



**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. 44/11**

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

**Member's Deadline: 17/11/11 (5pm)**

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

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

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

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

## **NOTES FOR COUNCILLORS - FORMAL ARRANGEMENTS**

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

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

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

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

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

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

## **GUIDANCE FOR 'REFERRING' APPLICATIONS**

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

- Before referring an application always speak to the case officer or Area Planning Manager first to see if your concerns can be addressed without the application being referred.
- If you are considering referring in an application outside the ward you represent, as a courtesy, speak to the ward member(s) to see what their views are, before referring the application.
- Always make your referral request as soon as possible, once you have considered all the application details and advice of the case officer. **Please do not leave it to the last minute**
- Always make your referral request by e-mail to [MemberReferral@southglos.gov.uk](mailto:MemberReferral@southglos.gov.uk), where referrals can be picked up quickly by the Development Services Support Team. If in exceptional circumstances, you are unable to e-mail 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.

**Dates and Deadlines for Circulated Schedule**  
**During Christmas and New Year period 2011/2012**

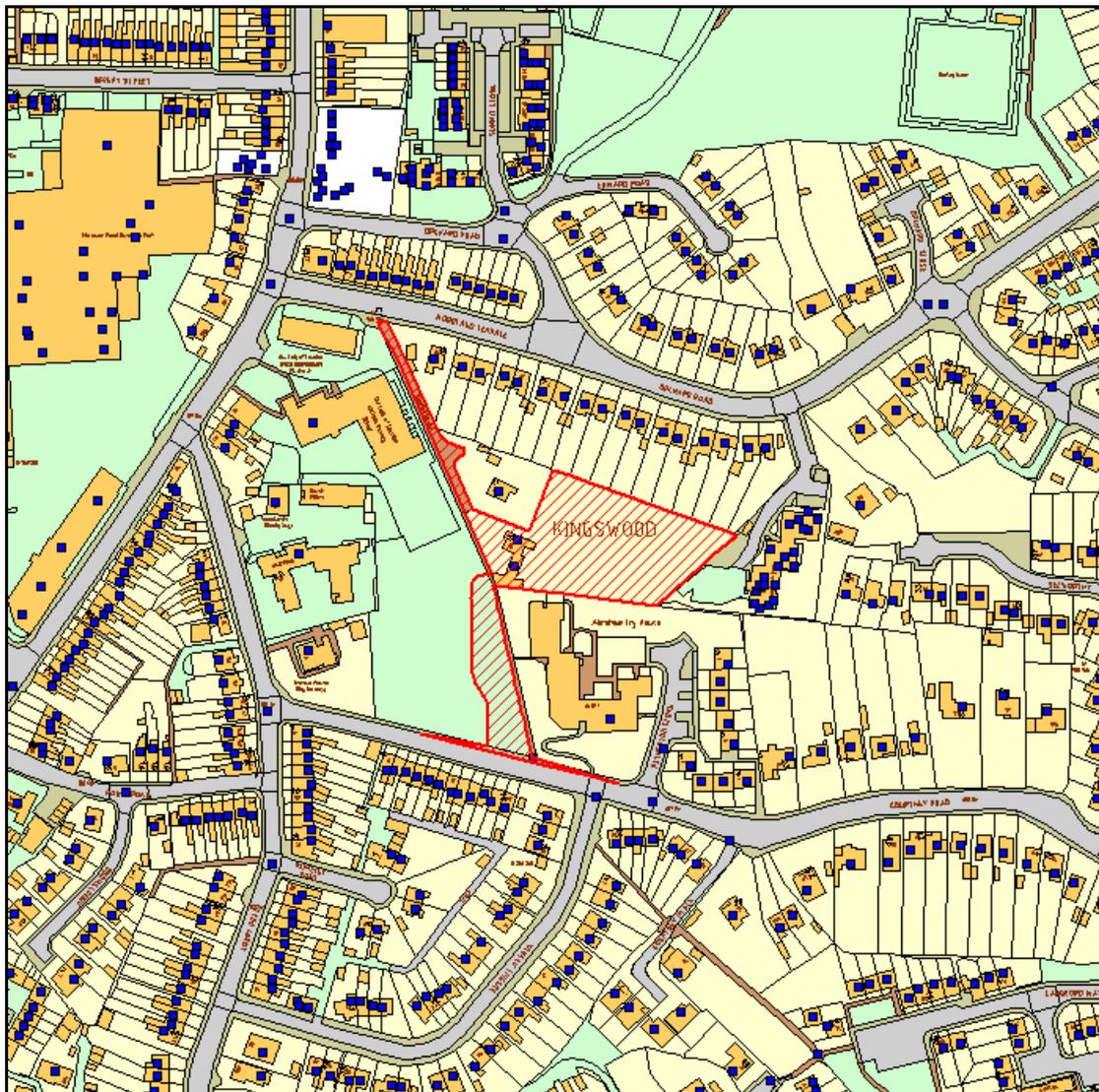
<b>Schedule Number</b>	<b>Date to Members 9am on</b>	<b>Members Deadline 5pm on</b>
49/11	Thursday 15 December 2011	Wednesday 21 December 2011
50/11	Thursday 22 December 2011	Tuesday 03 January 2012
51/11	No Circulated Schedule production	No Circulated Schedule production
01/12	Friday 06 January 2012	Thursday 12 January 2012

# CIRCULATED SCHEDULE – 11 NOVEMBER 2011

<b>ITEM NO.</b>	<b>APPLICATION NO</b>	<b>RECOMMENDATION</b>	<b>LOCATION</b>	<b>WARD</b>	<b>PARISH</b>
	<b>PK11/1305/F</b>	Approve with Conditions	22 Woodland Terrace Kingswood South Gloucestershire BS15 9PU	Woodstock	None
	<b>PK11/2317/O</b>	Approve with Conditions	Land Off Greenway Lane Cold Ashton Chippenham South Gloucestershire SN14 8LA	Boyd Valley	Cold Ashton Parish Council
	<b>PK11/2491/EXT</b>	Approve with Conditions	Bath Street Garage Bath Street Staple Hill South Gloucestershire BS16 5NT	Staple Hill	None
	<b>PK11/2531/F</b>	Approve with Conditions	66A Riding Barn Hill Wick South Gloucestershire BS30 5PA	Boyd Valley	Wick And Abson Parish Council
	<b>PK11/2904/CLE</b>	Approve with Conditions	Hunters Lodge Ashwicke Road Marshfield Chippenham South Gloucestershire SN14 8AS	Boyd Valley	Marshfield Parish Council
	<b>PK11/3012/CLP</b>	Refusal	Westerleigh Terminal Oakleigh Green Farm Lane Westerleigh South Gloucestershire BS37 8QE	Boyd Valley	Pucklechurch Parish Council
	<b>PK11/3233/EXT</b>	Approve with Conditions	22A Elmleigh Road Mangotsfield South Gloucestershire BS16 9EX	Rodway	None
	<b>PK11/3261/F</b>	Approve with Conditions	33 Colthurst Drive Hanham South Gloucestershire BS15	Hanham	Hanham Parish Council
	<b>PT11/2613/TRE</b>	Approve with Conditions	39 Meadow View Frampton Cotterell South Gloucestershire BS36 2NF	Frampton Cotterell	Frampton Cotterell Parish
	<b>PT11/3099/F</b>	Approve with Conditions	136 Avon Way Thornbury South Gloucestershire BS35 2DP	Thornbury South And	Thornbury Town Council

## CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011

<b>App No.:</b>	PK11/1305/F	<b>Applicant:</b>	Mr N Stanley
<b>Site:</b>	22 Woodland Terrace Kingswood Bristol South Gloucestershire BS15 9PU	<b>Date Reg:</b>	10th May 2011
<b>Proposal:</b>	Erection of 23 dwellings with access, parking, landscaping and associated works to replace existing dwelling.	<b>Parish:</b>	None
<b>Map Ref:</b>	365076 173389	<b>Ward:</b>	Woodstock
<b>Application Category:</b>	Major	<b>Target Date:</b>	5th August 2011



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 100023410, 2008. **N.T.S.** **PK11/1305/F**

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

This application appears on the circulated schedule due to the receipt of 29 letters of objection from local residents and a petition of objection signed by 83 individuals.

### **1. THE PROPOSAL**

- 1.1 This application seeks full planning permission for the demolition of the existing dwelling on the site and the erection of 23 dwellings (consisting of 14 flats and 9 dwellings) in its place. The site currently consists of a large detached dwelling standing within an extensive garden at the end of a private driveway. To the west of the site is a school and the development proposes a new access road across part of the existing school grounds. To the south and east of the site are large blocks of flats and associated parking courts.
- 1.2 The proposed development site is on sloping land and the proposal includes a combination of two and three storey buildings. The application includes the creation of off street parking for the new residential development and other associated works including bin and cycle stores.
- 1.3 During the course of the application, amended plans were received from the applicant in order to address issues raised by the Council's Urban Design and Highway Officers. The necessary re-consultation was carried out on the amended plans received.

### **2. POLICY CONTEXT**

#### **2.1 National Guidance**

PPS1 Delivering Sustainable Development  
PPS3 Housing as revised June 9<sup>th</sup> 2010  
PPG13 Transport  
PPS9 Biodiversity and Geological Conservation  
Ministerial Statement 9<sup>th</sup> June 2010

#### **2.2 Development Plans**

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

D1 Achieving Good Quality Design in New Development  
H4 Development within Existing Residential Curtilages, Including Extensions and New Dwellings  
H2 Proposals for Residential Development within the Existing Urban Area  
H6 Affordable Housing  
L1 Landscape Protection and Enhancement  
L5 Open areas within the existing urban area.  
L9 Species Protection  
L17 & L18 The Water Environment  
EP1 Environmental Protection  
EP6 Contaminated Land  
T7 Cycle Parking  
T8 Parking Standards  
T12 Transportation Development Control  
LC1 Provision for Leisure and Community Facilities

- LC2 Provision for Education Facilities
- LC8 Open Spaces and Children's Play

South Gloucestershire Core-Strategy-Submission Draft Proposed Changes  
December 2010

- CS1 High Quality Design
- CS16 Housing Density
- CS17 Housing Diversity
- CS18 Affordable Housing

- 2.3 Supplementary Planning Guidance  
South Gloucestershire Design Checklist (Adopted)  
Trees on Development Sites SPG  
Affordable Housing SPD

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

There have been several applications on the site historically to develop it for residential purposes and the most relevant applications are considered to be as follows:

- 3.1 PK11/017/SCO Screening opinion for application PK11/1305/F  
EIA not required May 2011
- 3.2 P97/4153 Residential Development (Outline)  
Approved May 1994
- 3.3 K4547/4 Residential Development (Outline)  
Approved December 1990

### **4. CONSULTATION RESPONSES**

- 4.1 Parish/Town Council  
The area is un-parished
- 4.2 Other Consultees
- 4.3 Wessex Water  
The developer will need to check with Wessex Water and Bristol Water Company the suitability of the arrangements to be made.
- 4.4 The Coal Authority  
No objection
- 4.5 Councils Enabling Officer  
No objections subject to S106 agreement
- 4.6 Councils Drainage Engineer  
No objection subject to the attachment of a condition
- 4.7 Urban Design Officer

- No objection to the revised scheme subject to the attachment of conditions
- 4.8 Councils Highway Engineer  
No objection subject to S106 and conditions
- 4.9 Councils Environmental Protection Officer  
No objection subject to the attachment of conditions
- 4.11 Councils Education Department  
No objection subject to a S106 legal agreement
- 4.12 Councils Ecologist  
No objection subject to the attachment of a condition
- 4.13 Councils Tree Officer  
No objection subject to the attachment of conditions
- 4.14 Councils PROW officer  
No objection but notes that to cross the existing PROW other regulations will need to be satisfied
- 4.15 Sport England  
Sport England were consulted on the proposal and concerns were raised with regards to the scheme.

