



**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. 13/11

Date to Members: 01/04/11

Member's Deadline: 07/04/11 (5pm)

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

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

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

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

NOTES FOR COUNCILLORS - FORMAL ARRANGEMENTS

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

To refer an application(s) members are asked to email MemberReferral@southglos.gov.uk 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 your 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 – 1 APRIL 2011

ITEM NO.	APPLICATION NO	RECOMMENDATION	LOCATION	WARD	PARISH
1	PK10/2420/CLE	Split decision See D/N	8 Langley Mow Emersons Green South Gloucestershire BS16 7DS	Emersons	Mangotsfield Rural Parish Council
2	PK11/0426/CLE	Approve with Conditions	6 Downend Road Downend South Gloucestershire	Downend	Downend And Bromley Heath Parish Council
3	PK11/0430/CLE	Refusal	6 Downend Road Downend South Gloucestershire	Downend	Downend And Bromley Heath Parish Council
4	PT11/0175/R3F	Deemed Consent	Charfield Primary School Wotton Road Charfield Wotton Under Edge South Gloucestershire	Charfield	Charfield Parish Council
5	PT11/0246/F	Approve with Conditions	71 Farley Close Little Stoke South Gloucestershire	Stoke Gifford	Stoke Gifford Parish Council
6	PT11/0488/F	Approve with Conditions	16 Westmarsh Lane Oldbury On Severn South Gloucestershire BS35 1QD	Severn	Oldbury-on- Severn Parish Council
7	PT11/0498/CLE	Approve with Conditions	The White House Church Lane Hambrook South Gloucestershire BS16 1SR	Winterbourne	Winterbourne Parish Council
8	PT11/0559/F	Approve with Conditions	Field House 127 Bristol Road Frampton Cotterell South Gloucestershire BS36 2AU	Frampton Cotterell	Frampton Cotterell Parish Council
9	PT11/0614/F	Approve with Conditions	40 Gloucester Road North Filton South Gloucestershire BS7 0SJ	Filton	Filton Town Council

**Dates and Deadlines for Circulated Schedule
Over the Easter and May Bank Holiday Period 2011**

Schedule Number	Date to Members 9am on	Members Deadline 5pm on
15/11	Thurs 14 April 2011	Weds 20 April 2011
16/11	Tue 19 April 2011	Weds 27 April 2011
17/11	Weds 27 April 2011	Thurs 05 May 2011
20/11	Fri 26 May 2011	Thurs 02 June 2011

Above are details of the schedules that will be affected by date changes due to Bank Holidays during April and May.

Please note there will be no Circulated Schedule published on Friday 06 May 2011

All other schedules during this period will be published as normal on Fridays

ITEM 1

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PK10/2420/CLE	Applicant:	Mr Barry Barnes
Site:	8 Langley Mow Emersons Green South Gloucestershire BS16 7DS	Date Reg:	16th September 2010
Proposal:	Application for Certificate of Lawfulness for an existing use of land as residential curtilage. (Re-Submission of PK09/6121/CLE)	Parish:	Mangotsfield Rural Parish Council
Map Ref:	366604 177274	Ward:	Emersons Green
Application Category:	Minor	Target Date:	8th November 2010



© South Gloucestershire Council 2007.all rights reserved.
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the
Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright
and may lead to prosecution or civil proceedings.
100023410, 2008. **N.T.S.** **PK10/2420/CLE**

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is for a Certificate of Lawfulness of Existing Use, and as such, under the current scheme of delegation, is to be determined under the Circulated Schedule procedure. By way of information, Members should be aware, that the test to be applied to this application for a Certificate of Lawful Use, is that the applicant has to prove on the balance of probability that the use of the site as described has occurred for a period of 10 years consecutively, prior to the receipt of the application on the 13th September 2010.

1. THE PROPOSAL

- 1.1 The application has been submitted under Section 191 (1) of the Town and Country Planning Act 1990 for a Certificate of Lawfulness for an existing use of land as residential curtilage. The application therefore seeks to demonstrate that the land has been used for residential purposes associated with 8 Langley Mow, Emersons Green, for a period in excess of ten years.
- 1.2 The site consists of land adjacent the dwelling of 8 Langley Mow, and land directly adjacent the highway of Langley Mow. The applicant refers to the land in two parcels: land edged in blue on the submitted plan and land edged in green. The land edged blue fronts Langley Mow to the south, extending beyond an existing hedgerow in a northerly direction on the east side of the dwelling towards Dibden Lane to the north. The land edged green bounds Dibden Lane to the north then continues in a southerly direction on the west side of the dwelling to the rear of No. 7 Langley Mow. To the west of the land edged in green are a brook and the development of Dibden Court beyond. The applicant claims the application site has been used as a garden for approximately 12 years. The land that forms this application has been owned by the applicant since 2006.
- 1.3 In 1998 the applicant purchased 8 Langley Mow; at this time its garden consisted of land immediately adjacent the dwelling plus a small strip of land adjacent the Public Highway of Langley Mow. This can be seen in the plan marked **Exhibit B** submitted by the applicant.
- 1.4 A site visit carried out on 20 September 2010 showed the land directly adjacent to the dwelling consisted of close cut lawn. The parcel of land to the front, directly adjacent the highway of Langley Mow, was separated by a dense and tall fir tree hedge. This land has been recently planted with small fir trees along the inside line of the wire fence and a bench has been installed in the centre of the land.

2. POLICY CONTEXT

- 2.1 National Guidance
The Town and Country Planning (Development Management Procedure) (England) Order 2010
Circular 10/97 Enforcing Planning Control
Town and Country Planning (Use Classes) Order 1987 (as amended).

3. RELEVANT PLANNING HISTORY

- 3.1 P96/4669 Original Permission for dwellings (Reserved Matters)
Removed property's Permitted Development Rights
Approved March 1997
- 3.2 PK09/6121/CLE Application for a Certificate of Lawfulness of existing use of
land as domestic curtilage
Withdrawn 10 June 2010

4. SUMMARY OF EVIDENCE IN SUPPORT OF APPLICATION

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

A Statutory Declaration (sworn Affidavit) has been submitted, signed by John Anthony Barnes on 9 September 2010. The following is a summary of the evidence provided:

Exhibit A is a Land Registry Plan that has been coloured in by the applicant to show the original domestic curtilage (in red), the application site (edged in black), land denoted Green and Blue, and annotations relating to fence positioning.

Exhibit B is a Land Registry title plan showing the original land purchased edged in red, dated January 1999.

Exhibit C is a poor quality aerial photograph dated 24 July 1999 showing the applicant's caravan on the boundary of the land edged in blue.

Exhibit D is a photograph of the applicant with his caravan, dated approximately 2002.

Exhibit E is a photo taken in 2003 showing the land edged in blue.

Exhibit F photo taken in 2003 showing the land edged in blue.

Exhibit G shows the land that applicant purchased on 18 January 2006 (the application site).

Exhibit H is a photograph of the Blue land taken in 2000.

- The family moved into the property in December 1998.
- The developers erected a six foot high wooden fence and a smaller wire fence around the property's boundary with the land that is the subject of this application.
- The land that is the subject of this application was uneven and covered with brambles and thick undergrowth.

- The applicant's children began to play on the land that is the application site almost immediately after moving in, and would access it by climbing over the wire fence.
- In February 1999 the applicant enclosed the land edged in green and blue with a wire fence, but left the original boundary fence in place
- Prior to Spring 1999, the applicant levelled the Blue land, after which some grass, weeds and brambles began to grow on it. The applicant then maintained it weekly. In spring 1999 the applicant grassed the land edged in blue and started to maintain the Green Land.
- The applicant kept his caravan on the land edged in blue from when he moved in.
- The levelling of the Green Land was completed in May 2003. The majority of the Green land had been grassed by March 2005.
- In 2004 the applicant erected a wooden fence along the east edge of the Blue Land and removed most of the wire fence apart from the section on the land directly adjacent Langley Mow (this was still in situ on the Case Officer's site visit on 20 September 2010)
- In 2004 the applicant erected a wooden fence along the west edge of the Green Land, approximately 1 metre from the edge of the brook. The north of the green land remained enclosed by the stock wire fence the applicant erected in 1999, until it was replaced with concrete posts in autumn 2009.
- The applicant continued to maintain the trees beyond this fence and deposit grass clippings on the north end of the Green Land. His children continued to play on this land.
- In 2003 the Developer of Dibden Court (adjacent development to the west) erected a fence on the green land adjacent Dibden Lane to prevent public access to the brook.
- In 2005 the applicant planted flowers on parts of the perimeter of the application site and placed a bench on the Green Land.
- In 2008 a garden bench was placed on the land edged in blue directly adjacent the Public Highway of Langley Mow.
- In October 2000 the applicant planted Cypress trees in a straight line from west to east as denoted by a line between **D** and **Y** on **Exhibit A**, screening the property from the Highway. At a later stage (no date given) Cypress bushes were planted on the land directly adjacent Langley Mow to the south, alongside the wire fence.
- The applicant states he has always tended the Blue Land as if it were part of his garden

5. **SUMMARY OF CONTRARY EVIDENCE**

- 5.1 Aerial photographs held by the Council dated
- 24 July 1999
 - 7 June 2005
 - 5 June 2006
 - 1 June 2009
- 5.2 The Council's aerial photographs of the site taken on 24 July 1999 shows the original 1.8 metre wooden fence erected by the builders surrounding the

garden at that time, as denoted by the red ownership line on the Land Registry Plan, **Exhibit B**.

