge height of the proposed two-storey rear annexe approximately 0.5 metres lower in height than that existing making the extension appear subservient. Given the location of the proposed annexe, the matching eaves height, roof pitches and materials it is considered that the proposed annexe and porch would respect the character of the existing property and maintain the character and appearance of the street scene.

The existing access is straight and narrow flanked by front boundary treatments of a low stonewall and mature shrub hedgerow. The proposed access would be constructed from permeable tarmac and flanked by an approximately 1 metre tall fence with the retained hedgerow either side of the fence. The existing access would be stopped up permanently and this stopping up would involve using materials to match the existing boundary treatments fronting the dwelling and would remain in keeping with the character of the locality.

Accordingly it is considered to meet criteria contained in Policy D1 of the South Gloucestershire Local Plan (adopted) 2006 and the South Gloucestershire Design Checklist SPD 2007.

5.4 Transportation

The existing access leads off Old Gloucester Road and is characterised by a tight turning between an existing stonewall and hedgerows, and poor visibility. The proposed new access would be located further along the frontage of the application site. The new access would be splayed on both sides and would aid vehicle entrance and exit on to the road. There is sufficient manoeuvring space on site for vehicles to enter and leave without having to reverse on to the road. A condition to ensure the existing access is stopped up is recommended in the event of any grant of planning permission.

In changing the location of the existing access and splaying the sides, the visibility would be markedly improved and would increase the safety of all road users. The proposed access spans a highway drainage ditch and so it has been advised by the transportation officer that the applicant should liaise with the Council's Highway Maintenance team before proceeding. As such there are no objections in terms of transportation and the proposal meets criteria contained in Policy T12 of the South Gloucestershire Local Plan (adopted) 2006.

5.5 Drainage

There are 2 matters that affect drainage.

Firstly the extension, it is not clear how the built additional form would be drained but it appears the existing scheme has a cesspit. A local neighbour's comment indicates that this has caused problems in terms of odour. Circular 3/99 indicates that cesspits are a last resort. Accordingly it is reasonable to investigate whether a treatment package could be reasonably incorporated in relation to this proposal, and a condition to agree drainage details prior to development is suggested.

The second drainage issue relates to the access, which goes over a ditch. A sustainable drainage scheme is necessary to ensure the surfacing is permeable and to ensure that the run-off is dealt with acceptably.

5.6 Other Matters

A local resident raised an objection to the creation of the new vehicular access on two grounds.

Firstly that this access appeared to be within a farm small holding which is now being used as a builders yard unlawfully. Secondly that if this application is approved, they expect an application for a proposed access submitted by them to be approved also.

With regards the first issue, it is clear from the officer's site visit and submitted site plan (See 'Existing Survey' Drg. No: 0431/1 received 5 May 2010) together with assurance by the applicant that the new access would be located within the existing residential curtilage. This indicates that the new access would be for a residential use not for agricultural use or for use as part of a builders yard business. The LPA must consider the application before it, however the allegation of business use has been referred to the enforcement team for investigation.

With regards the second issue, each application is assessed on a case-by-case basis. As such any future applications for development on different application sites cannot be considered in this report but will be assessed on their own merits at that time.

5.7 Design and Access Statement

No Design and Access Statement was necessary for this application.

5.8 Use of Energy and Sustainability

Will be in accordance with Building Regulation standards

5.9 Improvements Achieved to the Scheme

Rear extension advised instead of a detached building or side extension.

5.10 Section 106 Requirements

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

6. CONCLUSION

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

6.2 The proposed development is therefore considered sufficiently far removed from any neighbouring occupiers so as to maintain the existing residential amenity thereby meeting criteria within Policy H4 of the South Gloucestershire Local Plan (adopted) 2006.

6.3 By virtue of the location, the matching eaves height, roof pitches and materials the proposed annexe and porch would respect the character of the existing property and maintain the character and appearance of the street scene. The existing access would be stopped up permanently and this would involve using materials to match the existing boundary treatments fronting the dwelling. Accordingly it meets criteria contained in Policy D1 of the South Gloucestershire Local Plan (adopted) 2006 and the South Gloucestershire Design Checklist SPD 2007.

6.4 The visibility would be markedly improved and the proposal would increase the safety of all road users. The proposal meets criteria contained in Policy T12 of the South Gloucestershire Local Plan (adopted) 2006.

6.5 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted)

January 2006 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

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

Contact Officer: Genevieve Tuffnell
Tel. No. 01454 863438

CONDITIONS

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

Reason

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

2. The extension hereby permitted shall not be used or occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 'Jasmine House'.

To ensure that the proposed development does not give rise to a self contained residential unit within the countryside, and to accord to Policy H3 of the South Gloucestershire Local Plan (Adopted) January 2006.

3. No development shall commence until drainage detail proposals for the proposed access 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.