### **Other Representations**

- 4.16 Local Residents  
29 letters of objection have been received from local residents. A summary of the key points of concern raised is as follows:
- Impact on already over subscribed local amenities
  - Loss of the tranquil environment by all residents – especially those of Abraham Fry House
  - Loss of play area at Lady of Lourdes School
  - The ground level is approximately 2m above the neighbours property impacting on privacy
  - Appalled to think of a road being built through a children’s playing school field
  - Noise and disturbance to the school and the adjacent nursing home
  - Increased traffic
  - Parking is already terrible and this will be worsened
  - Concerns about noise from traffic as the new access road is close to Abraham Fry House
  - Danger to pedestrians using the public footpath because the new access road will cross the footpath
  - Concerns about the extra traffic the development will bring to the area – possible congestion
  - Concerns about the safety of the proposed junction with Courtney Way
  - Concerns as to whether the number of parking spaces is sufficient
  - Concerns over the consultation process

- Overlooking of neighbouring properties
- Increased noise and pollution
- Risk of flooding – risk of rain not soaking away
- Increase in sewage – can the existing pipes cope
- Adverse and dramatic effect on local wildlife
- Lack of clarity of boundary treatments
- Loss of green space in the area
- The density of the development is too great – over development
- Impact on character of the area
- Light pollution
- Loss of trees
- Will the Sunday football team still be able to play on the field?
- Badgers on the site – a badger survey should be carried out
- Represents garden grabbing
- Loss of children’s play space
- Any advertising signs could be dangerous

4.17 In addition a petition has been received from Chris Skidmore. The title of the petition reads, ‘*We the undersigned oppose the proposal for 23 dwellings at 22 Woodland Terrace, Kingswood as we consider this to be over development for the area and garden grabbing.*’ The petition is signed by 83 individuals.

## 5. **ANALYSIS OF PROPOSAL**

### 5.1 Principle of Development

Policy H4 of the South Gloucestershire Local Plan is supportive in principle of proposed new dwellings within the existing residential curtilage, providing that the design is acceptable, highway safety would not be compromised, adequate parking and amenity space is provided and that there is no unacceptable impact on residential and visual amenity.

5.2 PPS3 was reissued on 9<sup>th</sup> June 2010, to reflect concerns regarding the redevelopment of neighbourhoods, loss of Green Space and the impact upon local character. The changes involve the exclusion of private residential gardens from the definition of previously land and the removal of the national indicative density target of 30 dwellings per hectare. The objections received from neighbouring occupiers regarding ‘garden grabbing’ are noted, however, the general thrust of PPS3 has remained the same. The existing policies in the local plan such as policies H2, H4 and D1 already require that proposals are assessed for their impact upon the character of the area and that proposals make efficient use of land.

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

### 5.4 Transportation Issues

Access to the scheme will be from Courtney Road. The proposal includes the

creation of a new junction onto Courtney Road and then the creation of a new road leading across part of the existing playing school field into the development site. The necessary notice has been served on all adjacent land owners affected by the proposal. All 23 units will be served from this proposed access point. The proposed new access road and the new junction will be constructed to the Council's adoptable standards.

- 5.5 As initially submitted, the proposals demonstrated plot 1 using the existing access off of Woodland Terrace. However, because of the length of this private access driveway and the lack of available turning facilities, the Council's highway engineer did not consider this safe. As a result, amended plans have been received showing that the existing access from Woodland Terrace will become redundant. The applicant has now submitted a revised plan that addresses the earlier highway's concerns about the access to plot no. 1.
- 5.6 During the course of the application, partly in response to neighbour concerns about congestion and also to ensure vehicles can manoeuvre adequately within the site, officers requested a higher parking ratio on the site. The revised plan for consideration now shows the provision of a total of 32 parking spaces on site for 23 dwellings and this meets the Council's maximum parking standards. Adequate cycle storage is being provided within the garages and separate cycle stores to meet the needs arising from the development.
- 5.7 The proposal includes the creation of a new site access with Courtney Road. The new access is acceptable and the Council's highway engineer is satisfied that adequate visibility splays can be achieved onto the public highway. The new access road leading to the development also meets the highway design criteria and as such is considered acceptable. A suitable planning condition is recommended to ensure that it is constructed to adoptable standards.
- 5.8 In addition to the above, the applicant has agreed to enter into a S106 agreement in order to make financial contribution of £10,000 towards transportation measures (including promotion of waiting restriction in vicinity of the new site access and improvements to public transport infrastructure) in the area.
- 5.9 The objections from neighbouring occupiers with regards to highway safety and increase in traffic are noted. However, amendments have been made to the scheme in relation to parking and the access in order to reduce the impact on local highway conditions. Significant weight is also given to the fact that the Highway Authority has not objected to the scheme. It is not envisaged that vehicles will travel at significant speeds along the proposed access road given its design, including the proposed traffic calming measures. Railings are also proposed on the playing field side of the access road and a condition is recommended to ensure that the railings are installed prior to the first occupation of the dwellings.

Whilst the proposal will clearly generate more traffic than the existing situation, the design of the access and the increase in parking availability on the site is such that it will not have a significant adverse impact on local highway conditions. The access road is approximately 18 metres from the property

Abraham Fry to the east and since the existing trees between are to be retained, it is considered, given the scale of the proposal, that the amenity of the neighbouring occupiers will not be adversely affected by the increase in traffic.

#### 5.10 Residential Amenity

The northern elevation of the flat block (Abraham Fry House) on Petherton Close, although only 2 storeys at this point, is gabled and has a projecting oriel window. Given its proximity there is potential for impact on the proposed new dwellings. In order to address this concern, proposed Plots 20-23 have been slightly re-orientated creating a more oblique angle to the boundary with Petherton Close. Any views from the flat block into the rear of plot 23 are now more oblique. Plot 23's garden is also wider and will therefore provide more opportunity for sunlight to penetrate. It is now considered that the relationship between the flat block and plot 23, although not ideal, is acceptable. There is a gap of approximately 25 metres from the northern boundary to the properties to the north; and a gap of approximately 14 metres from the eastern boundary to the flats to the east at the closest point. It is considered therefore, that there is sufficient distance between the proposal and the neighbouring properties for there to be no significant adverse residential impacts in terms of loss of natural light or privacy or light pollution.

#### 5.11 Scale and Design

The site currently comprises a large detached dwelling at the western end of an extensive garden. The dwelling is currently served off Woodland Terrace; a narrow un-surfaced private driveway. To the west is a school, through the grounds of which the new development will be served (off Courtney Road). To the south and east are large blocks of flats and associated parking courts, and to the north are the rear gardens of semi-detached dwellings on Orchard Road. At the western end is also a public footpath that connects Orchard Road with Courtney Road. The eastern half of the site slopes gently up to the west and drops steeply (some 3m) to both the north eastern corner and southern boundary (creating a 'flattened dome' profile) that is formed by a deep ditch which then rises steeply again to the courtyard off Petherton Close. The western part of the site rises some 3-4m quickly towards Woodlands Terrace. Substantive trees and vegetation characterise both the north and southern boundaries. A close board fence runs along the eastern boundary. There are extensive views to the northeast from the eastern part of the site. Pedestrians in Petherton Close also overlook the site. The surrounding roads comprise a mix of dwelling styles, generally two-storey. Older dwellings, which demonstrate the local vernacular being constructed of pennant stone and with stone or castellated brick window surrounds are also evident nearby.

5.12 The public footpath connecting Orchard and Courtney Road at the western end of the site is clearly well used. Whilst a new footpath will also be provided along the side of the new access road, the existing footpath will remain in place for use by pedestrians. The section adjoining the application site is the least well surveilled part of the footpath, being formed by a blank building gable and a 5ft block boundary wall. There is a clear opportunity to improve surveillance along this part of the footpath so enhancing security. In order to ensure that the existing level of safety for the existing footpath is improved, amended plans were received during the course of the application to provide additional

surveillance of the footpath. The revised plans show that the design of Plots 1 & 2 have been amended. They now comprise a pair of semi-detached 3 storey town houses with integral garages. The additional storey height, introduction of projecting oriel windows to the side elevations, removal of screen wall from alongside plot 1 and landscaping opposite, contribute significantly to improving surveillance along the PROW. The pair are proposed in brick, as opposed to render and stone which characterises the rest of the development. They could however form something of a local landmark building.

- 5.13 Plot 20's garden in particular, given the steep slope to the ditch along the southern boundary will be particularly exposed to anyone standing in Petherton Close. The retention of the tree (which is welcome) will also overshadow the garden for much of the time. Given its exposure, overshadowing and slope, the amenity value is put into question. The proposed 1.8m closed board fence at the bottom of the ditch will do little to screen views into the rear of plots 20 & 21 from anybody on Petherton Close. Plot 19 also suffers from such impacts but to a lesser degree. Officers requested amendments to the scheme in order to address these concerns. Additional information was subsequently received to show plots 20-23 having screen fencing to the rear patio areas, whilst section G-G indicates terracing to the gardens. These additions will allow some privacy to part of the rear garden and ground floor rooms. Terracing will also create more usable garden spaces. Subject to the submission of boundary details via condition it is considered that these arrangements are acceptable securing the amenity of future occupiers. The site continues to slope steeply in the proximity of parking spaces to plots 16 & 17 and the cycle parking in the southeastern corner of the site. Sections have now been received indicating the necessity of retaining walls (in stone) to provide level areas for the parking.

The Officer raised concerns that none of the dwellings took advantage of the opportunity presented by the extensive views to the northeast from the eastern part of the site. In response projecting balconies are proposed to the first and second floor flats (plots 7-18). These will enable residents to take greater advantage of the extensive views to the northeast and provide further surveillance over the parking area to the adjacent flat block to the east. These measures are welcome.

Three large trees are proposed in the garden of plot 5. The canopy spreads of these trees will also substantively undermine the amenity value of gardens to plots 3-6. Plot 5 is a two bed house and besides amenity issues, the maintenance liability presented by such trees for a prospective resident of plot 5 is likely to render this plot un-saleable. Such large trees would be better placed in communal areas or the gardens of larger properties and with garden space not entirely dominated by the trees, as proposed. The large trees remain in the private rear gardens of plots 3-6. Plots 3-5 have however, been increased in size to more substantive 3 bed dwellings and thereby more proportionate to the potential liability. Again, the arrangement is not ideal but given the trees are on the northern boundary and works to raise the canopies are proposed, the gardens will receive some sunlight. Amenity is thus sufficient not to justify refusal. Bin storage details have been received and are considered acceptable.

### Scale

2-3 storey dwellings as proposed are considered acceptable with the context of the area.

### Appearance

It is accepted that the locality is characterised by a broad range of dwelling ages and styles. Concerns were raised by officers with the applicant that a proper analysis of the context (regardless of what new build has been approved in recent years) would have identified that the area does have a local vernacular as described above. Render is also a common material. Kingswood is certainly not a 'brick' locality. In the South Gloucestershire's Local Plan (adopted) January 2006 Policy D1 & Core Strategy Policy CS1 requires that new developments exhibit an architectural quality in a manner that respects or enhances the character of the area. Given there is an evident local vernacular, development should either seek to faithfully emulate it or define its own sense of place through a modern style of architecture that may be driven by other objectives such as sustainability, whilst taking cues from the character of the locality, such as through the use of materials, proportions or detailing. Plots 1&2 are also potentially in a key position being visible at the end of Woodland Terrace, across the playing fields and as one approaches along the PROW from Courtney Road. It should therefore, be given careful consideration.

Subsequently amended plans were received, which addressed concerns raised by the Officers. The applicant has continued with a 'traditional' appearance; the dwellings are now predominantly in render. Stone, which is assumed to be a natural product rather than reconstituted, is proposed in the plinths to plots 6 & 19 and some garages and walling. This is welcome and more in keeping with the wider locality. Windows have a general vertical emphasis with recon stone heads and cills and / or render surrounds. Plots 1 & 2 proposed in brick with stone quoin detailing provide a contrast at the entrance to the site. The architectural appearance, although not exceptional, has a simple and unfussy quality. Subject to the submission of materials samples of sufficient quality it is considered that the scheme has the potential to enhance the site and context.