- 5.3 The aerial photograph taken on 7 June 2005 shows that the 1.8 metre wooden fence has been removed and the extended garden area adjacent the dwelling having been cleared from undergrowth and kept up. The parcel of land to the south, directly adjacent the highway of Langley Mow can be seen to be mown only on the strip (approximately 1 metre wide) owned by the applicant at this time, as shown on **Exhibit B**. The land still owned by the builder, inside of the wire fence, can clearly be seen to be not mown and the grass is much longer.
- 5.4 The aerial photograph dated 5 June 2006 again shows the extended garden land directly adjacent the dwelling to be mown. However, the parcel of land directly adjacent the highway of Langley Mow to the south again is mown outside the wire fence (i.e. the land within the applicant's ownership). The land within the wire fence is not mown.
- 5.5 The aerial photograph dated 1 June 2009 again shows the land directly adjacent the dwelling to be mown. The parcel of land directly adjacent Langley Mow to the south is now fully mown.

6. CONSULTATION RESPONSES

- 6.1 Mangotsfield Rural Parish Council
Objection on same grounds as previous application (Impinges on land used for drainage purposes). Also, should the applicant wish to apply again, a valid proof of ownership would be required.
- 6.2 Local Residents
Six letters or online comments have been received, raising the following points.
- 6.3 Summary of comments made by Mr Somers of 5 Langley Mow, Emersons Green
- Supports the application
 - Has known the applicant and his family as neighbours since Spring 2001
 - My house overlooks some of the applicant's land
 - Believes Statutory Declaration is an accurate recollection of events
 - I helped Barry move and put up the new boundary fence replacing the stock fencing previously put up by him as per point 11 in his Declaration (which states February 1999), I also helped trim the trees and undergrowth that had started to grow through his stock fencing on land in the blue and green areas that Barry has always used and maintained as his garden.
 - My eldest two children used to play with Barry's children in the areas outlined in both the green and blue areas from the time we moved to Langley Mow and continued to do so until teenage life began.
 - Shortly after I moved into Langley Mow I helped Barry put some more turf down in his garden on the green and blue
 - A caravan was kept on the land identified in blue

- Barry has regularly replaced stock fencing only to have it removed or damaged having been problematic as far as teenagers coming back from the pub and choosing to take a shortcut along the ditch behind our houses.
- A certificate of lawfulness would enable him to deal with this land he owns professionally
- Barry has kept the grass cut both before he purchased the land and has continued to do that to this day.

6.4 Summary of comments made by Cecil Stevens of 1 The Caravans, Dibden Lane

- Has known the applicant as next door neighbour since 1998
- Land previous to being developed was a meadow with a copse and ditch
- For 46 years it was left fallow
- Applicant keeps his property and fences well

6.5 Summary of comments made by Guy Henderson of Jersey, Channel Islands

- I have known the applicant and his wife and children for over 15 years.
- I remember this site and house very well from the time Barry and his family moved in in December 1998
- in the summer of 2000 Barry brought a boat and we would re-position the boat on both the area described in the applicant's declaration as Green Land and also Blue Land to work on the boat
- The grass cuttings don't enter the ditch itself. The applicant owns this land.
- On walking along the line of the ditch, nobody else in any of the other properties adjoining the ditch maintain the bank rising up from the ditch, including parts of the land owned by the council, I believe. This area has always been left in its natural state prior to houses being built at Dibden Court, where the developer uprooted the trees in and around the ditch to give additional garden space to those particular houses.
- The applicant has placed posts/fencing on his land but has not stretched or exceeded the boundary in any shape or form.
- I wish to fully support the application; I have personally witnessed the sequence of events that have happened over the years.

6.6 Summary of comments made by Mr Birch of 2 Dibden Court, Emersons Green

- Objects to the application
- There are a number of irregularities regarding the land referred to as "the northern end of the green land"
- This land has never shown signs of being fenced or occupied until wire fencing placed around four years ago
- Discusses "Adverse Land Possession Laws"
- The erection of fencing and concrete posts would not give notice that land is for applicant's exclusive use
- Some recent works to trim trees has been carried out but does not constitute maintaining the land over the period stated
- The grass clippings deposited over the fence by the applicant fall into the adjacent stream, contrary to Environment Agency Regulations

- The land adjoining Dibden Lane should be refused and the use of the bank should be conditioned if approved.

6.7 Summary of comments made by B. Walters and L. Walters

- We live over-looking the western edge of no 8, Langley Mow, directly at the bank running down to the water-course
- At my request last week Mr Barnes did cut back a willow that was over-hanging my property but that apart there has been no maintenance or improvement to the stream-side of his fence during our 6.5 years of residence. In fact the reverse is true and this strip of land has become a bramble filled jungle, restricting access to the stream, and made worse by his frequent depositing of tree and grass cuttings “over the fence” and onto the bank where it is clearly visible from our house.
- This kind of pollution is contrary to Environment Agency guidelines as it affects the quality of the water down-stream, and increases the flood risk, in this case most likely by blocking the culvert under Dibden Lane.
- Clearly there has been a marked deterioration to the area in question, rather than the improvement suggested in the documentation for this application. The same is true of the northern edge of the site where the land runs down towards Dibden Lane, although here Mr Barnes is clearly anxious to stretch his boundary to get as close as possible to the road, perhaps to facilitate a later application for vehicular access onto the lane?
- If the council is minded to grant a certificate of lawfulness, is it possible to do so with restrictions so that the land said to be required to provide an additional garden area, remains as a garden area and does not simply become another building site?

6.8 Summary of comments made by Mr Oh of 7 Langley Mow

- Requests further details of application. The Case Officer has responded with further information and no further correspondence has been received.

6.9 This application is solely for a Certificate of Lawfulness and is assessed only under the relevant legislation (as under Para. 2.1). Additionally, it does not take into account any possible future uses of the site or any future planning applications.

6.10 This application does not relate to the ownership of the site, only the use of the site.

7. ASSESSMENT

7.1 The application for a Certificate of Lawfulness is not a planning application and is purely an evidential test. The test of evidence to be applied is whether or not the case has been shown on the balance of probability. As such the applicant needs to prove precise and unambiguous evidence.

7.2 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 ten years and whether or not the use is in contravention of any Enforcement Notice which is in force.

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 statutory declaration. 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 In this case, some contradictory evidence has been received, in the form of three letters, which do not equate with the weight of evidence supplied with the application, in accordance with the above hierarchy. The test of the balance of probability will therefore be applied to the evidence and the counterevidence in turn. In the case of both, the relevant tests are that this evidence is clear and precise. In this instance it must be proven that the land identified within the red line has been used as residential curtilage for a period in excess of 10 years prior to the date of this application. No Enforcement Notice is in force on any

- part of the site. The task of this application is to prove that the land was used as domestic curtilage between September 2000 and September 2010, and that this use, if proved, has not been abandoned.
- 7.6 In determining this application, the Council has given weight to the sworn statement in support of the application submitted by the applicant signed before a solicitor, which has been summarised in Paragraph 4 of this report. The applicant has described how in February 1999 he erected a fence around the outer edge of the land immediately surrounding the dwelling (not the parcel of land to the south immediately adjacent the highway of Langley Mow). He goes on to describe how he maintained this land weekly since spring 1999.
- 7.7 Weight is also given to the aerial photographs of the site held by the Council taken at periods over the last twelve years. The photograph taken in July 1999 raises some uncertainty over some of the dates contained in the applicant's statement, however, the photograph dated 7 June 2005 clearly shows the land immediately adjacent the dwelling having been levelled, cleared and mown. The applicant states that he levelled the land edged in blue prior to Spring 1999 and he then grassed the land edged in blue in spring 1999. Additionally he states that at this time started to maintain the land edged in green by clearing the undergrowth. The aerial photograph held by the Council taken on 24 July 1999 shows thick undergrowth on both the land edged in green and blue. The later photograph, dated 7 June 2005 clearly show these areas cleared and partially grassed. It is therefore accepted that although the exact date of the levelling and clearing of the land cannot be verified by the aerial photographs, the land could have been levelled and cleared during 1999.
- 7.8 Six other letters submitted by neighbouring residents are also taken into consideration, three in support of the application, two letters of objection and one request for further information. None of these letters have been signed before a solicitor. Two letters support the applicant's statement that that the parcel of land subject to this application have been used exclusively as a garden for a period of more than ten years.
- 7.9 The two letters objecting to the application contest some of the applicant's statement, especially that the northern end of the green land was not fenced or occupied until four years ago. However, under the hierarchy of evidence, photographic evidence is of greater worth than unsworn statements, and it is apparent from the aerial photograph of 2005 that some sort of fencing was evident at that time.
- 7.10 Part of the land edged in blue is sited directly adjacent to the public highway of Langley Mow. The aerial photograph held by the Council taken on 5 June 2006 shows the land directly adjacent to Langley Mow to be quite overgrown, in comparison to it being clearly maintained in the aerial photograph dated 1 July 2008. None of the representations received refer to this part of the application site directly. The applicant's affidavit states that in October 2000 he planted Cypress trees in a line between **D** and **Y** on **Exhibit A**, screening the property from the Highway. This barrier can be seen in the applicant's photograph **Exhibit E** taken in 2003. On the Officer's site visit on 20 September 2010 these trees range in height from approximately 2.0 metres to 1.5 metres.