4. No development shall commence until drainage detail proposals for the proposed two storey rear extension forming the annexe, incorporating Sustainable Drainage Systems (SUDS) and in accordance with advice in Circular 3/99 within the development has been submitted to and received approval in writing by 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. Prior to the first occupation of the proposed two storey annexe hereby permitted, the existing access on to Old Gloucester Road shall be permanently closed and infilled in accordance with Drg. No. 0431/7 (dated 5th May 2010) and the new access, hereby permitted, constructed. No new access shall be permitted without the express permission in writing from the Local Planning Authority. For the avoidance of doubt the infilling of the existing access will be carried out using stone wall to match the existing stone wall currently abounding the site.

Reason

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

CIRCULATED SCHEDULE NO. 22/10 – 11 JUNE 2010

App No.:	PT10/1135/F	Applicant:	Cavendish DevelopmentsCav endish Developments
Site:	2 Elmdale Crescent Thornbury Bristol South Gloucestershire BS35 2JH	Date Reg:	19th May 2010
Proposal:	Two storey side extension to form additional living accommodation	Parish:	Thornbury Town Council
Map Ref:	364331 190149	Ward:	Thornbury North
Application Category:	Householder	Target Date:	6th July 2010



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 100023410, 2008. **N.T.S.** **PT10/1135/F**

INTRODUCTION

This application appears on the Circulated Schedule following the receipt of representations from local residents that were contrary to the Case Officers recommendation.

1. THE PROPOSAL

- 1.1 The applicant seeks planning permission for the erection of a two storey side extension. This proposal would be situated on the buildings south-east elevation.
- 1.2 The application site relates to a semi-detached dwelling and its associated curtilage. The site is situated on a corner plot between Elmdale Crescent and Oakleaze Road, and is surrounded by residential development. The site lies within the Thornbury settlement boundary.

2. POLICY CONTEXT

- 2.1 National Guidance
PPS1: Delivering Sustainable Development
- 2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006
D1: Achieving Good Quality Design In New Development
H4: Development Within Existing Residential Curtilages
- 2.3 Emerging Development Plans
South Gloucestershire Core Strategy (Pre-Submission Draft) March 2010
- 2.4 Supplementary Planning Guidance
South Gloucestershire Design Checklist SPD (Adopted) 2008

3. RELEVANT PLANNING HISTORY

- 3.1 None.

4. CONSULTATION RESPONSES

- 4.1 Thornbury Town Council
No objection.
- 4.2 Local Residents
Two letters have been received in response to this application. The main objections have been summarised below: -
 - a) The planning application states there are no hedges or trees within falling distance of the proposed extension.
 - b) A tree will be affected by digging the foundations of the extension.
 - c) Loss of privacy.
 - d) Loss of outlook.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006 allows for extension to residential dwellings. This is subject to the proposal:

- respecting the character and appearance of the existing dwelling and the surrounding area;
- not prejudicing the amenities of nearby occupiers,
- maintaining highway safety; and
- providing adequate amenity space.

5.2 Policy D1 of the Local Plan applies to all types of development. It considers general design principles to ensure new development respects, conserves and enhances the character and quality of the surrounding local environment.

5.3 Residential Amenity

The existing dwelling is situated on a corner plot, as such the proposed extension would be detached from any nearby dwelling. Due to this arrangement the proposal would not give rise to an overbearing effect. Moreover the development would not give rise to a material loss of privacy as the proposal would not afford any direct inter-visibility into adjacent properties. It is therefore concluded that the proposed development would not materially prejudice the amenities of nearby occupiers.

5.4 Visual Amenity

The proposed extension would adopt a subservient design approach, whereby the front elevation would be set back, and the ridge height would be set down in relation to the host dwelling. Moreover the proposal would be finished in similar materials to the existing dwelling. It is considered that this approach would ensure that the proposal would respect the form and proportions of the existing dwelling. On this basis, it is concluded that the proposed development would respect the character and appearance of the existing dwelling and the surrounding area.

5.5 It is acknowledged that local residents have raised concern to the potential impact of the proposal on the health of the adjacent hedgerow and trees. These species are not native and would not warrant protection under a Tree Preservation Order, on this basis the applicant could removal the hedgerow and tree without the consent. Nevertheless, given the separation between the trees and the extension, Officers are satisfied that the proposed development would not adversely affect the health of this feature.

5.6 Use of Energy and Sustainability

Built to Building Regulations standards.

5.7 Improvements Achieved to the Scheme

None.

5.8 Section 106 Requirements

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

6. CONCLUSION

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

a) The proposed extension would not give rise to an adverse overbearing effect or a material loss of privacy to nearby occupiers. The development therefore accords to Policy H4 and D1 of the South Gloucestershire Local Plan (Adopted) January 2006.

b) The proposed extension has been designed to respect and maintain the massing scale, proportions, materials and overall design and character of the existing dwelling and the 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.

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

7. RECOMMENDATION

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

Contact Officer: Peter Rowe
Tel. No. 01454 863131

CONDITIONS

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

Reason

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