### Access

Including garages, only 29 parking spaces were initially provided. This represented a ratio of only 126%. It was considered that the access road within the school and the main part of the site will therefore likely receive uncontrolled on-street parking. Given the length of the access road this would appear not to be a problem, but will no doubt quickly be invaded by overflow parking from surrounding streets. Parking provision has been increased to 35 spaces (152%) including a number of visitor spaces. Garages are to be built with internal dimensions of some 2.9m x 6m allowing sufficient space for a parked car and some storage, which is acceptable.

Given the relatively small scale of the proposal, it was considered that there was no need for the apparent footpath from the point of the PROW crossing the entrance to the main part of the site. Homezone / shared space principles should be adopted and some on-street parking should be designed into this area given the low parking ratio. The footpath has now been deleted and the area to the fronts of plots 1-5, 20-23 is shown as a single shared space.

### Landscape

A soft landscaping condition is recommended if permission is granted for further details regarding the treatment of the school playing field boundary with the new access road.

### Sustainability

Insufficient information was provided in the design and access statement with regards to sustainability. The proposals were for standard house types that did not take into account the context, in terms of the arrangement of habitable rooms, size and design of fenestration or orientation of roof pitches to take advantage of solar gain or natural ventilation. In response, the applicant has confirmed that the dwellings will be built to Code for Sustainable Home Levels 3, which is considered to be acceptable.

#### 5.14 Ecological Issues

Whilst objections on the basis of harm to local wildlife have been received from neighbouring occupiers, the applicant has submitted a Protected Species Survey and the Council's Ecology Officer has been consulted with regards to the proposal.

No signs of use by bats were recorded within the house or outbuildings and the trees do not offer the sort of features of use to roosting bats. Since bats can utilise the structure of roofs at any time of year, as a precautionary measure, it is recommended that a condition is applied, if permission is granted, to ensure that the roof is dismantled carefully by hand.

Several areas of habitat on the site are suitable for use by slow-worms. Slow-worms are a protected species under the Wildlife and Countryside Act 1981 (as amended) and CROW Act 2000. They are also included in the South Gloucestershire Biodiversity Action Plan (BAP). However, as the areas of suitable habitat are limited and isolated, being situated within a well managed garden within a densely urban environment, the likelihood of slow-worms being present is considered to be low. As such, a specific survey is unnecessary, a however, a condition is recommended if permission is granted to ensure that a working statement for clearing areas of suitable habitat is agreed.

The extended Phase 1 assessment does not include a survey for hedgehogs. A condition is recommended if permission is granted requiring that areas of suitable habitat should be subject to a destructive search immediately prior to development commencing and any hedgehogs present should be moved to an agreed receptor site.

An objection has been received from a neighbouring occupier with regards to badgers being on the site, however, according to the Protected Species Survey submitted, no evidence of badger setts were recorded on site. A large, but apparently inactive sett is located just outside the north-east corner of the site. The relative gradients of the adjoining land and application site make it improbable that any tunnels/chambers will be affected by the development. However, the report recommends that the boundary treatment should not be such that it precludes badgers from the site. A condition is therefore,

recommended if permission is granted to ensure that details of the northeastern boundary treatment are agreed with the Local Planning Authority. There were no signs of use by any nesting birds in any of the buildings in the site.

The site comprises of a large garden including an 'orchard' and areas of scrub and rough grassland. Orchards are a priority habitat on the UK Biodiversity Action Plan (BAP) and accordingly are covered by Policy L9 of the Local Plan. Further details are therefore, required with regards to the trees and whether the habitat meets the UK BAP definition of an orchard. The site is referred to an orchard within the ecological report, however, according the agent, the orchard is historic with the trees being removed from the land many years ago. The land formerly an orchard is now open. A photograph has been submitted to demonstrate this. Subject to conditions, there are no ecological objections to the proposal.

#### 5.15 Loss Of Trees

Objections have been received from neighbouring occupiers with regards to the loss of trees. An arboricultural report has been submitted by the applicant and the Council's Tree Officer has been consulted. A number of trees are to be removed to facilitate the proposed development, however, the trees have been identified as being of poor quality and not worthy of retention. As such, and on the basis that new planting will be undertaken to mitigate against the loss of the trees, it is considered that the character of the area will not be adversely affected by the loss of the trees. The existing trees to be retained will require protection and it is therefore, recommended that a detailed arboricultural method statement is submitted by way of a condition to ensure the trees to be retained are not adversely affected by the development.

#### 5.16 Environmental Issues

The Council's Environmental Protection Officer has raised no objection to the proposal in principle. The Officer has identified the historic use of the land adjacent to the site as filled ground/landfill and therefore, there is a potential for land contamination to be present. As such, if permission is granted, it is recommended that a ground investigation and risk assessment are completed to assess the nature and extent of any contamination on site and any required remedial works to be agreed with the Local Planning Authority.

#### 5.17 Further Matters

*Loss of Playing Field* - A number of objections have been raised with regards to the loss of the school playing field. However, only part of the playing field will be lost in order to form the access to the proposed dwellings. The majority of the existing playing field will remain to serve the school following the development and it will still be functional for the intended use. Sports England have been consulted as required as part of the application and have raised no objection.

*Drainage and Sewage* - With regards to flood risk, the site is not located within a flood zone. The Council's Drainage Engineer has not objected to the proposal, however, a Sustainable Urban Drainage (SUDs) condition is recommended to ensure that suitable drainage is achieved. Objections have been received with regards to sewage capacity; however, the planning process

cannot control this. The applicants will however, require permission from the appropriate party in order to connect to a private sewer. Building regulations also covers waste disposal.

*Advertisement Signs* – Any advertisements in relation to the proposed site will likely require separate advertisement consent, unless the signs are permitted development by virtue of The Town and Country Planning (Control of Advertisement) (England) Regulations 2007, and can be assessed accordingly.

*Loss of green space and impact on local amenities* – The applicant has agreed to make a financial contribution towards the creation of additional school places and improving local parks. Further details of the contributions can be found at the end of this report. The contributions, which are to be secured by a legal agreement, will help offset the impact of the proposed development on local amenities.

#### 5.18 Education Requirements

The Councils Education Department report that based on a projected surplus of places at secondary schools in the local area, no contribution is required for additional secondary school provision. However at primary level there is a projected deficit in places in the local area, therefore a contribution is required towards primary school education. It is predicted that the proposed development of 23 units of the mix shown on plan 22WT/LAY.002E will generate four additional primary school pupils based on the pupil number calculator. Current DCSF cost calculators give a figure of £10,466 per additional primary pupil place. Therefore a total contribution of £41,864 is requested for additional primary school provision. This sum of money has been discussed with and agreed by the applicant.

#### 5.19 Community Services Provision

Policy LC8 of the South Gloucestershire Local Plan (adopted) January 2006 considers provision towards open space and Children's Play Space. In addition Policy LC1 indicates that where local provision for leisure, recreation and other community facilities is inadequate to meet the projected needs arising from the future occupiers of proposals for new residential development, the Council will negotiate with developers to secure provision in scale and kind, (to accord with the tests set out in Circular 05/05), to meet these needs. This may include contributions towards the enhancement of existing provision within the vicinity where on-site provision is not possible.

It has been calculated that given the proposed number and mix of dwellings, that the proposal results in a net population increase of approximately 39 people. Having measured from the submitted details in terms of the requirements for open space there are the following requirements (maintenance requirements in brackets). Category 1 - formal open space £14,469.36 (£8,820.16); Category 2 - equipped children's play space £11,207.82 (£5,901.32); Category 3 - unequipped children's play space £1,232.11 (£2,403.62); there is already informal open space provision given the thin strip of land to the southwest of the site, the maintenance cost required is £13,015.22. This gives a total contribution requirement of £57,049.61 (£26909.29 towards the provision of the open space and £30140.32 towards

maintenance). The enhancements will be carried out within reasonable travel distances of the proposed development. The contributions will likely be spent at Southey Avenue Playing Fields and Kingswood Park.

The increase in population will place additional pressure on the local Library Service provided at Kingswood Library, which could potentially lead to a decrease in the overall quality of the service. In order to ameliorate this impact the Council requests a financial contribution of £3483 to go towards expanding library services in the area to meet the needs of the new residents.

#### 5.20 Affordable Housing

The affordable housing requirements being secured through a S106 agreement are based upon Policy H6 of the South Gloucestershire Local Plan and the Affordable Housing SPD. It is noted however that the Council's Core Strategy Development Plan Document was submitted to Secretary of State on 31st March 2011 and within this, the affordable housing policy includes a reduced threshold of 10 dwellings in urban areas, with a threshold of 5 in rural areas and a requirement for 35% affordable housing. For schemes below 15 dwellings in urban areas for the purposes of development control purposes, officers will continue to apply South Gloucestershire Local Plan Policy H6 pending the receipt of the inspector's report on the Core Strategy. However, for schemes over 15 dwellings in urban areas and 5 in rural areas, officers will negotiate the maximum level of affordable housing on each site that is feasible up to the 35% figure.

Both planning and housing enabling officers welcome that 8 units have been offered in line with policy H6 and emerging Core Strategy Policy CS18 which should be delivered as affordable housing, as defined by PPS3.

A tenure split of 80% social rent and 20% intermediate housing is identified in the West of England Strategic Housing Market Assessment (SHMA) 2009. In accordance with this assessment, again it is welcomed by officers that the applicant is providing 6 units for social rent and 2 for shared ownership as per policy.

The Council will seek a range of affordable unit types to meet housing need based upon the findings from the SHMA 2009 shown below:

#### **Social Rent**

Percentage	Type	Min Size m2
23%	1 bed flats	46
7%	2 bed flats	67
38%	2 bed houses	75
22%	3 bed houses	85
10%	4 bed houses	105

## Intermediate

Percentage	Type	Min Size m2
44%	1 bed flats	46
17%	2 bed flats	67
19%	2 bed houses	75
19%	3 bed houses	85
1%	4 bed houses	105

The Council will seek 5% of the affordable housing to meet the wheelchair accommodation standards as set out at Appendix 4 of the Council's Affordable Housing Supplementary Planning Document.

These affordable housing comments are based layout drawing number 22WT.LAY.002 Rev E and the schedule therein. It has been agreed with the applicant that the following affordable housing units will be provided as shown in the amended layout plan;

### Social Rent:

2 x 1 bed flats at 49.2 m2 (plots 7&16 provided with a separate access)

1 x 2 bed house at 75.4 m2 (plots 20)

3 x 3 bed houses at 100 m2 (plots 3, 4 and 5)

### Shared Ownership:

1 x 1 bed flat over garage at 56.4 m2 (plot 6)

1 x 2 bed house 75.4 m2 (plot 21)

This affordable housing is to be delivered without any public subsidy. 100% of initial occupants and 75% of subsequent lettings to be nominated by South Gloucestershire Council. The affordable housing should be distributed across the site in clusters of no more than 6 units, unless a specific pepper potting strategy is approved by SGC. The scheme layout does not show a cluster of more than 6 units in line with policy. All units to be built in line with the same standards as the market units (if higher) and to fully comply with the latest Homes and Communities Agency (HCA) standards applicable at the time the S106 agreement will be signed or 6 months prior to start on site whichever date is the latter, to include at least Level 3 of the Code for Sustainable Homes, Lifetime Homes standard, Secured by Design, and with full compliance of RP design brief. Delivery is preferred through a RP – the Council encourages the developer to work with a HomesWest RP on sites over 30 units or from the South Gloucestershire Housing Partnership on smaller sites. In the event of the developer choosing an Affordable Housing Provider from outside these partnerships then the Council will set the detailed management standards that will be required. The affordable housing should be built at the same time as the rest of the housing on site in line with agreed triggers as per S106 agreement, with a detailed assessment on a site-by-site basis. Where development will proceed over more than one phase, the amount, type and tenure of the affordable housing in each phase will be set out in the affordable housing masterplan schedule approved by the Council.