- 7.11 From the photographs it appears that the land directly adjacent to the dwelling was incorporated into the residential curtilage sometime between 1999 and 2005. On the basis of the statements submitted and given the poor quality of the aerial photographs available, on the balance of probability it is concluded that the land has been used as residential curtilage for a ten year period. No evidence has been received that contradicts the evidence put forward by the applicant.
- 7.12 However, it is considered that the use of the parcel of land to the south of the application site, directly adjacent the highway of Langley Mow, was not maintained regularly as shown by the aerial photograph of 2005. Additionally, the Planning Encyclopaedia, states the definition of residential curtilage as “connoting a small area forming part or parcel with the house or building which it contained or to which it was attached. It was a matter of fact and degree” (Paragraph 3B-2055). It goes on to say “*an area of rough grass, largely neglected, which lay beyond the well cut lawns of the dwelling house, did not form part of its curtilage*”
- 7.13 It is considered that the Council’s aerial photograph of 2005 shows the parcel of land to the south of the application site directly adjacent to Langley Mow, south of the row of Cypress trees (denoted in **Exhibit A** as line **D** to **Y**) has, at this point in time, not been maintained weekly. While it is considered that the claimed use of the whole area within the application site has not been proven, the evidence of the use of the land immediately surrounding the dwelling as domestic curtilage is considered to have been proven more likely than not. This is shown by the affidavits, submitted Exhibits and backed by photographic evidence.
- 7.14 Other Matters
Condition 3 of the original planning permission for the development (Ref P96/4669) requires that no walls, fences or other means of enclosure shall be erected, positioned or placed in front of a wall of a dwelling which fronts on to a highway unless it is in accordance with the following guidelines (no guidelines were stated on the Decision Notice). It is acknowledged that on the parcel of land south of line **D** to **Y** denoted in **Exhibit A** the developers’ erected a 1 metre high wire fence on the parcel of land to denote land in their ownership.

8. CONCLUSION

- 8.1 Officers conclude, objectively and on the balance of probability, that, according to the submitted evidence, the claimed use of the site is unlikely to have taken place on the whole of the site, given that the photographic evidence shows the parcel of land south of a line denoted in **Exhibit A** as line **D** to **Y** not being maintained in 2005, which is less than the statutory 10 years. Having regard to the above, it is considered that the evidence presented by the applicant proves that, on the balance of probability, the remainder of the land within the red line, north of the line **D** to **Y** in **Exhibit A** has been used as residential curtilage in association with 8 Langley Mow for a period in excess of 10 years.

9. RECOMMENDATION

- 9.1 A Certificate of Existing Lawful Use be granted for the use of part of the site as residential curtilage associated with 8 Langley Mow.

Contact Officer: Elizabeth Dowse
Tel. No. 01454 862217

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PK11/0426/CLE	Applicant:	Mr B Platt
Site:	6 Downend Road Downend Bristol South Gloucestershire BS16 5UJ	Date Reg:	15th February 2011
Proposal:	Application for Certificate of Lawfulness for an existing use as Retail (Class A1) as defined in the Town and Country Planning (Use Classes Order) 1987 (as amended).	Parish:	Downend And Bromley Heath Parish Council
Map Ref:	365088 176714	Ward:	Downend
Application Category:	Minor	Target Date:	11th April 2011



© South Gloucestershire Council 2007. all rights reserved.

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

100023410, 2008.

N.T.S.

PK11/0426/CLE

REASON FOR REPORTING TO CIRCULATED SCHEDULE

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

1. THE PROPOSAL

- 1.1 This is an application for a Certificate of Lawfulness to ascertain whether the land and buildings within the site edged in red on the submitted plan have been used as Class A1 (Retail) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) for a continuous period of ten years to date.
- 1.2 The application site is situated on the north side of Badminton Road, Downend within the local retail centre. The site is bounded by retail premises to the east, pedestrian path to the west connecting Badminton Road to the public car park to the north and with the southern elevation containing shop front facing Badminton Road. The site comprises a large retail premises, single storey flat roofed facing Badminton Road and two storey at the rear. The building was formerly occupied by Alldays and the Co-op but is currently vacant.
- 1.3 For information, Members should be aware that 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.
- 1.4 The evidence submitted in support of the applicant's claim comprises a statement from the applicant giving a summary of the history of the site and the events leading up to the submission of this application.

2. POLICY CONTEXT

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

3. RELEVANT PLANNING HISTORY

- 3.1 P85/4526 Fascia box sign & projecting signs
(Previous ID: A348)
Approved 06.11.1985
- 3.2 P85/4547 Construction of tiled canopy & installation of
shop front (Previous ID: K4930)
Approved 06.11.1985
- 3.3 P85/4578 Installation of shop front (Previous ID: K4942)
Approved 20.11.1985
- 3.4 P85/4614 Shop sign (Previous ID: A352)
Approved 18.12.1985
- 3.5 P91/4540 Home delivery concession ancillary to pizza
parlour (Section 64 Determination) (Previous ID:
K4942/1)
determined that planning permission is required for
the proposed use as change of use from Class A1
to Class A3. 06.12.1991
- 3.6 PK03/2068/F Installation of a roof mounted satellite dish.
Approved 09.10.2003
- 3.7 PK03/2637/ADV Display of 3 no. internally illuminated wall
mounted signs.
Approved 26.09.2003
- 3.8 PK04/0180/F Installation of air conditioning unit.
Approved 01.04.2004
- 3.9 PK04/1569/F Installation of air conditioning units.
(Resubmission of PK04/0180/F).
Approved 10.06.2004

4. CONSULTATION RESPONSES

- 4.1 Downend and Bromley Heath Parish Council
No objection
- 4.2 Other Consultees [including internal consultees of the Council]
None

Other Representations

- 4.3 Local Residents

No third party evidence received.

5. SUMMARY OF EVIDENCE

5.1 In support of the application

The following information has been submitted in support of the application:-

A statement was submitted with the application giving a summary of the history of the site and the events leading up to submission of this application. The statement has been prepared by the applicant only and is not a legal document. The statement is summarised as follows:-

- The freehold is owned by Mr BR Platt
- Premises let on 05.12.85 under 25 year lease expiring on 05.12.10 and used as supermarket by tenants Alldays one of the subsidiaries of Co-op Ltd.
- Co-op group acquired the Somerfield chain
- Following acquisition of the Somerfield chain, the Alldays store ceased trading being only 80yds from a Somerfield store, rating authority informed that they had given up occupation, but continued to pay rent.
- July 2010 new offer received from the lease and Alldays agreed to surrender the lease.
- Oct/Nov 2010 seven warehouse style trolleys were stored on the premises and the current tenants claimed they *'intended to use the premises as a warehouse'* and consequently had a right to remain as tenants the contractual expiry of their lease on 05.12.10.
- The landlord is concerned that future potential retail occupiers may be unwilling to do so due to the claims made above. As such the landlord wished to establish that the only permitted use of the premises is under Class A1.
- The landlord wishes to continue a convenience store use on the site which has been established for over 20 years.

5.2 Summary of contrary evidence

No opposing evidence has been received and the Council could find no evidence in opposition to the applicant's claim.

5.3 Evidence collated by the Case Officer

In consultation with the Council's Business Rates section the following evidence has been gathered:

- Alldays took on the liability for the building on 16.10.1991.
- The premises has been used by Alldays and business rates paid from this date to 09.01.2009 when the building was declared officially as vacant and subsequently an empty exemption has been paid to business rates. This is contained in correspondence from Colliers CRE Commercial Real Estate Consultants dated 11.09.2009 where an exemption was requested formally as empty premises.
- Alldays lease expired on 05.12.2010.

- No correspondence received from Alldays or Co-operative group Ltd indicating an intention/desire to use the premises for an alternative use to Class A1.

5.4 The Relevant Test of the Submitted Evidence

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

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

6. EVALUATION

- 6.1 There is considered to be significant and compelling evidence weighing in favour of the applicant’s claim that the site has been occupied/authorised as Class A1 retail for the past 10 years and no contradictory evidence has been received. Having assessed the evidence provided, in the form of the applicant’s statement, the planning history and formal decision notices related to the site and the business rated records, it is considered that the applicant has shown that it is clearly more probable than not that the use of this site has continued and the authorised use of the site is as Class A1 (Retail) for more than 10 years from the date of this application. As the site benefits from an authorised Class A1 use the site would be required to have been used for a different use during this period. The fact alone that the site is unoccupied and the building vacant for the period since 09.04.2009 does not remove or replace the authorised Class A1 use. Additionally, there is no evidence to indicate that the alleged storage of warehouse trolleys during the vacant period is not of sufficient scale or activity to constitute a material change of use from Class A1.

Therefore it is considered that the Certificate should be issued.

7. RECOMMENDATION

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

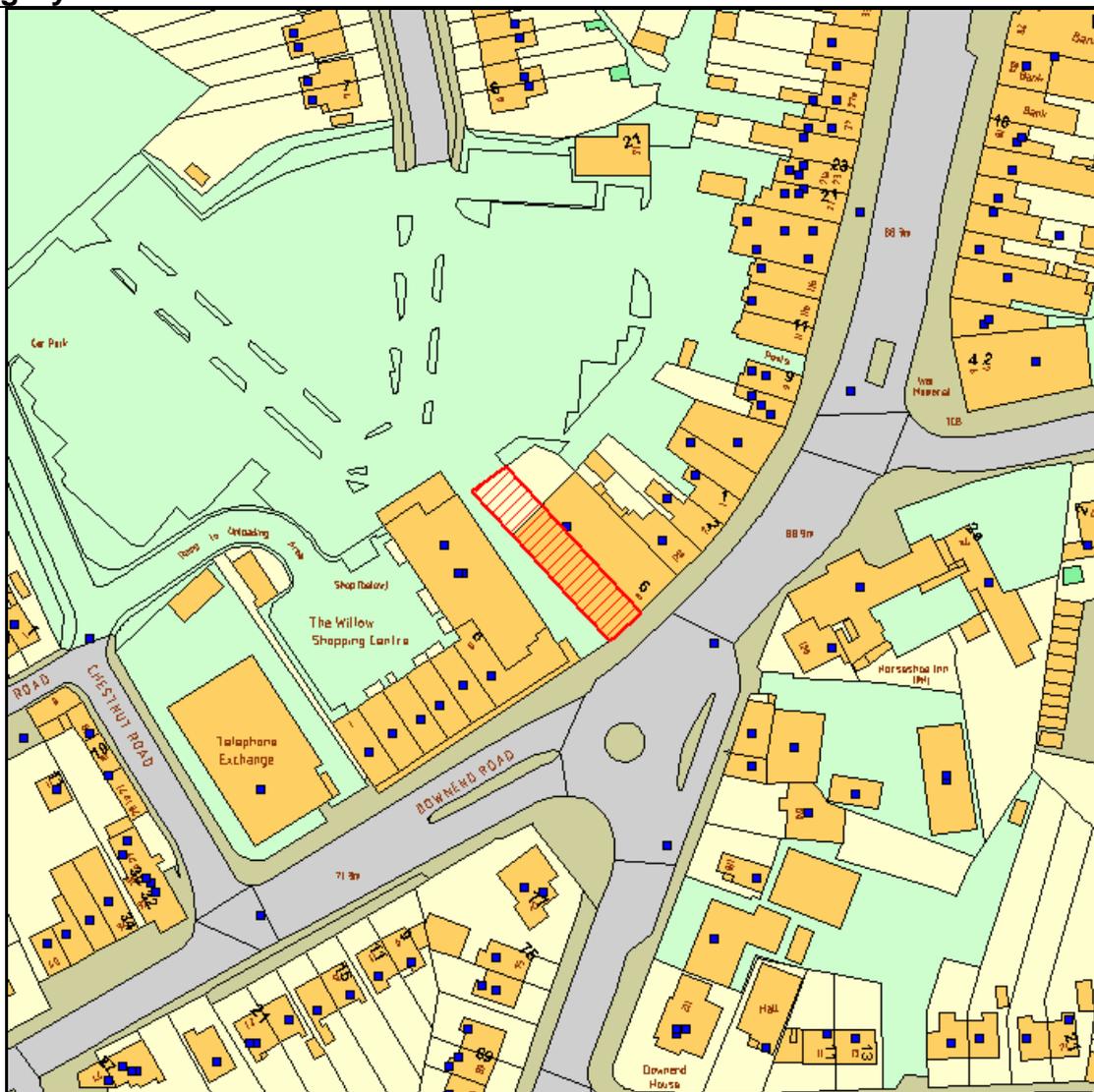
Contact Officer: Sean Herbert
Tel. No. 01454 863056