### 5.21 Section 106 Requirements

In relation to the issues raised by this planning application, consideration has been given to the need for a Section 106 Agreement. Circulars 11/95 and 05/2005 relate to the use of planning conditions and planning obligations under Section 106 of the Town and Country Planning Act (as Amended). Circular 05/2005 particularly advises that if there is a choice between imposing a condition and entering into a planning obligation, the imposition of a condition is preferable. In this instance, having regard to the above advice, the highways requests, education and public open space contributions are appropriately the subject of a Section 106 Agreement and would satisfy the tests set out in Circular 05/2005.

## 6. CONCLUSION

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise. The obligations set out below meet the Regulations 122 CIL tests (statutory) and without them the scheme would not be acceptable.
- 6.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (adopted) January 2006 set out above, and to all the relevant material considerations set out in the report for the following reasons:
- The proposal will not have a significant adverse impact on the residential amenity of the neighbouring occupiers in terms of loss of privacy or natural light – policies H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.
  - Adequate provision has been made with regards to the access, off street parking and cycle parking such that the proposal will not adversely affect the local highway conditions – policies T12, T8, T7, H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.
  - The proposal achieves an acceptable standard of design, and will acceptably integrate with and make a positive contribution to the character of the surrounding area – policies D1, H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006; the South Gloucestershire Design Checklist SPD (adopted).
  - The proposal fully addresses the drainage requirements of the site and will not adversely affect the surrounding water environment – policies EP1 and EP2 of the South Gloucestershire Local Plan (adopted) January 2006.
  - The development will not adversely impact upon the ecological interests and needs of the locality – policies L9 and H2 of the South Gloucestershire Local Plan (adopted) January 2006.

- The proposed development will meet the Council's requirement for Affordable Housing in the development (secured by legal agreement) – policy H6 of the South Gloucestershire Local Plan (adopted) January 2006.
- An appropriate contribution towards the provision of primary school places to meet the justified need in the locality (secured by legal agreement) has been secured – policies LC2 and H2 of the South Gloucestershire Local Plan (adopted) January 2006.
- Appropriate contributions have been secured towards Community Services (secured by legal agreement) - policies LC1, LC8 and H2 of the South Gloucestershire Local Plan (adopted) January 2006.

## **7. RECOMMENDATION**

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

- £26909.29 towards enhancement of existing open space in the vicinity of the site and £30140.32 towards the future maintenance of these enhancements to accord with Policy LC8 of the South Gloucestershire Local Plan (adopted) January 2006.
- £3483.00 towards the local library service provided by Kingswood Library to help ameliorate the predicted impact on the service by the proposed development to accord with Policy LC1 of the South Gloucestershire Local Plan (adopted) January 2006.
- £41,864 towards additional primary school provision to provide 4 primary school places to accord with Policy LC4 of the South Gloucestershire Local Plan (adopted) January 2006.
- £10,000 towards transportation measures (including promotion of waiting restriction in vicinity of the new site access and improvements to public transport infrastructure) in the area to accord with policy T12 of the South Gloucestershire Local Plan (adopted) January 2006

### Affordable Housing

- 33.3% affordable housing to be provided. The proposal shows the provision of 23 units, therefore, 8 should be provided for affordable housing without any public subsidy.
- A tenure split of 80% social rent and 20% intermediate housing is identified in the West of England Strategic Housing Market Assessment (SHMA) 2009.

- The Council will seek 5% of the affordable housing to meet the wheelchair accommodation standards as set out at Appendix 4 of the Council's Affordable Housing Supplementary Planning Document.
- 100% of initial occupants and 75% of subsequent lettings to be nominated by SGC.
- Design and specification criteria: All units to be built in line with the same standards as the market units (if higher) and to fully comply with the latest Homes and Communities Agency (HCA) standards applicable at the time the S.106 will be signed or 6 months prior to start on site whichever date is the latter, to include at least Level 3 of the Code for Sustainable Homes, Lifetime Homes standard, Secured by Design, and with full compliance of RP design brief
- Phasing - the affordable housing should be built at the same time as the rest of the housing on site in line with agreed triggers as per S.106 agreement

7.2 That the Head of Legal and Democratic Services be authorised to check and agree the wording of the agreement.

7.3 If the Legal Agreement is not signed within 6 months of the resolution then the application will be refused under delegated officer powers.

**Contact Officer: Jonathan Ryan**  
**Tel. No. 01454 863538**

### **CONDITIONS**

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

Reason

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

2. No development shall take place until a Detailed Arboricultural Method Statement is submitted to and approved in writing by the Local Planning Authority.

Reason

The protect the visual amenity of the trees in the interests of the visual amenity of the surrounding area - policy L1 of the South Gloucestershire Local Plan (adopted January 2006).

3. No development shall take place until a soil survey of the site has been undertaken and the results submitted to the Local Planning Authority. The survey shall be undertaken at such points and to such a depth as the Local Planning Authority may stipulate. A scheme for decontamination of the site shall be submitted to and approved in writing by the Local Planning Authority and the scheme as approved shall

be fully implemented and completed before any residential unit hereby permitted is first occupied.

Reason

To ensure that adequate measures have been taken to mitigate against contaminated land to accord with Policies EP1 and EP6 of the South Gloucestershire Local Plan (adopted) January 2006.

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

Reason

To ensure an adequate means of drainage is provided and to accord with policies EP1, L17 and L18 of the South Gloucestershire Local Plan (adopted) January 2006.

5. Prior to the commencement of development full details of both hard and soft landscaping works shall be submitted in writing to the Local Planning Authority for approval and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines indicating lines, manhole); retained historic landscape features and proposals for restoration where relevant. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

Reason

In the interests of the character of the area and to accord with policies D1 and L1 of the South Gloucestershire Local Plan (adopted) January 2006.

6. The new junction with Courtney Road and the new site access serving the development shall be constructed to the Council's adoptable standards.

Reason

To ensure an adequate standard of access and in the interests of highway safety to accord with Policies T12, H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.

7. Prior to the commencement of the development, a working methodology statement to safeguard bats during the demolition of the buildings/felling of trees, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed methodology statement.

Reason

To protect the wildlife and the ecological interests of the site, in accordance with Policy L9 of the South Gloucestershire Local Plan (adopted) January 2006

8. Prior to the commencement of development samples of the roofing and external facing materials proposed to be used shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason

To ensure an acceptable standard of external appearance and to accord with policies D1, H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.

9. The hours of working on site during the period of construction shall be restricted to:

7:30 - 18:00 Mondays to Friday

8:00 - 13:00 on Saturdays

and no working shall take place on Sundays or Public Holidays.

The term working shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.

Reason

In the interests of the residential amenity of the neighbouring occupiers and to accord with policies H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.

10. The residential units hereby approved shall not be occupied until a scheme for the management of the communal areas of the development for the life of the development have been submitted and agreed in writing by the Local Planning Authority. The scheme shall include management responsibilities and maintenance schedules and timing thereof. The development shall be carried out in accordance with the agreed details.

Reason

To ensure a good standard of design and in the interests of the character and visual amenity of the area to accord with Policy D1 of the South Gloucestershire Local Plan (adopted) January 2006.

11. No development shall take place until a Waste Management Audit has been submitted to and approved by the Local Planning Authority in writing. The Waste Management Audit shall include details of:

(a) The volume and nature of the waste which will be generated through the demolition and/or excavation process.

(b) The volume of that waste which will be utilised within the site in establishing pre-construction levels, landscaping features, noise attenuation mounds etc.

(c) Proposals for recycling/recovering materials of value from the waste not used in schemes identified in (b), including as appropriate proposals for the production of secondary aggregates on the site using mobile screen plant.

(d) The volume of additional fill material which may be required to achieve, for example, permitted ground contours or the surcharging of land prior to construction.

(e) The probable destination of that waste which needs to be removed from the site and the steps that have been taken to identify a productive use for it as an alternative to landfill.

Development shall be carried out in accordance with the agreed details.

Reason

To accord with the Local Planning Authority adopted Waste Management Strategy, and to accord with Policy 37 of the South Gloucestershire Minerals and Waste Local Plan (adopted) May 2002 and Policy 1 of the Joint Waste Core Strategy March 2011; and Policy EP1 of the South Gloucestershire Local Plan (adopted) January 2006.

12. The visibility splays of 2.4 metres by 43 metres shall be provided from the new access onto the public highway and set back from all obstructions including the boundary fence (above height of 0.6 metres) behind the said visibility splays.

Reason

In the interests of highway safety and to accord with Policies T12, H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.

13. Prior to the occupation of any dwelling on the site, the off-street parking and turning areas shall be provided in accordance with the approved details. The parking and turning areas shall be retained and maintained thereafter.

Reason

To ensure adequate parking provision in the interests of highway safety and the amenity of the area and to accord with Policies T12 and T8 of the South Gloucestershire Local Plan (adopted) January 2006.

14. Prior to the occupation of any dwelling, the cycle parking shall be provided in accordance with the approved details and retained and maintained thereafter.

Reason

To ensure adequate provision of cycle parking and in the interests of the amenity of the area, and to accord with policies T12 and T7 of the South Gloucestershire Local Plan (adopted) January 2006.

15. Prior to the commencement of the development a working methodology statement for the clearing any habitat suitable for slow-worms (scrub/rough grassland) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed methodology statement.

Reason

To protect the wildlife and the ecological interests of the site, in accordance with Policy L9 of the South Gloucestershire Local Plan (adopted) January 2006

16. Prior to the commencement of the development a mitigation strategy for hedgehogs shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed details.

Reason

To protect the wildlife and the ecological interests of the site, in accordance with Policy L9 of the South Gloucestershire Local Plan (adopted) January 2006

17. Prior to the commencement of the development details of the boundary treatment (fencing) on the north-east boundary shall be submitted to and approved in writing by the Local Planning Authority. (For the avoidance of doubt, the fencing should avoid any adverse impact on badgers). The development shall be carried out in accordance with the agreed details.

Reason

To protect the wildlife and the ecological interests of the site, in accordance with Policy L9 of the South Gloucestershire Local Plan (adopted) January 2006

18. The proposed railings along the western side of the access road to be constructed shall be in place prior to the first occupation of the dwellings hereby permitted and retained and maintained satisfactorily thereafter.

Reason

In the interests of highway safety and to accord with Policies T12, H2 and H4 of the South Gloucestershire Local Plan (adopted) January 2006.

**CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011**

<b>App No.:</b>	PK11/2317/O	<b>Applicant:</b>	Mr Andrew Humphris
<b>Site:</b>	Land Off Greenway Lane Cold Ashton Chippenham South Gloucestershire SN14 8LA	<b>Date Reg:</b>	10th August 2011
<b>Proposal:</b>	Erection of 1 no agricultural workers dwelling (Outline) all matters reserved	<b>Parish:</b>	Cold Ashton Parish Council
<b>Map Ref:</b>	374259 172409	<b>Ward:</b>	Boyd Valley
<b>Application Category:</b>	Minor	<b>Target Date:</b>	4th October 2011



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 100023410, 2008. **N.T.S.** **PK11/2317/O**

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

This application has been referred to the circulated schedule due to the receipt of one letter of objection from a neighbouring resident.

### **1. THE PROPOSAL**

- 1.1 The application seeks outline permission for the erection of an agricultural workers dwelling at land off Greenways Lane, for the dairy farming business at Greenway Lane, Cold Ashton. The only matter to be considered at this stage is the principle of the development, all other matters would be kept until the reserved matters stage.
- 1.2 The site consists of a plot inside a field within the Green Belt, and Cotswolds Area of Outstanding Natural Beauty accessed off Greenways Lane, within the open countryside. The site of the proposed dwelling and curtilage would be situated to the south of the existing farm/dairy buildings.
- 1.3 The applicant presently rents the agricultural holding known as Toghill Barn Farm from South Gloucestershire Council on a Farm Business Tenancy which includes a farmhouse, adjoining cottage, range of buildings and 110 acres of land. This tenancy comes to an end in September 2012. The applicant owns about 42 acres of his own land known as land at Gorse Lane and Greenway Lane. The Greenway Lane site on which the farm buildings are situated and where the proposed dwelling is intended, is an area of approximately 2.4 acres adjoining the Toghill Farm land and lies close to the Greenway Lane land.
- 1.4 The applicant submitted an application for a temporary agricultural workers dwelling in 2009 application reference PK09/5241/F. This application was refused for the following reasons:
- ‘It is considered that the justification submitted with the application does not demonstrate an existing functional need for an agricultural workers dwelling at land off Greenways Lane. The proposal therefore fails to satisfy the criteria set out in PPS7.’
- ‘The proposal development seeks planning permission for residential development outside an existing urban area and settlement boundary. The proposal is not considered acceptable for agricultural purposes and as such is contrary to Policy H3 of the South Gloucestershire Local Plan (Adopted) 2006.’
- ‘The site is located within the Bristol/Bath Green Belt. Justification submitted with the application does not demonstrate an existing functional need for an agricultural workers dwelling, as such the proposed development is deemed inappropriate development in the Green Belt and is contrary to Policy GB1 of the South Gloucestershire Local Plan and PPG2’
- 1.5 Due to a change in circumstances since the previous application a further application has now been submitted.

- 1.6 The applicant has a herd of approximately 100 cows at Toghill Barn Farm, this will cease from September 2012. In addition the applicant has been running a herd of approximately 70 cows at Greenways Lane since 2007. The cows at Greenways Lane are housed in a covered yard and milked using a robotic milking machine. The cows here are milked throughout a 24 hour period as and when they choose and as such there is no requirement for somebody to be on site for the traditional morning and afternoon milking.

## **2. POLICY CONTEXT**

### **2.1 National Guidance**

PPS1	Delivering Sustainable Development
PPG2	Green Belts
PPS7	Sustainable Development in Rural Areas

### **2.2 Development Plans**

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

L1	Landscape Protection and Enhancement
L2	Cotswold Area of Outstanding Natural Beauty
L17	The Water Environment
EP1	Environmental Pollution
GB1	Development within the Green Belt
T12	Transportation Development Control Policy
H3	Residential Development in the Countryside

#### **South Gloucestershire Core Strategy, Pre-submission Draft December 2010**

CS1	High Quality Design
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### **2.3 Supplementary Planning Guidance**

South Gloucestershire Design Checklist (Adopted) 2007

South Gloucestershire Council Development in the Green Belt SPD (Adopted) June 2007

## **3. RELEVANT PLANNING HISTORY**

- |     |             |   |
|-----|-------------|---|
| 3.1 | P91/2774    | Erection of agricultural workers dwelling, alteration to existing vehicular and pedestrian access. (Outline)<br>Refused February 1992   |
| 3.2 | P92/1483    | Erection of agricultural workers dwellings, alteration to existing vehicular and pedestrian access (outline).<br>Refused September 1992 |
| 3.3 | PK05/2574/F | Erection of livestock building and associated works<br>Approved March 2006  |
| 3.4 | PK09/0397/O | Erection of 1 no. agricultural workers detached dwelling (outline) with access and layout to be determined.<br>Withdrawn April 2009     |
| 3.5 | PK09/5241/F | Change of use of land from agricultural to land for the   |

stationing of a mobile home for use as a temporary agricultural workers dwelling.  
Refused January 2010

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

4.1 Cold Ashton Parish Council  
No objections.

4.2 Sustainable Transport  
No objections.

4.3 Environmental Protection  
No objections

4.4 Drainage Officer  
No objections

#### **Other Representations**

4.5 Local Residents

One letters of objection have been received from local residents stating the following concerns:

- The applicant only has short term control of the land around the site and will eventually be left with a dairy unit on 3 acres of land with no connected grazing
- The majority of his land is miles from the unit
- A major part of the business has been lost at Toghill, the submission does not show how he will replace it or integrate it into the site.
- Traffic issues due to the need to access other parts of the farm and buildings to attend livestock that are currently done from Toghill Farm.
- Traffic from the site is currently low due to use of a track between Greenways and Toghill farm. Consequently Greenways Lane which is part of the Cotswold Way has stopped deteriorating.
- If permission is granted a condition should be attached that there be a new entrance to the site from the A420.
- If applicants access land from the A420 it would take all farm traffic away from the busy A46 and A46/A420 roundabout.
- New access would save the applicant time and other businesses, residents and walkers would have a cleaner lane.
- Applicants do not own land the short distance to A420, if south Gloucestershire Council as landlords aren't prepared to give access, surrounding landowners would be approachable.
- The loss of the tenancy at Toghill Barn Farm is likely to result in that part of the business moving to the land at Greenways. If permission for a house is granted this will further intensify the small site with further development.

## 5. ANALYSIS OF PROPOSAL

### 5.1 Principle of Development

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

### 5.2 Annex A of PPS7 has a series of criteria for the assessment of new agricultural dwellings. Para 3 of Annex A states: New permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- There is a clear established existing functional need,
- The need relates to a full time worker, or one who is primarily employed in agriculture and does not relate to a part time requirement
- The unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so
- The functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned
- Other normal planning requirements eg in relation to access, or impact on the countryside, are satisfied

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

#### Functional Need

In the previous application it was considered that the actual future functional need of the site was dependant on the availability of Toghill Barn Farm and with it the two dwellings that are available. It that time it was considered that Toghill Barn Farm farmhouse was available and within reasonably easy access and as such there was no actual existing functional need for a further dwelling in Greenway Lane as the business could be managed from the existing dwelling.

It was concluded in the assessment of the previous application that given that there was no certainty that the tenancy at Toghill Barn would come to an end and given that the current tenancy did not end for almost 3 years, it was considered that the application was somewhat premature. The circumstances have now changed and the applicant has been served a Notice to Quit to bring the tenancy of Toghill Barn Farm to an end on 29<sup>th</sup> September 2012. Taking this into consideration in combination with the number of calvings taking place all the year round. It is considered that there would be a functional need for there to be a qualified person based at Greenway Lane.

### Full time Labour

It is accepted that a dairy enterprise of 100 dairy cows plus, would be considered as a full time occupation. Based on the information submitted and the assumption that there would be at least this number of cows in the future, it is considered that the proposal meets criteria 3 (ii) of PPS7 annex A and the proposal is in connection with a full time labour unit.

### Establishment and Viability

Having assessed the budget figures and recent accounts it is considered that the business has been established for some time, has the prospect of remaining viable for the foreseeable future and is able to finance the necessary capital expenditure.

### Other Dwellings

There is currently a dwelling at Toghill Barn Farm, however as detailed above, this will no longer be available as from 29<sup>th</sup> September 2012. It would appear that this was the only dwelling available to the applicant from which the Greenway Lane site could be served, as such it is considered that the functional need could not be fulfilled by another existing dwelling in the area.

### Conclusion

It is concluded that the given the loss of the holding at Toghill Barn Farm there is now an existing functional need for a dwelling at the Greenway Lane site. The proposed dwelling would be needed to serve the dairy unit which requires a full time person and is considered to be a viable business. As such the proposal meets the requirements of PPS7.

## 5.4 Green Belt and Impact on Landscape

The site lies within Green Belt and therefore falls to be assessed by Policy GB1 of the South Gloucestershire Local Plan (Adopted) January 2006. Policy GB1 allows for the construction of new buildings for agricultural workers. It is considered that there is a functional need for the dwelling for agricultural purposes, and as such the proposal is considered to be appropriate development in the Green Belt and accords with Policy GB1.

The application outlines the scale parameters and site location for the proposed dwelling. Given the siting of the proposal within an area that is visually enclosed by hedgerows and adjacent to the existing farm buildings, it is considered that there will be no significant landscape character issues and the visual amenity of the Green Belt is unlikely to be harmed. Similarly, it is not considered the natural beauty of the AONB will be significantly affected. A full assessment of this would be made at reserved matters stage when full details of siting and design are considered. Given the scale of the proposed dwelling in combination with its location within the Green Belt it is considered necessary to remove the permitted development rights for the dwelling.

It is accepted that the proposal would have some impact on the openness of the Green Belt however the curtilage is considered to be modest and the siting of the proposal, within a fairly enclosed location and adjacent to the existing farm buildings is considered to limit the impact of the proposal. It is considered that there is a functional need for the proposed dwelling, furthermore given that

the proposal does not conflict with the purposes of the Green Belt, in combination with the emphasis within PPS7 for sustainable development in rural areas, on balance it is considered that the inevitable impact on the openness of the Green Belt is acceptable in this instance.

5.5 Design / Visual Amenity

The application includes a design and access statement which outlines the principles of the development. The site of the proposed dwelling and curtilage would be situated to the south of the existing farm/dairy buildings. The scale parameters set out in the submitted design and access statement indicate that the proposed dwelling would be a two storey dwelling with a footprint of approximately 10 square metres by 5 metres with a wing measuring 4 metres by 5 metres. The proposed dwelling would therefore have a floor area of approximately 140 square metres. In addition to the above a single storey adjoining building measuring 5 metres by 4 metres which would contain the office, a WC and a boot area is proposed. 140 square metres of floor space is considered a reasonable size for a family home, furthermore, the scale parameters are considered to be appropriate given the location of the proposal. A full and detailed assessment of the design of the proposal would be made at the reserved matters stage.

5.7 Residential Amenity

Given the location of the application site away from any neighbouring residential properties. It is not considered that the proposal would have any overshadowing or overbearing effect on neighbouring dwellings. In addition, it is considered that there are unlikely to be any issues of inter-visibility or loss of privacy. However, a full assessment of the impact in terms of overlooking and loss of privacy would need to be made at the reserved matters stage, when the exact location of windows would be known.

5.8 Transportation issues.

The councils highway officer has assessed the proposal and it is considered that vehicle movements to the site will reduce once the tenancy at Toghill Barn farm has ended. Overall it is considered that the visibility from the access from the existing farm is sufficient.

The parking provision for the proposed dwelling would need to be in compliance with Policy T8 of the South Gloucestershire Local Plan, whilst it is considered that the site is likely to be able to accommodate sufficient parking and turning space, full details of access and parking would need to be assessed at reserved matters stage.

5.9 Environmental Protection and Drainage Issues

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

### 5.13 Other Issues

Concern has been raised that the proposal does not show how the business which would be lost at Toghill Farm Barn would be integrated into the site. The applicant has demonstrated that the business at Greenways Lane is established and viable, furthermore the application is for the erection of a dwelling only, planning permission is not required for the agricultural use of the land.

With regard to the suggestion that a new entrance to the farm onto the A420 should be investigated, it should be noted that the current application relates to the dwelling only and the site outlined in red on the site plan, as such this can not be considered as part of the current application.

## 6. CONCLUSION

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

6.2 a) It has been demonstrated that there is a clear established existing functional need and the need relates to a full time worker. The business m has been established for the last 3 years and has been running at a viable level, furthermore it is considered that the business should continue to thrive. There are no other dwellings in the immediate vicinity that would be available to the applicant. As such the proposal meets the criteria set out in PPS7.

b) The proposal is considered to be appropriate development in the Green Belt, furthermore the proposal is not considered to detrimentally affect the Cotswold Area of Outstanding Natural Beauty or the visual amenity of the Green Belt. Full details will be considered at reserved matters stage. The application therefore complies with the requirements of Policies L1, L2 and GB1 of the South Gloucestershire Local Plan (Adopted).

c) The proposed access to the site is considered safe and there is sufficient space for parking on site. Full details will be considered at reserved matters stage. The application therefore complies with the requirements of Policies D1 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006

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

## 7. RECOMMENDATION

7.1 That the application be approved subject to the conditions outlined below.

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

## **CONDITIONS**

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

Reason

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

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

Reason

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

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

Reason

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

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

Reason

To ensure that the proposal is of a scale appropriate to the location within the Bristol Bath Green Belt and open countryside and to accord with policies GB1, D1 and L1; of the South Gloucestershire Local Plan (Adopted) January 2006.