APPROVAL REASON

1. The applicant has shown that it is more probable than not that the use of this site within Class A1 (Retail) has continued for more than 10 years from the date of this application.

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PK11/0430/CLE	Applicant:	Mr Basil Platt
Site:	6 Downend Road Downend Bristol South Gloucestershire BS16 5UJ	Date Reg:	15th February 2011
Proposal:	Application for Certificate of Lawfulness for an existing use as Storage and Distribution Centre (Class B8) as defined in the Town and Country Planning (Use Classes Order) 1987 (as amended).	Parish:	Downend And Bromley Heath Parish Council
Map Ref:	365088 176714	Ward:	Downend
Application Category:	Minor	Target Date:	11th April 2011



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the
 Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright
 and may lead to prosecution or civil proceedings.
 100023410, 2008. **N.T.S.** **PK11/0430/CLE**

REASON FOR REPORTING TO CIRCULATED SCHEDULE

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

1. THE PROPOSAL

- 1.1 This is an application for a Certificate of Lawfulness to ascertain whether the land and buildings within the site edged in red on the submitted plan have been used as Class B8 (Storage and Distribution) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) for a continuous period of ten years to date.
- 1.2 The application site is situated on the north side of Badminton Road, Downend within the local retail centre. The site is bounded by retail premises to the east, pedestrian path to the west connecting Badminton Road to the public car park to the north and with the southern elevation containing shop front facing Badminton Road. The site comprises a large retail premises, single storey flat roofed facing Badminton Road and two storey at the rear. The building was formerly occupied by Alldays and the Co-op but is currently vacant.
- 1.3 For information, Members should be aware that 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.
- 1.4 The evidence submitted in support of the applicant's claim comprises a statement from the applicant giving a summary of the history of the site and the events leading up to the submission of this application.

2. POLICY CONTEXT

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

3. RELEVANT PLANNING HISTORY

- 3.1 P85/4526 Fascia box sign & projecting signs
(Previous ID: A348)
Approved 06.11.1985
- 3.2 P85/4547 Construction of tiled canopy & installation of
shop front (Previous ID: K4930)
Approved 06.11.1985
- 3.3 P85/4578 Installation of shop front (Previous ID: K4942)
Approved 20.11.1985
- 3.4 P85/4614 Shop sign (Previous ID: A352)
Approved 18.12.1985
- 3.5 P91/4540 Home delivery concession ancillary to pizza
parlour (Section 64 Determination) (Previous ID:
K4942/1)
Determined that planning permission is required for
the proposed use as change of use from Class A1
to Class A3. 06.12.1991
- 3.6 PK03/2068/F Installation of a roof mounted satellite dish.
Approved 09.10.2003
- 3.7 PK03/2637/ADV Display of 3 no. internally illuminated wall
mounted signs.
Approved 26.09.2003
- 3.8 PK04/0180/F Installation of air conditioning unit.
Approved 01.04.2004
- 3.9 PK04/1569/F Installation of air conditioning units.
(Resubmission of PK04/0180/F).
Approved 10.06.2004

4. CONSULTATION RESPONSES

- 4.1 Downend and Bromley Heath Parish Council
OBJECTION. Important to keep these premises as a retail outlet.
- 4.2 Other Consultees [including internal consultees of the Council]
None

Other Representations

4.3 **Local Residents**

No third party evidence received.

5. SUMMARY OF EVIDENCE

5.1 **In support of the application**

The following information has been submitted in support of the application:-

A statement was submitted with the application giving a summary of the history of the site and the events leading up to submission of this application. The statement has been prepared by the applicant only and is not a legal document. The statement is summarised as follows:-

- The freehold is owned by Mr B R Platt
- Premises let on 05.12.85 under 25 year lease expiring on 05.12.10 and used as supermarket by tenants Alldays one of the subsidiaries of Co-op Ltd.
- Co-op group acquired the Somerfield chain
- Following acquisition of the Somerfield chain, the Alldays store ceased trading being only 80yds from a Somerfield store, rating authority informed that they had given up occupation, but continued to pay rent.
- July 2010 new offer received from the lease and Alldays agreed to surrender the lease.
- Oct/Nov 2010 seven warehouse style trolleys were stored on the premises and the current tenants claimed they '*intended to use the premises as a warehouse*' and consequently had a right to remain as tenants the contractual expiry of their lease on 05.12.10.
- The landlord is concerned that future potential retail occupiers may be unwilling to do so due to the claims made above. As such the landlord wished to establish that the only permitted use of the premises is under Class A1.
- The landlord wishes to continue a convenience store use on the site which has been established for over 20 years.

5.2 **Summary of contrary evidence**

No opposing evidence has been received and the Council could find no evidence in opposition to the applicant's claim.

5.3 **Evidence collated by the Case Officer**

In consultation with the Council's Business Rates section the following evidence has been gathered:

- Alldays took on the liability for the building on 16.10.1991

- The premises has been used by Alldays and business rates paid from this date to 09.01.2009 when the building was declared officially as vacant and subsequently an empty exemption has been paid to business rates. This is contained in correspondence from Colliers CRE Commercial Real Estate Consultants dated 11.09.2009 where an exemption was requested formally as empty premises.
- Alldays lease expired on 05.12.2010
- No correspondence received from Alldays or Co-operative group Ltd indicating an intention/desire to use the premises for an alternative use to Class A1.

5.4 The Relevant Test of the Submitted Evidence

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

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

6. EVALUATION

- 6.1 There is considered to be significant and compelling evidence weighing against the applicant’s claim that the site has been occupied/authorised as Class B8 storage and distribution for the past 10 years. Having assessed the evidence provided, in the form of the applicant’s statement, the planning history and formal decision notices related to the site and the business rated records, it is considered more probable than not that the use of this site not remained within Class B8 (storage and distribution) for a continuous period of 10 years from the date of this application. As the site benefits from an authorised Class A1 use the site would be required to have been used for a different use during this period. The fact alone that the site is unoccupied and the building vacant for the period since 09.04.2009, does not remove or replace the authorised Class A1 use. Additionally, there is no evidence to indicate that the alleged storage of warehouse trolleys during the vacant period is not of sufficient scale or activity to constitute a material change of use from Class A1. The Case Officer has visited the site on a number of occasions within the last 10 years and the site was operating under Class A1 as a retail shop.

Therefore it is considered that the Certificate should NOT be issued.

7. RECOMMENDATION

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

Contact Officer: Sean Herbert
Tel. No. 01454 863056

The applicant has failed to show that it is more probable than not that this site has operated within Class B8 (Storage and Distribution) for a continuous period of 10 years from the date of this application.

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PT11/0175/R3F	Applicant:	South Glos. Council
Site:	Charfield Primary School Wotton Road Charfield South Gloucestershire	Date Reg:	11th February 2011
Proposal:	Erection of 2.1m high single pedestrian fence and gate and double vehicle gates with pedestrian gates	Parish:	Charfield Parish Council
Map Ref:	371971 192197	Ward:	Charfield
Application Category:	Minor	Target Date:	8th April 2011



© South Gloucestershire Council 2007.all rights reserved.

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

100023410, 2008.

N.T.S.

PT11/0175/R3F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

The application is submitted to Circulated schedule as the Council is the applicant.

1. THE PROPOSAL

- 1.1 The application is for two lengths of 2.1m high fence/gates at Charfield Primary School. The first would create a barrier approximately 10m back from the existing timber vehicular gate. This would be in the form of a pair of vehicular gates and a separate pedestrian gate. The second length of fencing would have only a pedestrian gate in order to allow access to the playground.
- 1.2 The fence material proposed is Betafence which has a 50mm by 200mm mesh infill to the fence panels and would be coloured green.

2. POLICY CONTEXT

- 2.1 National Guidance
PPS1 Delivering Sustainable Development
PPS5 Historic Environment
- 2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006
D1 Design
LC4 Proposals for Education and Community facilities within the Urban Area and Defined Settlements
T12 Transport
L15 Buildings and structures which make a significant contribution to the character and distinctiveness of the locality
- 2.3 Supplementary Planning Guidance
South Gloucestershire Council Design Checklist SPD Adopted August 2007

3. RELEVANT PLANNING HISTORY

- 3.1 There is extensive history at the site but none directly related to the provision of a fence at this location

4. CONSULTATION RESPONSES

- 4.1 Initial consultations to neighbours expired on 4 March but a site notice has since been erected which expires on 4 April. A re-consultation following the reduction of the fence from 3m to 2.1m high also expires on 4 April 2011. This report is written before the expiry of that consultation expiry date in order to meet the eight week target date but if consultation responses are received in opposition to the proposal then the application will be re-circulated, taking into account these comments.
- 4.2 Charfield Parish Council

No comment received.
4.3 Other Consultees

4.4 Transportation
No objection.

Other Representations

4.5 Local Residents
None.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The application has been reduced in height to 2.1m during the application and totals 16m of fencing split over two locations at the front of the school grounds. The relevant policies for considering development at school premises are LC4 and D1. Policy LC4 is the primary consideration in determining the application and this considers the accessibility of the proposal, impact on residential amenities, environmental and transport matters. Policy D1 seeks good overall design to be achieved. The main school building is also locally listed and as such consideration should be given to policy L15 of the Local Plan.

5.2 Residential Amenity

There is a house close to the boundary on the western side of the school entrance which has a party fence approximately 1.8m high. The proposed fence would rise above this fence but is not considered to cause any loss of amenity.

5.3 Transportation

The car parking is largely unaffected by the proposal and the fence would allow better supervision and containment of children at the school and therefore facilitate a safer school environment. As such the scheme accords with policy T12.

5.4 Design

Policy L15 seeks to prevent the demolition of buildings which make a significant contribution to the character and distinctiveness of an area. This proposal does not involve the demolition of the building nor does it affect the structure of the locally listed school building and as such the proposal is compliant with policy L15.

The proposal has a wide mesh design which will not be particularly prominent in the street scene as one length is set behind the front elevation of the school building and the other length is located behind landscaping at the front of the school. As such the application complies with policy LC4.

5.5 Improvements Achieved to the Scheme

The height of fencing has been reduced from 3m to 2.1m.

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 proposed fence structure which will not detract from the surrounding environment – Policy LC4 and D1 of the South Gloucestershire Local Plan Adopted January 2006.

The proposal would retain the locally listed school building in its existing form – Policy T12 of the South Gloucestershire Local Plan Adopted January 2006.

The proposal would not cause highway safety concerns – Policy T12 of the South Gloucestershire Local Plan Adopted January 2006.

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

7. RECOMMENDATION

- 7.1 That planning permission is granted subject to the following conditions.

Contact Officer: Karen Hayes
Tel. No. 01454 863472

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).

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is circulated as a result of a comment made by Stoke Gifford Parish Council.

1. THE PROPOSAL

- 1.1 This full application relates to the alteration of the existing conservatory, the re-roofing of a garage and to the erection of a replacement shed, all within the garden of this terraced house in Farley Close, Little Stoke.
- 1.2 The finished materials are proposed to be brick and tiles.

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 Development Within Existing Residential Curtilages,
Including Extensions and New Dwellings
T12 Transportation Development Control Policy for New
Development

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

- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist (Adopted)

3. RELEVANT PLANNING HISTORY

- 3.1 None

4. CONSULTATION RESPONSES

- 4.1 Stoke Gifford Parish Council
No objection raised but commented - explore drainage.

Other Representations

- 4.2 Local Residents
No response received.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

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

5.2 It is considered that the application accords with the above policy criteria. The alterations proposed to the existing conservatory would have negligible difference on the street scene. There would be little additional volume and as such negligible impact on the neighbours amenity.

5.3 The rebuilding of a shed in the same location and to the same dimensions as an existing shed would have no impact on the neighbours, nor would it affect the streetscene.

5.4 It is the garage roof alteration which would have the greatest impact on the streetscene. The garage itself is proposed to be maintained but a pitched roof replaces the existing flat roof. The proposal is similar to a scheme permitted within this cul-de-sac, but as yet un-built.

5.5 The proposals are individually and collectively considered acceptable and in accordance with development plan policy.

5.6 Other Issues

The Parish Council have raised a matter of drainage but given that the only new roof area being created is a minimal alteration to the external floor print of the conservatory it would not be reasonable to request details of drainage provision. It is understood from talking to the applicant that the existing shed gets damp due to the garden slope and that is the reason for constructing the shed in brick rather than timber.

6. CONCLUSION

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

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

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

1. The proposals would have no material impact on the neighbouring properties and the 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.

7. RECOMMENDATION

- 7.1 Planning permission be granted subject to the planning conditions set out on the decision notice.

Contact Officer: Karen Hayes
Tel. No. 01454 863472

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 protect the residential amenity of the neighbouring occupiers and to accord with Policy D1 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006.

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PT11/0488/F	Applicant:	Mr R Baker
Site:	16 Westmarsh Lane Oldbury On Severn South Gloucestershire BS35 1QD	Date Reg:	16th February 2011
Proposal:	Erection of two storey front extension to form additional living accommodation.	Parish:	Oldbury-on-Severn Parish Council
Map Ref:	360802 192212	Ward:	Severn
Application Category:	Householder	Target Date:	11th April 2011



© South Gloucestershire Council 2007.all rights reserved.
 This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the
 Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright
 and may lead to prosecution or civil proceedings.
 100023410, 2008. **N.T.S.** **PT11/0488/F**

REASON FOR REPORTING TO CIRCULATED SCHEDULE

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

1. THE PROPOSAL

- 1.1 The applicant seeks full planning permission for the erection of a two storey front extension to form additional living accommodation.
- 1.2 This is a modern semi detached dwelling that is located within a part of the Oldbury on Severn settlement boundary that is 'washed over' by the Green Belt.

2. POLICY CONTEXT

2.1 National Guidance

PPS1	Delivering Sustainable Development
PPG2	Green Belts

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1	Achieving Good Quality Design
H4	Development within Existing Residential Curtilage
GB1	Development within the Green Belt

Emerging Development Plan

Core Strategy Proposed Changes Version (December 2010)

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

2.3 Supplementary Planning Guidance

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

3. RELEVANT PLANNING HISTORY

- 3.1 No relevant history.

4. CONSULTATION RESPONSES

4.1 Oldbury-on-Severn Parish Council

No objection raised.

Other Representations

4.2 Local Residents

One letter of objection was received raising the following concerns:

- Loss of natural light
- Loss of outlook and views over the river Severn
- Potential drop in house value
- Loss of privacy
- Disruption from works progressing
- Increase in numbers living in the property will lead to increase in parking numbers

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The application site lies within the Green Belt, therefore, consideration must be taken in regards to the impact on the openness of the Green Belt. PPG2 and GB1 of the South Gloucestershire Local Plan (Adopted) January 2006 allow in principle for extensions to residential dwellings subject to the cumulative additions to the dwelling house being proportionate to the original size.

Policy H4 of the Local Plan states that *proposals for development within existing residential curtilages*, will be permitted subject to certain criteria. The principle of the development is therefore acceptable subject to the following detailed assessment.

5.2 Green Belt

The original property has been subject to one previous extension, a modest single storey rear addition. The proposed front extension would be two storey and extends 2.1 m in depth and 3 m in width. The total cubic volume increase of the original dwelling size would be approximately 25%. It is considered that the proposed extension, set within the settlement boundary of Oldbury represents a proportionate addition to the original property that would not affect the openness of the Green Belt. The proposal is considered to accord with Local Plan Policy including the 'Development in the Green Belt' (June 2007) Supplementary Planning Document.

5.3 Residential Amenity

Overbearing Analysis

The two storey extension is set down from ridge height and would add to the existing mass of the building. The extension would extend out from the existing front wall of the dwelling by 2.1 m and this would not protrude past the front wall of the neighbouring dwelling to the west no. 17 Westmarsh Lane, but instead run alongside the existing side wall of the property. The extension

would be on the north side of the host dwelling and as such there would be no significant loss of light to neighbouring occupiers and in addition it is not considered the proposal would not be overbearing on the residential amenity of neighbouring occupiers. It is not considered that the proposal would result in a significant loss of outlook to neighbouring occupiers due to its size, scale and location. In terms of loss of 'private view' which was raised as a concern by a local resident, the impact on outlook has been assessed but no weight is given to a private view in planning terms.

Privacy Analysis

Neither the windows proposed on the front or side elevations of the extension would directly overlook neighbouring properties to an undue level. The proposal is therefore acceptable in privacy terms.

Amenity Space

Whilst the proposed extension does project into the front garden sufficient garden space will remain at the rear to serve occupiers of the property.

Highway Safety Analysis

The dwelling would remain a two bedroom property and therefore it is not considered that the proposal would alter demand for parking. The proposal would not prejudice highway safety.

5.4 Design / Visual Amenity

The proposal is acceptable in scale and fits with the character of the existing property. The extension is subservient as it is set down from the existing ridge height of the dwelling. Its location to the front of the building together with the chosen construction materials, which match the palette of materials displayed in the existing building, means that this is an appropriate addition to the dwelling and streetscene. The proposal causes no harm to the visual amenity.

5.5 Other Matters

The potential loss of property value to neighbouring dwellings is not considered a material planning consideration in this instance. A condition will be attached to the decision notice restricting construction working hours to sociable hours.

5.6 Improvements to Scheme

No improvements considered necessary.

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

- a) The 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 D1 and H4 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.
- c) The proposal would not harm the openness of the Green Belt. The development therefore accords to Policy GB1 of the South Gloucestershire Local Plan (Adopted) January 2006 and Development in the Green Belt (June 2007).

7. RECOMMENDATION

- 7.1 That planning permission is **GRANTED** subject to the conditions attached to the decision notice.