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

Reason

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

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

Reason

To protect the openness and visual amenity of the Green Belt and to accord with policies D1 and GB1 of the South Gloucestershire Local Plan (Adopted) January 2006.

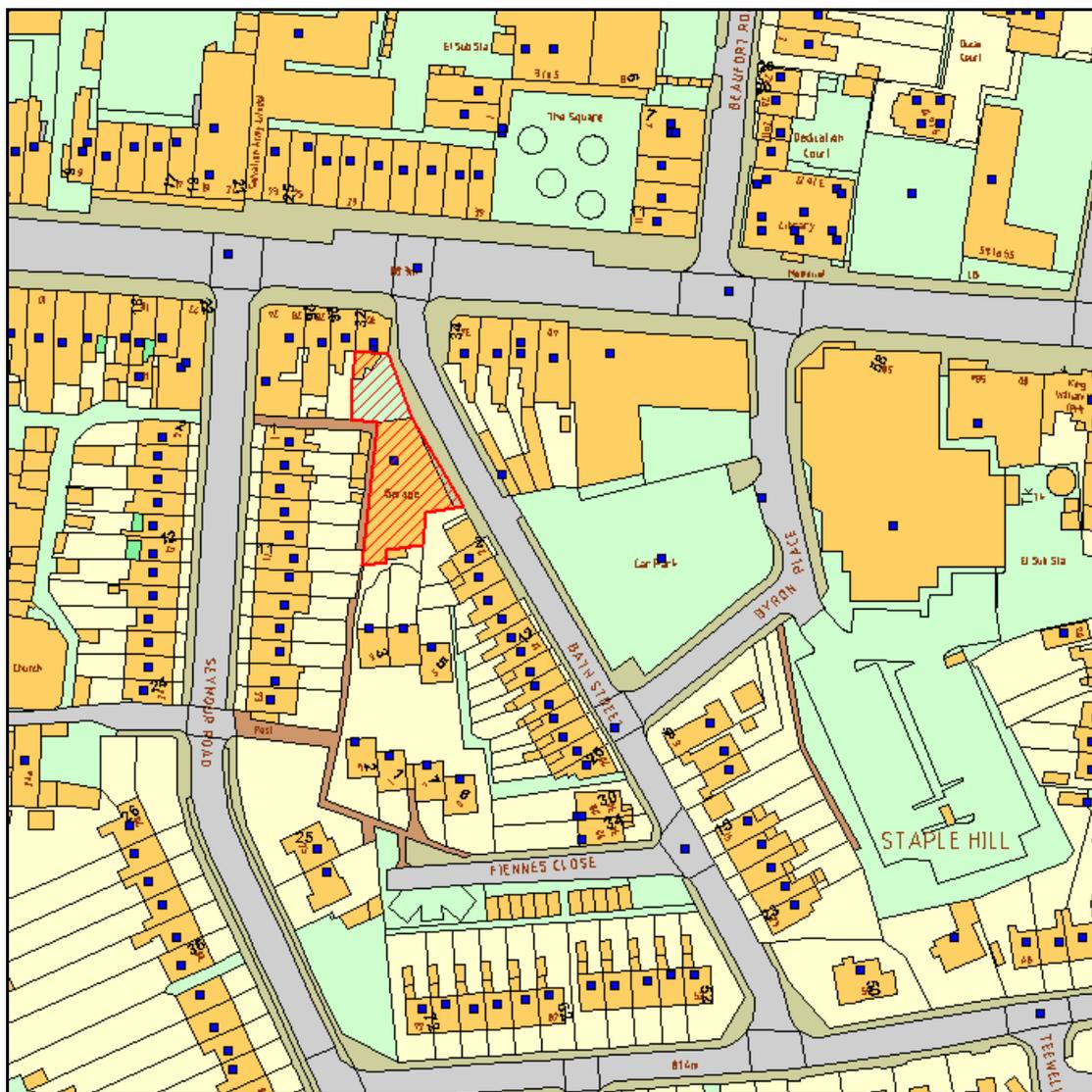
7. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

Reason

The site is not in an area intended for development and the development has been permitted solely because it is required to accommodate a person working in agriculture or forestry, to accord with Government guidance set out in PPS7.

**CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011**

<b>App No.:</b>	PK11/2491/EXT	<b>Applicant:</b>	Mr David Harris
<b>Site:</b>	Bath Street Garage Bath Street Staple Hill Bristol South Gloucestershire	<b>Date Reg:</b>	9th August 2011
<b>Proposal:</b>	Demolition of existing garage to facilitate the erection of 13 no. one bed apartments and 1 no. two bed apartment with associated works.(Consent to extend time limit implementation for PK07/2485/F).	<b>Parish:</b>	None
<b>Map Ref:</b>	365011 175871	<b>Ward:</b>	Staple Hill
<b>Application Category:</b>	Major	<b>Target Date:</b>	25th November 2011



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 100023410, 2008. **N.T.S.** **PK11/2491/EXT**

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

This application has been referred to the Circulated Schedule following the receipt of objections from local residents; which are contrary to the officer recommendation.

### **INTRODUCTION**

Members will recall that the original application(PK07/2485/F) was deferred from the Development Control (East) Committee on the 20<sup>th</sup> December 2007 to allow for an inspection of the Sites Inspection Committee, which took place on the 1<sup>st</sup> February 2008. The resolution from the SISC was that consideration of the application be deferred to the Development Control (East) Committee and that officers bring forward a full and detailed report to include the following:

- Detailed analysis of scale and design to include:
  - i. An officer comment with regard to the inclusion of balconies within the design.
  - ii. Consideration of the proposal in the context of the local architectural vernacular.
- Detailed analysis of the impact upon residential amenity to include:
  - i. An officer comment with regard to the proximity of neighbouring residential properties including the distances to the properties in Seymour Road.
  - ii. An officer comment in response to concerns raised on site regarding the overbearing impact of the proposal.
- Further details regarding the statement made on site by the applicant's agent in relation to sustainable construction.

The application was originally referred to the DC (East) Committee by Councillor Shirley Potts on the following grounds:

- No parking spaces are proposed to serve the development on this narrow street of mainly terraced houses.
- The development will be located in Bath Street (not Broad Street) and will be one storey higher than existing properties with a different roof construction and will have an overbearing impact on adjoining properties.
- The design of the flats is out of keeping with the style of the existing properties in Bath Street and Seymour Road.
- The proposed flats with the balconies and terraces will overlook the properties in Bath Street and Seymour Road and there will be a loss of privacy.
- Bath Street is narrow with traffic problems. An increase in traffic volumes will affect visibility.

The application was eventually refused by the DC East Committee 14 March 2008 for the reason listed in paragraph 3.2 below but subsequently allowed on appeal.

### **1. THE PROPOSAL**

- 1.1 The current application merely seeks an extension in time for the previously approved application PK07/2485/F, which has yet to be implemented. Nothing has changed in the proposal and none of the original conditions have yet been discharged. As previously, the application seeks full planning permission to

demolish the existing garage building and erect a block of flats, with amenity space and landscaped areas to the rear. The proposed block would contain 13 no. one bed flats and 1 no. two bed apartment arranged on three floors within a building of contemporary design, which would front onto Bath Street.

- 1.2 The application relates to a 0.056ha plot that is located at the junction of Broad Street and Bath Street, Staple Hill. The plot is currently occupied by Bath Street Garage, a B2 vehicle and maintenance business with associated parking areas. The garage is housed in a building of utilitarian appearance. A car showroom with offices above lies on the Broad Street frontage, but this is not part of the development site and would therefore be retained.
- 1.3 Broad Street lies within Staple Hill Town Centre, which is characterised by the shopping frontage, whilst Bath Street and Seymour Road to the rear of the site are predominantly residential areas, being characterised by two-storey Victorian terraces.

## **2. POLICY CONTEXT**

### 2.1 National Guidance

PPS1 - Delivering Sustainable Development  
PPS3 - Housing  
PPS5 - Planning for the Historic Environment  
PPG13 - Transport  
Ministerial Statement Rt. Hon Greg Clark MP March 2011  
Draft National Planning Policy Framework July 2011

### 2.2 Development Plans

#### Joint Replacement Structure Plan

Policy 1 - Sustainable development objectives.  
Policy 2 - Location of development.  
Policy 33 - Housing provision and distribution.

#### South Gloucestershire Core Strategy -Submission Draft (December 2010) CS1 High Quality Design

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

D1 - Design  
L1 - Landscape Protection and Enhancement  
L11 - Archaeology  
L17 & L18 - The Water Environment  
EP1 - Environmental Pollution  
EP2 - Flood Risk and Development  
EP4 - Noise Sensitive Development  
EP6 - Contaminated Land  
EP7 - Unstable Land  
H2 - Residential Development within the existing Urban Area  
H6 - Affordable Housing  
LC2 - Provision of Education Facilities  
T7 - Cycle Parking Provision

- T8 - Parking Standards
- T12 - Transportation Development Control Policy for New Development
- LC1 - Provision for Built Sports, Leisure and Community Facilities (Site Allocations and Developer Contributions).
- LC2 - Provision for Education Facilities (Site Allocations and Developer Contributions).
- LC8 - Open Space and Children's Play in Conjunction with New Residential Development.

- 2.3 Supplementary Planning Guidance  
The South Gloucestershire Design Checklist (SPD) – Adopted 23<sup>rd</sup> August 2007.

### 3. RELEVANT PLANNING HISTORY

- 3.1 P99/4602 - Erection of flats (outline)  
Withdrawn 22<sup>nd</sup> December 1999
- 3.2 PK07/2485/F - Demolition of existing garage to facilitate the erection of 13no. one bed apartments and 1no. two bed apartment with associated works.  
Refused (Committee Overturn) 14 March 2008 for reasons of:  
*'The external appearance and scale failing to respond positively to the adjoining housing and failing to make a positive contribution to the street scene contrary to Policies D1 and H2 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.'*

Appeal APP/P0119/A/08/2075738 allowed 24 Oct 2008.

### 4. CONSULTATION RESPONSES

- 4.1 Parish Council  
Not a parished area.
- 4.2 Other Consultees [including internal consultees of the Council]
- 4.3 Technical Support Street Care  
No objection subject to previous condition applying.
- 4.4 Archaeology  
No comment
- 4.5 The Coal Authority  
No objection subject to a condition to secure site investigation works relating to an existing mine entry and presence of possible shallow workings.
- 4.6 Wessex Water  
No objections raised. The development is located within a foul sewered area.
- 4.7 Sustainable Transport  
No objection

4.8 Environmental Protection

No objection in principle subject to conditions relating to the potential for land contamination given the previous use of the site as a garage.

4.9 Community Services

No further comments

**Other Representations**

4.10 Local Residents

4 no. letters of objection were received (three from the same objector). The following is a summary of the concerns raised:

- Too many flats in the area.
- Increased traffic generation in already congested area.
- Overdevelopment.
- Strain on water systems.
- Lack of bin storage.
- Loss of privacy from overlooking of properties to the rear.
- Increased on-street parking.