Contact Officer: William Collins
Tel. No. 01454 863425

CONDITIONS

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

Reason

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

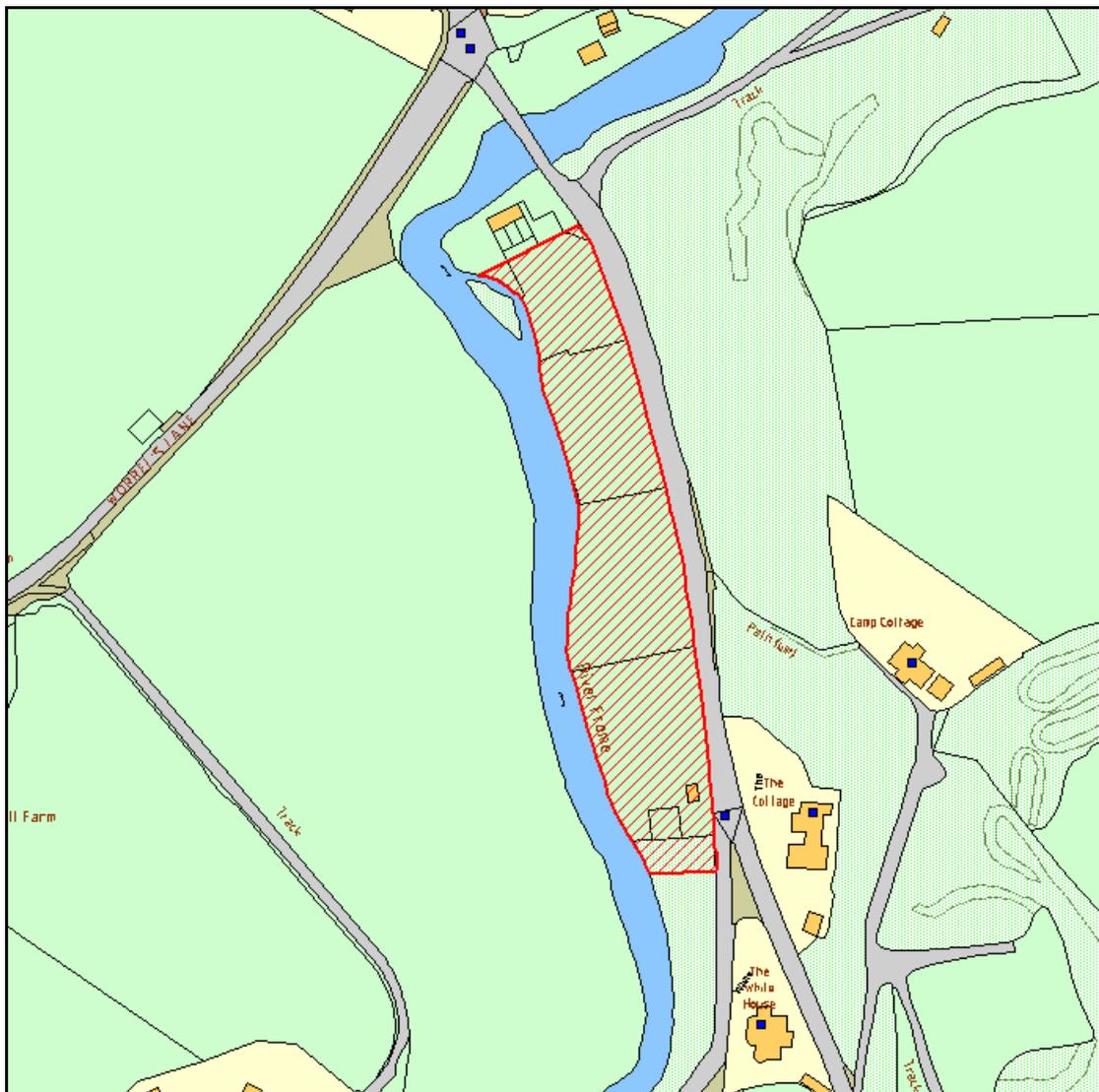
2. The hours of working on site during the period of construction shall be restricted to Monday to Friday 07.30 - 18.00, Saturday 08.00 - 13.00 and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.

Reason

To minimise disturbance to neighbouring occupiers and to accord with Policy D1 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006.

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PT11/0498/CLE	Applicant:	Mr Gay
Site:	The White House Church Lane Hambrook South Gloucestershire	Date Reg:	25th February 2011
Proposal:	Application for Certificate of Lawfulness for existing use of land for the keeping of horses. (Sui Generis).	Parish:	Winterbourne Parish Council
Map Ref:	365074 179123	Ward:	Winterbourne
Application Category:	Minor	Target Date:	19th April 2011



© South Gloucestershire Council 2007.all rights reserved.

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

100023410, 2008.

N.T.S.

PT11/0498/CLE

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This appears on the Circulated Schedule as it is an application for a Certificate of Lawfulness.

1. THE PROPOSAL

- 1.1 This application relates to a certificate of lawfulness for the existing use of land for the keeping of horses on land at The White House, Church Lane, Hambrook.
- 1.2 The site relates to a parcel of land with a total area of approximately 0.6 hectares. It lies outside any defined settlement boundary and is also within the Green Belt. The land has been divided into four by post and rail fencing. Two field shelters are located on the site. A stable building is located to the north immediately adjacent to the site and is clearly used in association with the land.
- 1.3 In order to obtain such a certificate the applicant must produce evidence that demonstrates on the balance of probabilities that the use has occurred for at least the last 10 years preceding the application. Accordingly, this is purely an evidential test and not a question of planning merit and precise and unambiguous evidence is required.

2. POLICY CONTEXT

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

3. RELEVANT PLANNING HISTORY

- 3.1 None.

4. CONSULTATION RESPONSES

- 4.1 Winterbourne Parish Council
No objection.

Other Representations

- 4.2 Local Residents
2 letters have been received stating that horses have been kept in the fields for over ten years.

5. SUMMARY OF EVIDENCE IN SUPPORT OF APPLICATION

- 5.1 A site plan.

- 5.2 Four letters from local residents, two of which state that the land has been used for the keeping of horses for a period in excess of 10 years. Of the remaining two letters, one states that she kept her horses on the site for six months two years ago and the other states that she kept horses over the past few years on different occasions.

6. **SUMMARY OF CONTRARY EVIDENCE**

- 6.1 None.

7. **EVALUATION**

- 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 ten years and whether or not the use is in contravention of any Enforcement Notice, which is in force. With regard to the latter point, no Enforcement Notice is in force on any part of the site.

7.2 The relevant test of the submitted evidence

The onus of proof is on the applicant and the relevant test of evidence in 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 the stricter criminal burden of proof, ie '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 its 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.

7.3 Hierarchy of Evidence

The applicant has submitted a site plan and e-mail in support of the case.

- 7.4 Inspectors and the Secretary of State usually value and give weight to evidence in the following order of worth:-

1. Personal appearance, under oath or affirmation, by an independent witness whose evidence can be tested in cross examination and re-examination, especially if able to link historic events to some personal event that he/she would be likely to recall;
2. Other personal appearance under oath or affirmation;
3. Verifiable photographic evidence;

4. Contemporary documentary evidence, especially if prepared for some other purpose;
 5. Sworn written statements (witness statements or affidavits) which are clear as to the precise nature and extent of the use or activity at a particular time;
 6. Unsworn letters as 5 above;
 7. Written statements, whether sworn or not, which are not clear as to the precise nature, extent and timing of the use/activity in question.
- 7.5 The submitted evidence from Katrina George only shows that she kept her horses on the site two years ago, for a period of six months. The submitted evidence from Beverley Denise Hancock shows that she kept horses on the site over the past few years on different occasions. Neither of the above evidence, whilst indicating that horses were kept on the site, demonstrates that they were kept on the land for a period in excess of 10 years.
- 7.6 However, the letter from Mr J Rutter states that he was a tenant of the family farm at Moorend from 1956 until 1999. The land to which the certificate relates was used solely for the keeping of horses from 1976 and that during the 1980's he erected stables with planning permission. He does not state however where these stables were. The other letter, from Mr Dan Hennessy, states that when he moved to River Mill Cottage nearly 20 years ago, the land was owned by the Rutter family and was always used for horses and had the benefit of stables located at Bridge End, immediately adjacent to the north of the site. He also states that since the applicant purchased the field from the Rutter family 10 or more years ago that he has continued to keep his own horses there. It is considered that the submitted evidence from Mr J Rutter and Mr Dan Hennessy does provide evidence that the land in question has been used for the keeping of horses in excess of 10 years. In the absence of any contrary evidence, it is considered that on the balance of probability it has been proven that the use of the land for the keeping of horses has been continuously used for a period in excess of 10 years.

8. RECOMMENDATION

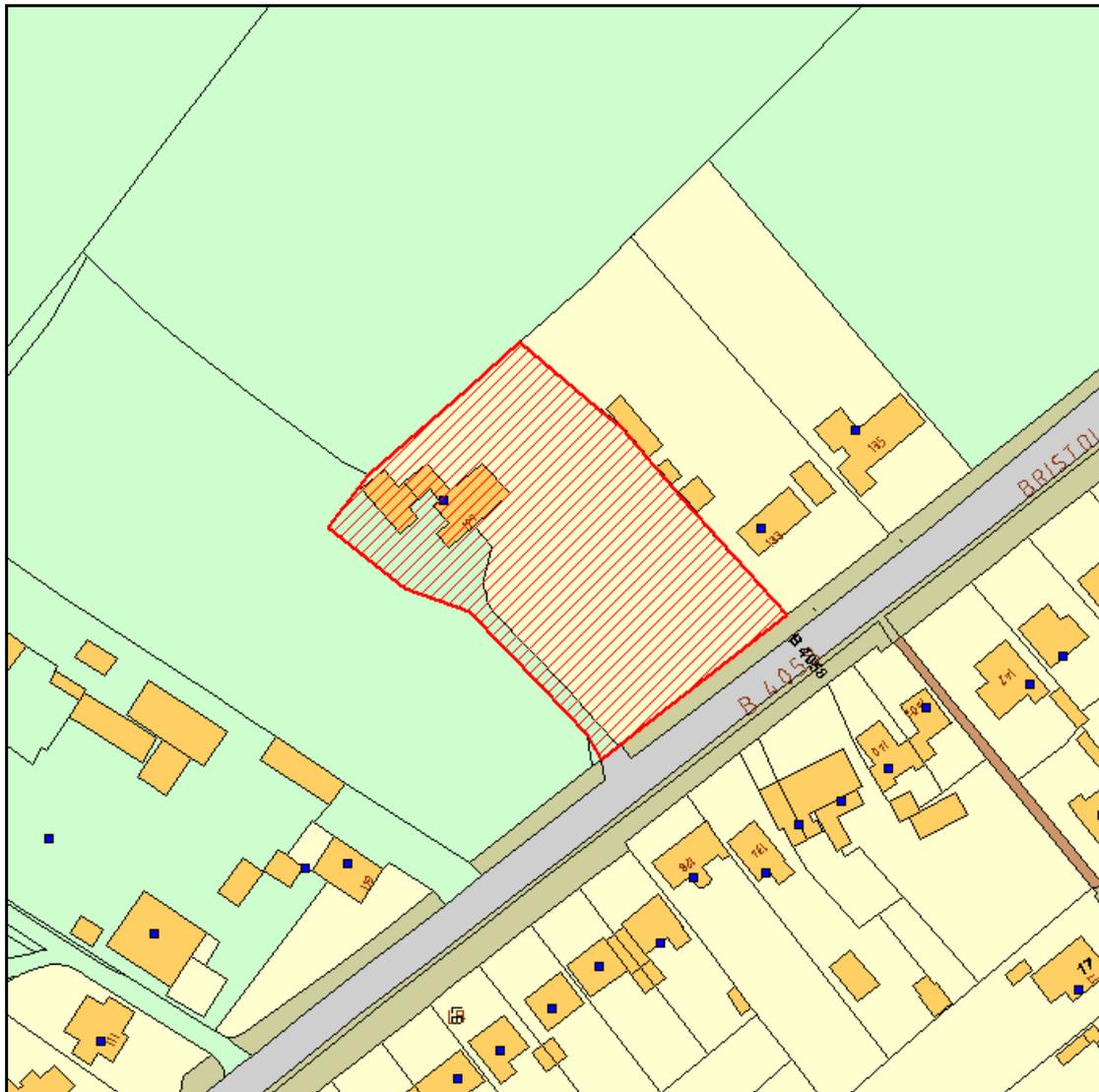
- 8.1 A Certificate of Lawfulness for Existing Use to be granted for the following reason:-.
1. The evidence in total demonstrates on the balance of probability in relation to the area of land edged red on the submitted site location plan has been used for the keeping of horses for a continuous period of 10 years immediately prior to the submission of the application.

Contact Officer: Vivian Butt
Tel. No. 01454 863427

ITEM 8

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PT11/0559/F	Applicant:	Mr B Francis
Site:	Field House 127 Bristol Road Frampton Cotterell South Gloucestershire	Date Reg:	28th February 2011
Proposal:	Creation of new access from Bristol Road. Erection of 2 no entrance pillars with 2 metre high gates.	Parish:	Frampton Cotterell Parish Council
Map Ref:	365761 182047	Ward:	Frampton Cotterell
Application Category:	Householder	Target Date:	21st April 2011



© South Gloucestershire Council 2007.all rights reserved.
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
100023410, 2008. **N.T.S.** **PT11/0559/F**

REASON FOR REPORTING TO CIRCULATED SCHEDULE

The application appears on the Circulated Schedule following the receipt of representations from Frampton Cotterell Parish Council that are contrary to the Case Officer's recommendation.

1. THE PROPOSAL

- 1.1 The applicant seeks planning permission for the creation of a new access from Bristol Road and the erection of 2no entrance pillars with 2m high gates. The additional access is required in order provide individual residential and agricultural accesses.
- 1.2 The application site relates to a detached dwelling and its associated residential curtilage. The site lies adjacent to Bristol Road (A38). The site lies beyond the Frampton Cotterell settlement boundary and the Green Belt.

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 In New Development
- L1: Landscape Protection and Enhancement
- GB1: Development within the Green Belt
- T12: Transportation Development Control Policy for New Development
- H4: Development within Existing Residential Curtilages

2.3 Emerging Development Plans

South Gloucestershire Core Strategy -Submission Draft (December 2010)

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

2.4 Supplementary Planning Guidance

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

3. RELEVANT PLANNING HISTORY

- 3.1 N2059/1 Use of land for the stationing of residential caravan (Temporary).
Approved 13.11.1975.
- 3.2 N2059 Erection of two storey extension to dwelling to provide living

room and study with bedrooms at first floor level; alterations to outbuildings to form garage, store and utility room.
Approved 13.11.1975.

4. CONSULTATION RESPONSES

4.1 Frampton Cotterell Parish Council

The new access is out of keeping with the existing access. It is not clear in the application as to who shares the existing access. The gates are too high at 3 metres.

4.2 Highways Authority

No objection.

4.3 Local Residents

Two letters have been received from a local resident. Initial concern was raised due to the height of the access, however following the reduction of the height of gate a subsequent letter was received from the resident removing their objection.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006 allows for extensions 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 Transportation

The proposed development would create a new residential access onto Bristol Road. The applicant has explained that the new access would allow separate access for agricultural and residential traffic. The Highways Authority have visited the site and assessed the proposal. They consider that there would be some benefit in the separation and therefore the principle of the development would be accepted. Furthermore the visibility afforded from the access would meet safety standards. On this basis, Officers are satisfied that the proposed development would not give rise to unacceptable transportation effects.

5.4 Design

It is acknowledged that there is some concern from the Parish Council that the access would be out of character with the area due to the height of the gates and pillars. It should be noted that there was an error with the scale of the original plan and thus the gate was incorrectly shown to be 3 metres in height. To overcome this the applicant submitted amended plans, which showed the gate to be 2 metres in height.

5.5 The proposed residential access and gates would be read in the context of the detached dwelling in the background. As such the height of the pillars and gate would be proportionate to a large residential dwelling situated within the countryside. As such, it is considered that the proposed development would respect the character and appearance of the site and surrounds.

5.6 Green Belt

The proposed entrance gates would amount to operational development and would therefore be assessed under Part A of policy GB1 regarding the construction of new buildings. This section of the policy sets out five types of new building that are appropriate within the Green Belt.

5.7 The development would take place within the curtilage of the existing dwelling. It is considered that the scale of the gates would be proportionate and ancillary to the host dwelling. Therefore the development would constitute a limited extension to an existing dwelling. On this basis, it was concluded that the proposed development would be an appropriate form of development within the Green Belt and would accord to PPG2 and policy GB1 of the South Gloucestershire Local Plan.

5.8 Residential Amenity

The proposed access and gateway would not be in a location, or of a scale, that would materially harm residential amenity of any nearby occupier.

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 access is justified in highways terms and would not give rise to any unacceptable transportation effects. The proposed development would accord with policy H4 and T12 of the South Gloucestershire Local Plan (adopted) January 2006.
- b) The proposal would respect the overall design and character of the existing dwelling and the surrounding area. The development therefore accords to policies D1 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist SPD (Adopted) 2007.

- c) The proposal would constitute a limited extension to a dwelling. Thus the proposal would be considered to be an appropriate form of development within the Green Belt and would not harm its openness. The proposed development would accord with policy H4 and GB1 of the South Gloucestershire Local Plan (adopted) January 2006.
- d) The proposal would not give rise to an adverse overbearing effect or a material loss of privacy to nearby occupiers. The development therefore accords to policies H4 and D1 of the South Gloucestershire Local Plan (Adopted) January 2006.