**5. ANALYSIS OF PROPOSAL**

5.1 Principle of Development

The acceptance of this scheme was previously established when the appeal against the refusal of application PK07/2485/F was allowed. In the determination of the current extension in time application, the Inspector's Decision Letter is a material consideration of significant weight. Officers must consider if there have since been any policy changes that would justify a different recommendation. The site lies within the Urban Area and is previously developed land and can therefore be assessed as a brownfield windfall site. The existing garage building is not afforded any special protection and does not lie within a Conservation Area. There is therefore no in-principle objection to the demolition of the garage and the re-development of the site for alternative residential use. PPS3 supports the generation of mixed communities in sustainable locations and at para.20 states:

*“Key characteristics of a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people.”*

The proposal for flats is therefore considered to be in accordance with the latest government advice contained in PPS3 and as such, there is no in-principle objection to flats being erected in the location proposed and in place of the existing garage. The flats would be sold on the open market and would provide a valuable contribution to the low cost open market housing stock, which is increasingly in demand by single people, professional couples or first time buyers.

5.2 Having regard to the adopted Joint Replacement Structure Plan, Policies 19 and 34 are no longer saved policies. Policy 33 states that priority will be given

to the re-use of previously developed sites *within the urban area*. Furthermore, Policy 2 of the JRSP, the locational strategy, aims to concentrate development for jobs, housing and facilities within the main urban areas, in order to maintain and develop their vitality and quality as regional and sub regional centres.

5.3 The proposal falls to be determined under Policy H2 of the South Gloucestershire Local Plan (Adopted) 6th January 2006, which permits the residential development proposed, subject to the following criteria:

- A. Development would not have unacceptable environmental or transportation effects, and would not significantly prejudice residential amenity; and
- B. The maximum density compatible with the site, its location, its accessibility and its surroundings is achieved. The expectation is that all developments will achieve a minimum density of 30 dwellings per hectare and that higher densities will be achieved where local circumstances permit. Not least, in and around existing town centres and locations well served by public transport, where densities of upwards of 50 dwellings per hectare should be achieved.
- C. The site is not subject to unacceptable levels of noise disturbance, air pollution, smell, dust or contamination; and
- D. Provision for education, leisure, recreation and other community facilities within the vicinity is adequate to meet the needs arising from the proposals.

#### 5.4 Density

Policy H2 seeks to ensure that sites are developed to a maximum density compatible with their location and like PPS3 seeks to avoid development, which makes an inefficient use of land. PPS3 no longer indicates that a national indicative minimum density of 30 dwellings per hectare should be used. The PPS now encourages the highest density that can be achieved within the various local considerations that need to be taken into account.

5.5 PPS3 (para.50) states that *“The density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.”*

5.6 There would be 14 units on the 0.056ha site, which equates to a density of 250 dwellings per hectare. The high density figure merely reflects the fact that the development would comprise of 14no. flats as opposed to individual dwelling houses. Having regard to the size of the plot and the scale of the building proposed, officers consider that the proposed density would make the most efficient use of the site in this Town Centre location and in this respect alone is not considered to be an overdevelopment of the site. A larger development than that proposed is not considered appropriate due to the proximity of the existing two-storey residential dwellings, and the character of the street scene.

5.7 Officers consider that given the site’s location in the heart of Staple Hill, where higher density development is to be expected, and the fact that the site is in a

highly sustainable location close to Broad Street, with its associated shopping area and regular bus routes, the site is capable of accommodating a development of the density proposed. Other apartment blocks are to be found within the wider locality. The density is therefore considered to be acceptable.

5.8 Scale and Design

Policy D1 of the South Gloucestershire Local Plan (Adopted) 6th January 2006 requires a good standard of design, in particular the siting, layout, form, scale, height, detailing, colour and materials should be informed by, respect and enhance the character, distinctiveness and amenity of both the site and the locality. The South Gloucestershire Core Strategy has now reached Submission Draft stage (Dec 2010). Policy CS1 is now a material consideration but this policy for most part replicates the criteria contained in Policy D1 and in this respect does not alter the assessment of scale and design that was originally made.

5.9 PPS1 (para. 38) in addressing design issues states that:-

*“Local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness particularly where this is supported by clear plan policies or supplementary planning documents on design.”*

5.10 The locality already exhibits a mix of old and modern, residential and commercial properties. The older buildings include the two-storey Victorian terraces situated along Bath Street and Seymour Road; to the south and west of the site respectively.

5.11 The proposed flats would be contained within a single building of contemporary design. The massing of the building takes its lead more from the higher buildings on the Broad Street frontage than the two-storey terraced dwellings on Bath Street, thus signifying an increase in intensity nearer the most important street in the locality and this approach is supported by the Council's Urban Design Officer. The proposed building would be generally 8.5m high compared to the 10.5m high buildings on Broad Street and the 7.5m high terraced dwellings on Bath Street. At its southern end however the height of the proposed building drops down to 8.1m and given that it is separated from the end of the terrace by a garage and yard, the relationship, in terms of massing, between the building and the terrace is acceptable. The Inspector at para. 5 of his Decision Letter noted that this step-down provides visual gradation, which would not create an incongruous or discordant vista along the street. Access points are included within the front elevation thus creating an active edge to the street frontage, which is a characteristic of the area.

5.12 Officers have considered the proposal in the context of the local architectural vernacular. The locality has a Town Centre character but does not exhibit a strong local distinctiveness supported by any supplementary planning documents; neither is the locality a Conservation Area. The scheme provides a design that is sympathetic to the established Bath Street frontage. In particular

the front elevation has been designed with an emphasis on dividing up the vertical plane thus creating a design that replicates the rhythm of the street scene. The use of random rubble stone at ground floor level, to match that of the Victorian terrace, is also in-keeping. The overall massing of the building is not considered to be excessive and given that there is adequate private amenity space provision, the proposal is not considered to be an overdevelopment of the site.

- 5.13 The scheme generally conforms to the established building lines and grain of development in the locality i.e. linear blocks enclosing the street. The existing garage building is unsightly and has very little architectural merit at all, so its replacement with an architect designed building is supported. The exhibits a mix of building ages and designs. A pastiche of the Victorian terrace would not necessarily represent a good design solution and would certainly not allow the most efficient use of this site in this urban location. The proposed building would make a bolder statement and given that a building of similar scale and design has recently been approved to provide the new library and flats at the corner of Beaufort Road and Broad Street (see PK07/1210/R3F) and that this building is also close to an older terrace, officers consider that the proposed design and scale would have an acceptable appearance. The Inspector at para. 7 of his Decision Letter noted that the proposed building would provide a good visual transition and that it would replace unattractive commercial buildings with an attractive residential building, which would sit well in the street scene. The Inspector concluded that the building would make a positive contribution to the character and appearance of the area and would accord with Policies D1 and H2 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006 and with the design advice contained within the South Gloucestershire Design Check List SPD.
- 5.14 The applicant has indicated that the development will be constructed to a high standard of resource and energy efficiency to ensure that a standard of Level 3 of the Code for Sustainable Homes is achieved which accords with the requirements of The South Gloucestershire Council Design Checklist (SPD). On balance therefore the scale and design is considered to be acceptable.
- 5.15 Impact Upon Residential Amenity  
Officers consider that whilst it is perfectly normal for buildings to be in close proximity to each other in densely populated urban locations, careful consideration still needs to be given as to the impact of the development on the residential amenities of neighbours and future occupiers alike.
- 5.16 For prospective occupiers of the proposed ground floor flats nos. 1 to 5, private landscaped garden areas, of acceptable size, would be provided to the rear of the building and these would be enclosed by the high boundary treatments. For the occupants of the flats on the first and second floors, some amenity space would be provided on the proposed terraces and balconies, which accords with Q16 of the South Gloucestershire Council Design Checklist (SPD). Given however the very sustainable location of the site, only a short walk from Page Park with its variety of leisure facilities, the amount of amenity space provision is considered to be acceptable.

- 5.17 Given the proximity of the residential properties in both Bath Street and Seymour Road, issues of overlooking or inter-visibility between habitable room windows may occur. The Council's adopted Supplementary Planning Guidance has traditionally required a minimum of 21m between facing habitable room windows, and 12m between a blank elevation and a habitable room window. The SPG notes were however drafted nearly 20 years ago and in the current policy climate of higher density development, these standards are becoming ever more dated. The nearest residential property to the south would be no.2 Bath Street, but this property has a blank gable end and is separated from the application site by an adjoining garage and yard. To the rear (west) the main elevations of the nearest terraced dwellings in Seymour Road would be between 17m – 19.5m from the rear elevation of the proposed flats. Due to the presence of high boundary treatments and the proposed cycle & bin stores, there would be no inter-visibility at ground floor level. It is acknowledged that at first/second floor level, the distance between the proposed and existing habitable room windows falls a little short of that which has been traditionally required i.e. 21m, but these SPG notes were only guidelines. Given that the site lies within a Town Centre location, where properties are normally in much closer proximity to each other (houses on Seymour Road are only 15 metres apart) officers consider that the proposed amenity distances are adequate. Furthermore, the proposed windows, which would be nearest to those in Seymour Road, have been designed to have an asymmetrical profile, thus virtually eliminating any direct vision with the windows opposite. There would therefore be no significant loss of privacy due to inter-visibility between habitable room windows.
- 5.18 Regarding the issue of overlooking and loss of privacy, officers consider that some overlooking of neighbouring property is a ubiquitous situation in urban areas and provided that any overlooking from new developments is from a reasonable distance, this should not be justification for refusal of planning permission. With government guidelines supporting the most efficient use of land in sustainable urban locations (such as this) some loss of privacy from overlooking is considered to be inevitable. In this case the proposed building would be set back some 4.5 -7m from the boundaries of the nearest rear gardens to properties in Seymour Road. Furthermore any overlooking to the west would also be across the alleyway, which runs to the back of the site. At officer request, the original proposal was revised to eliminate/set back the nearest balconies/terraces to these properties. On balance therefore, the proposed scheme would not result in a significant loss of privacy for neighbouring occupiers and at para. 9 of his Decision Letter the Inspector agreed with this view, stating that the scheme '*would not cause unacceptable harm to the living conditions of nearby residents*'.
- 5.19 Since most of the proposed building would be set well back from the boundaries with the nearest residential properties, the building would not have a significantly overbearing impact. Whilst part of the building would be hard on the boundary with the adjoining property to the north-westernmost part of the site, the building would only adjoin a yard to the rear of the shops in Broad Street.

- 5.20 The proposed flats would be sold on the open market and would provide a valuable contribution to the low cost open market housing stock, which is increasingly in demand by single people or first time buyers. Any excessive noise issues emanating from future occupants would be subject to the usual controls under Environmental Protection Legislation. Building control would ensure adequate insulation between the individual flats. The traffic that currently enters the site and the existing B1 uses would cease.
- 5.21 Having regard to the above, officers conclude that there would be no significant adverse impact on residential amenity.
- 5.22 Archaeology and Conservation Issues  
The existing building has no special designation and is not considered to be of any special historical significance. Given the building's age however, a full photographic recording prior to its demolition is justified.
- 5.23 Transportation  
The development site is currently occupied by a commercial garage providing MOT's , vehicle repairs and servicing. The garage has a small forecourt and a 3m to 4m footway running along the Bath Street frontage, 15m of which is in the applicant's ownership and is not adopted public highway. Vehicles awaiting MOT's are currently parked on part of this footway. To avoid continued parking on the footway in the vicinity of the site, the applicant is required to make good the footway to adoptable standards and to the full and final satisfaction of the Council. Furthermore no part of the proposed building, including footings, should overhang or encroach beneath the footway.
- 5.24 The proposal for 14no flats would not include any no on-site parking provision at all. The proposal must however be considered in light of the extant use of the site and the traffic generation already existing, compared to that likely to be generated from the proposed residential use. In support of the application, the applicants previously submitted a traffic assessment, carried out by a suitably qualified person.
- 5.25 The report concluded that, for a normal weekday, there is on average a total of 151 movements per day to and from the site (although on the Friday 197 movements were recorded). The site currently operates 07.00 to 19.00 hours but in fact has unrestricted hours of use and could potentially operate for longer. The TRICS database indicates that the potential daily traffic generation for a garage of this size and nature is 134 trips. In comparison the proposed residential use would be likely to generate on average only 39 trips per day. There would therefore be a significant net reduction of traffic to the site.
- 5.26 A further consideration is the very sustainable location of the site, close to the shops and numerous bus routes available in Broad Street. The Bristol/Bath Cycle-Way also lies close by, all of which would reduce the need for car use. A parking assessment of the locality within 200m of the site was also submitted, which suggested that there is spare capacity within the area, especially having regard to the proximity of the Council owned public car park, which is accessed off Broad Street.