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

7. RECOMMENDATION

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

Contact Officer: Peter Rowe
Tel. No. 01454 863131

CONDITIONS

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

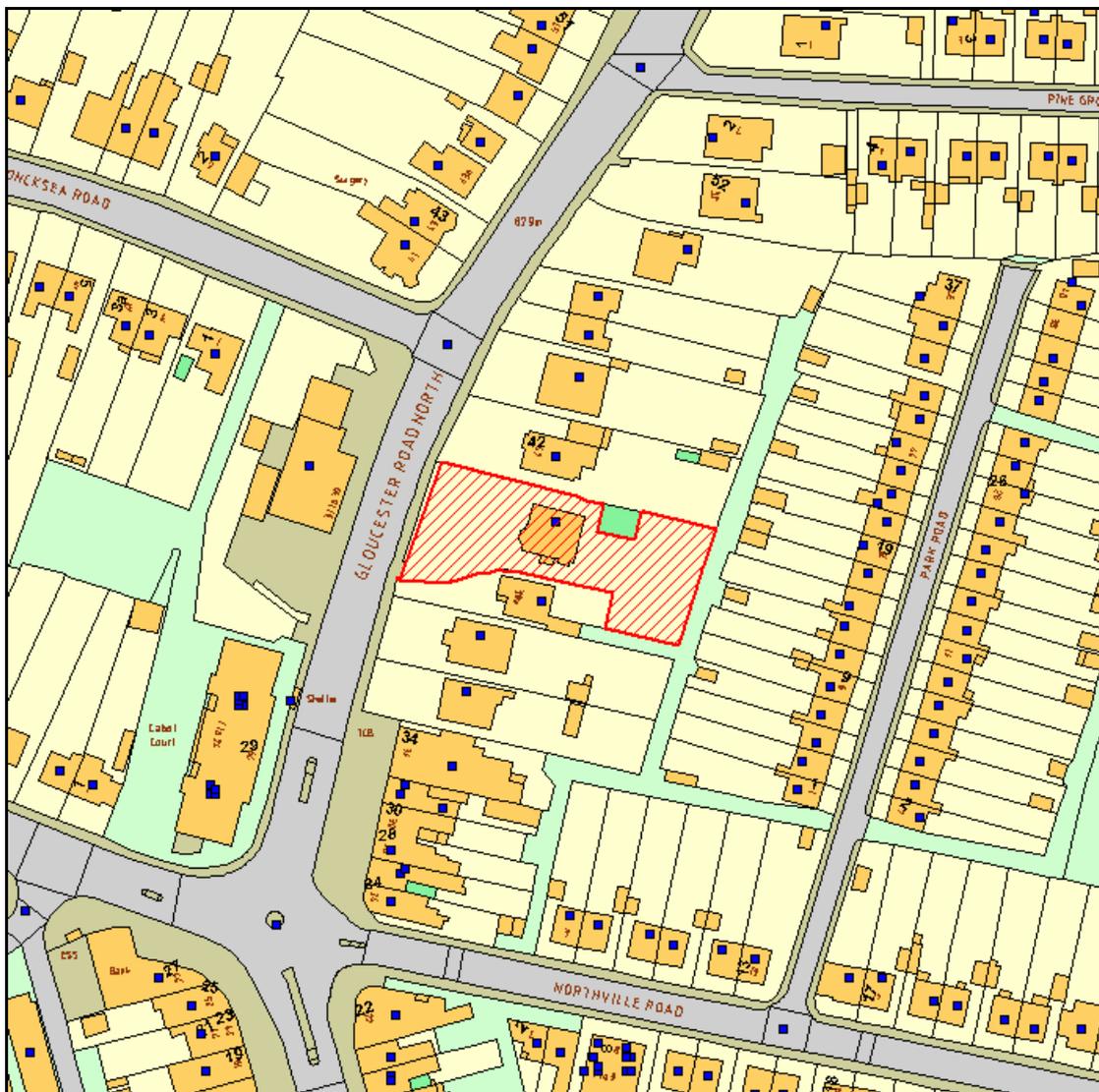
Reason

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

ITEM 9

CIRCULATED SCHEDULE NO. 13/11 – 1 APRIL 2011

App No.:	PT11/0614/F	Applicant:	Mr D Sheppard
Site:	40 Gloucester Road North Filton South Gloucestershire BS7 0SJ	Date Reg:	7th March 2011
Proposal:	Change of use of dwelling (Class C3) to house in multiple occupation (Sui Generis) as defined in the Town and country Planning (Use Classes) Order 1987 (as amended).	Parish:	Filton Town Council
Map Ref:	359937 178320	Ward:	Filton
Application Category:	Minor	Target Date:	28th April 2011



© South Gloucestershire Council 2007. all rights reserved.
This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the
Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright
and may lead to prosecution or civil proceedings.
100023410, 2008. **N.T.S.** **PT11/0614/F**

REASON FOR REPORTING TO CIRCULATED SCHEDULE

The application appears on the Circulated Schedule following the receipt of representations from Filton Town Council and local residents that are contrary to the Case Officer's recommendation.

1. THE PROPOSAL

- 1.1 The applicant seeks planning permission for the change of use of the dwelling (Class C3) to a large house in multiple occupation (sui generis) accommodating seven persons. The proposed development does not include any external alterations.
- 1.2 The application site relates to a large detached dwelling and its associated curtilage. The site is situated within a well established residential area and lies within the Bristol North Fringe Urban Area.

2. POLICY CONTEXT

2.1 National Guidance

PPS1: Delivering Sustainable Development

PPS3: Housing

PPG13: Transport

Circular 08/10: Changes to Planning Regulations for Dwellinghouses and Houses in Multiple Occupation

2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006

D1: Achieving Good Quality Design In New Development

T8: Parking Standards

T12: Transportation Development Control Policy for New Development

H4: Development within Existing Residential Curtilages

H5: Houses in Multiple Occupation

2.3 Emerging Development Plans

South Gloucestershire Core Strategy (Submission Draft) December 2010

CS1: High Quality Design

CS15: Distribution of Housing

CS16: Housing Density

CS17: Housing Diversity

CS25: Communities of the North Fringe of Bristol Urban Area

2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist SPD (Adopted) January 2006.

3. RELEVANT PLANNING HISTORY

- 3.1 P85/2570 Erection of detached double garage store and utility room.
Approved 04.12.1985.
- 3.2 P87/1340 Use of land for parking of a commercial vehicle
Refused 18.06.1987.
- 3.3 PT04/3266/F Erection of rear conservatory.
Approved 25.10.2004.

4. CONSULTATION RESPONSES

- 4.1 Filton Town Council
Object to conversion of family homes to multiple occupancy.
- 4.2 Highways Authority
No objection.
- 4.3 Local Residents
None received.

5. ANALYSIS OF PROPOSAL

- 5.1 The applicant seeks planning permission to change the use of the existing dwelling (Class C3a) into a House in Multiple Occupation (HMO) to be occupied by seven people (*sui generis*). It should be noted that since October 2010 (Circular 08/2010) it has been permitted development to change from a dwellinghouse (Class C3a) to a house in multiple occupation (Class C4). Notwithstanding this, the proposed development would accommodate seven people and therefore constitute a 'large house in multiple occupation', which does not fall within a Class C4 use. As such, the development would have a *sui generis* use and therefore planning permission would be required.
- 5.2 This application is not seeking planning permission for the sub-division of the property into self-contained units of accommodation. Conversely, this application is seeking consent to change the use of the existing dwellinghouse to a HMO. A HMO is a dwelling house occupied by unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.
- 5.3 Principle of Development
Policy H5 of the South Gloucestershire Local Plan allows for the conversion of existing residential properties into smaller units of self contained residential accommodation; providing that they: -
- A. Would not prejudice the character of the surrounding area; and

- B. Would not prejudice the amenities of the nearby occupiers; and
 - C. Would identify an acceptable level of off-street parking; and
 - D. Would provide adequate amenity space; and
 - E. (In the case of building not previously used for residential purposes) the property is located with the existing urban area and the boundaries of settlements, as defined on the proposal maps.
- 5.4 As the proposed development would relate to an existing dwelling within the Bristol north fringe urban area, it is considered that the principle of the proposed conversion would be acceptable.
- 5.5 Design
The application site is adjacent to Gloucester Road North and it comprises of a large detached dwelling set within an extensive garden. The proposed development would not include any external alterations, however a HMO would be likely to require more parking and bin storage issues than a typical dwellinghouse. Notwithstanding this, the dwelling is situated within an extensive curtilage, which provide sufficient space for parking and bin storage. Furthermore the site is very well screened from the street scene by the existing landscaping across the front of site. On this basis, it is considered that the proposed change of use to a HMO would not materially harm the character and appearance of the site and surrounds.
- 5.6 It is acknowledged that Filton Town Council has raised concerns with regard to the loss of a family home. The mix of units and house types is a relevant consideration, and this is reiterated through PPS3, Policy H2 of the adopted Local Plan, and Policy CS17 of the emerging Core Strategy. It is considered that the character of development along Gloucester Road North is somewhat mixed. For instance, to the south of the site there is a local centre with a mix of retail, commercial, and residential uses. Furthermore, to the north of site there are a mix of detached dwellings, many of which have been converted to other uses, including: a Guest House; GP surgery; and Nursery. On this basis, the character of Gloucester Road North can be clearly distinguished from the residential character of the suburban “side streets” in the wider area. On this basis, it is considered that that the proposal would make a positive contribution towards the local housing mix and would not result in an over concentration of HMO’s in this location.
- 5.7 As such the proposed development would maintain the character and appearance of the site and locality.
- 5.8 Residential Amenity
It is acknowledged that the tenure and nature of the occupiers of HMO’s may be different to market housing. Nevertheless, the building would remain to have a primary residential use and would operate in land use terms in a similar way to a dwellinghouse. Therefore it is considered that the likely tenure and occupiers would not materially harm the residential amenities of nearby occupiers.

5.9 Amenity Space

The existing dwelling has a large rear garden. It is considered that this would provide adequate amenity space for the occupiers of the proposed HMO.

5.10 Transportation

The Highways Authority have concluded that the proposed development would give rise to a slight increase in traffic, however this would not a harmful effect on the adjoining road network. Furthermore the existing hardstanding is extensive and therefore would accommodate parking for eight cars if necessary. As such, there would be potential for each occupier to have there own parking space. On this basis the proposed development would not give rise to any off-street parking or any unacceptable highway safety effects.

6. CONCLUSION

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

- a) The proposed residential conversion would take place within an existing dwelling and within the Bristol north fringe urban area. It is considered that this is an appropriate area for such a residential development. It is therefore considered that the principle of the proposed development would accord with PPS3 and policies H2, H4, and H5 of the South Gloucestershire Local Plan (adopted) January 2006.
- b) The design of the proposed development has been fully assessed. It is considered that the development respects the character and appearance of the existing dwelling. The proposed development would therefore accord with policies D1, H2, H4, and H5 of the South Gloucestershire Local Plan (adopted) January 2006.
- c) The impact of the proposed development on nearby properties has been fully assessed. It is considered that the proposal would not result in a material loss of privacy or an overbearing effect. The proposed development would therefore accord with Policy H2, H4, and H5 of the South Gloucestershire Local Plan (adopted) January 2006.
- d) The impact of the proposed development in terms of transportation has been fully assessed. It is considered that proposal would have satisfactory access and parking arrangements. The proposed development would therefore accord with Policy T8 and T12 of the South Gloucestershire Local Plan (adopted) January 2006.

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

7. **RECOMMENDATION**

7.1 Planning permission to be **GRANTED** subject to the following conditions: -

Contact Officer: Peter Rowe
Tel. No. 01454 863131

CONDITIONS

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

Reason

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