5.27 Policy T8 of the South Gloucestershire Local Plan (Adopted) 6th January 2006 states:

*Car free development will be permitted at locations:*

- *Which have good accessibility by non car modes;*
- *Where there is adequate public off-street or shared parking available*

*Provided that the development would not result in unacceptable road safety and environmental problems.*

5.28 Notwithstanding the findings of the car parking assessment, officers considered that in order to mitigate for the lack of on-site parking provision, a contribution of £16,920 (i.e. indexed linked from the originally requested £15,000) is now required towards traffic management and public transport improvements in the area. The contribution towards traffic management would be part of wider traffic management works in the area and are likely to include pedestrian and cycle improvements, a review of the waiting restrictions in the vicinity of the site and a contribution towards the casualty reduction scheme in the area. The scheme of highway works would be subject to public consultations and the final scheme would be dependent on those matters arising from the consultations. The applicant has agreed to pay this contribution, which would be secured by an appropriate legal agreement.

5.29 On commenting on this matter in his Decision Letter at para.10 the Inspector opined:

*'the site is located in a highly sustainable area where LP Policy T8 supports the provision of car-free development provided that there is adequate public off-street or shared parking available and the development would not result in unacceptable road safety and environmental problems. There is no evidence that the proposed development would have unacceptable road safety and environmental problems and benefits in these terms would accrue from the cessation of the existing use of the site and from the implementation of the unilateral undertaking. I am satisfied on the basis of the evidence submitted by the appellant that there is adequate public off-street or shared parking available and I consider therefore that the proposal accords with LP Policy T8.'*

5.30 Subject to all of the above, there are no highway objections.

5.31 Landscaping and Tree Issues

There is no vegetation within the site that is of such significance that it requires protection or retention. A limited amount of new planting is proposed and this can be secured and possibly enhanced by a condition to require the prior submission and approval of an appropriate landscaping scheme. Subject to this condition, there are no landscape objections.

5.32 Drainage Issues

The Council's Drainage Engineer has raised no objections to the principle of the development, which would also be the subject of Building Control. An appropriate condition would secure the submission of a scheme of drainage to include SUDS in accordance with Local Plan Policies EP1, EP2, L17 & L18.

### 5.33 Environmental Issues

Policy EP1 does not permit development that would unacceptably harm the environment, or the health, safety and amenity of users of the site or surrounding land, as a result of pollution to water, air or soil, or through noise, vibration, light, heat or radiation. These matters are generally covered by normal Environmental Health legislation rather than by the planning process. In the interests of residential amenity however, a restriction on the hours of working on the site during the demolition and development phases, would be secured by condition.

5.34 Since the original approval of the application in Oct. 2008, an air quality management area (AQMA) has been declared (April 2010) around the Broad Street, High Street, Victoria Street and Soundwell Road crossroads in the centre of Staple Hill. The proposed development lies close to the declared AQMA but not within it. As such, officers consider that it would be unreasonable to impose additional conditions in mitigation to air quality as these would not meet the tests of Circular 11/95.

5.35 It is now a requirement of the Coal Authority that, where sites lie in certain areas of previous Coal Mining, that applications be supported by a Coal Mining Risk Assessment. Up to date advice has been provided by the Coal Authority in response to the submitted risk assessment. Given the presence of a mine entry on the site and likely shallow workings, the Coal Authority advice is that an additional condition be added to require site investigation works prior to the commencement of development together with a programme of works of mitigation, should these be required in accordance with Policy EP7.

### 5.36 Community Services

Given the passage of time that has passed since the original application was allowed on appeal, a re-assessment of the Community Services requests has been carried out. In order to mitigate for the extra population created by the proposed development, the following revised contributions towards community services are now requested:

£21,384.58	- towards Category 1 Formal Open Space.
£1,185.40	- towards Category 2 Equipped Children's Play Space.
£174.76	- towards Category 3 Unequipped Children's Play Space.
£3,504.23	- towards Informal Open Space.
£391,44	- Towards the Library Service

*(These figures reflect the affect of index-linking and some changes in the way that the figures are now calculated).*

The enhancements would be carried out within 2km of the development, likely to be Page Park. The amounts are index-linked back to the date of the original permission. No objections have been raised to the previously approved bin storage provision.

### 5.37 Education

There is a projected surplus capacity at primary schools within the area of the proposed development. There is a projected shortfall of capacity at secondary

schools but since the proposal is for small flats only, contributions towards education facilities are not justified in this case.

#### 5.38 Affordable Housing

The site area is below 0.5 hectares and the proposed number of units (14) is below local and national policy guidance on the threshold for requiring affordable housing (15). There is therefore no requirement for the provision of affordable housing in this case.

## 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 obligations set out below meet Regulation 122 of the CIL Tests (statutory) and the tests set out in Circular 05/05 and without them the scheme would not be acceptable.

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) Due to its scale and position in relation to the adjacent dwellings, the proposed building is not considered to give rise to a material loss of amenity to the adjacent occupiers. The development therefore accords to Policy H2 and D1 of the South Gloucestershire Local Plan (Adopted) January 2006.
- b) The proposal is considered to be acceptable in highway safety terms in accord with Policy T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.
- c) The proposal is considered not to result in direct or indirect impact on trees and other important landscape features within or adjacent to the site. The proposal therefore accords with Policy L1 of the South Gloucestershire Local Plan (Adopted) January 2006 in this respect.
- d) The proposal is considered to achieve a density in keeping with local character. As such the proposal accords with Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006 in this respect.
- e) Suitable mitigation measures will be provided to ensure existing open space in the area is maintained and enhanced to meet the needs of local residents. The application therefore complies with the requirements of Policies D1, L5, H2, and LC8 of the South Gloucestershire Local Plan (Adopted).
- f) The application demonstrates that it will not result in any adverse flooding or drainage effects in accordance with the requirements of Policy EP1, EP2, L17 & L18 of the South Gloucestershire Local Plan (Adopted) January 2006.

- g) Consideration has been given to the need or otherwise to provide an affordable homes contribution in accordance with Policy H6 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.
- h) Consideration has been given to the need or otherwise to provide a contribution to education facilities in accordance with Policy LC4 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.
- i) The environmental aspects of the scheme have been considered in relation to the sites past coal mining history in accordance with Policy EP7 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.

6.2 The recommendation to grant planning permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) 6th January 2006 set out above, and to all the relevant material considerations set out in the report.

## 7. **RECOMMENDATION**

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

- (i) A contribution of £16,920.00p towards traffic management and public transport infrastructure improvements within the area.
- (ii) The existing area of unadopted footway situated on the Bath Street frontage of the application site, shall be upgraded to adoptable standards to the full and final satisfaction of the Council.
- (iii) A contribution of £21,384.58p towards the provision and maintenance of 357.0 sq m. of formal open space to cater for the increased usage as a result of this development.
- (iv) A contribution of £1,185.40p towards the provision and maintenance of 3.75 sq m. of equipped children's play space to cater for the increased usage as a result of this development.
- (v) A contribution of £174.76p towards the provision and maintenance of 6.75 sq m. of non-equipped children's play space to cater for the increased usage as a result of this development.
- (vi) A contribution of £3,504.23p towards the provision and maintenance of 105.0 sq m. of informal open space to cater for the increased usage as a result of this development.

The total open space sum of £26,248.97p would be index-linked; it is intended to spend the monies on facilities within 2km of the development.

- (vii) A contribution of £391.44 towards the Library Service

- (viii) A S106 monitoring fee to the value of 4% of the total open space contributions, which in this case equates to £1,065.61.

The reasons for this Agreement are:

- (i) To improve highway infrastructure and to ensure the adequate provision of public transport facilities within the vicinity of the development having regard to the increased population generated by the development in accordance with Policy T12(A) and T12(F) of the South Gloucestershire Local Plan (Adopted) 6th January 2006.
- (ii) To improve highway infrastructure within the vicinity of the development having regard to the increased population generated by the development in accordance with Policy T12(A) of the South Gloucestershire Local Plan (Adopted) 6th January 2006.
- (iii) To ensure the adequate provision and maintenance of Public Open Space facilities within the vicinity of the development having regard to the increased population generated by the development, in accordance with Policy LC8 of the South Gloucestershire Local Plan (Adopted) 6th January 2006.
- (iv) To ensure the adequate provision and maintenance of Equipped Children's Play Space within the vicinity of the development having regard to the increased population generated by the development, in accordance with Policy LC8 of the South Gloucestershire Local Plan (Adopted) 6th January 2006.
- (v) To ensure the adequate provision and maintenance of Non-Equipped Children's Play Space within the vicinity of the development having regard to the increased population generated by the development, in accordance with Policy LC8 of the South Gloucestershire Local Plan (Adopted) 6th January 2006.
- (vi) To ensure the adequate provision and maintenance of Informal Open Space facilities within the vicinity of the development having regard to the increased population generated by the development, in accordance with Policy LC8 of the South Gloucestershire Local Plan (Adopted) 6th January 2006.
- (vii) To ensure adequate Library provision at Staple Hill Library having regard to the increased population generated by the development, in accordance with Policy LC1 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.
- (viii) To cover the Council's costs of monitoring the S106 Agreement.
- (2) That the Head of Legal & Democratic Services be authorised to prepare and seal the agreement.

2.3 If the S106 Agreement is not signed and sealed within 6 months of this determination then, in view of the length of time, the application should either:

- a) Be returned to the Development Control Area Committee for reconsideration;

Or

- b) The application should be refused due to the failure to secure the Heads of Terms listed above under a Section 106 Agreement, for the reason listed.

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

### **CONDITIONS**

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

Reason

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

2. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed planting and times of planting, boundary treatment and areas of hard standing.

Reason

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

3. None of the dwellings hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason

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

4. Prior to the first occupation of the dwellings hereby permitted, the Cycle parking as shown on the approved plans shall be provided and shall thereafter be retained as such.

Reason

To ensure the satisfactory provision of cycle parking facilities to encourage means of transport other than the private motor car and to accord with Policy T7 of the South Gloucestershire Local Plan (Adopted) January 2006.

5. No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason

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

6. Demolition or construction works shall not take place outside 0730 hours to 1800 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Reason

To protect the residential amenity of the neighbouring occupiers and to accord with Policies H2 and EP1 of the South Gloucestershire Local Plan (Adopted) January 2006.

7. Prior to the commencement of the development hereby permitted a Waste Management Audit shall be submitted to and approved in writing by the Local Planning Authority. The Waste Management Audit shall include details of:

- i) the volume and nature of the waste which will be generated through the demolition and/or excavation process;

- ii) the volume of that waste which will be utilised within the site in establishing pre-construction levels, landscaping features, noise attenuation mounds etc.;

- iii) proposals for recycling/recovering materials of value from the waste not used in schemes identified in ii) above, including as appropriate proposals for the production of secondary aggregates on the site using mobile screen plant;

- iv) the volume of additional fill material which may be required to achieve, for example, permitted ground contours or the surcharging of land prior to construction;

v) the probable destination of that waste that needs to be removed from the site and the steps that have been taken to identify a productive use for it as an alternative to landfill.

The approved works shall be carried out in accordance with the agreed details.

Reason

To encourage waste reduction and re-use in the interests of sustainability and to accord with Policy 37 of The South Gloucestershire Waste and Minerals Local Plan Adopted May 2002.

8. Prior to the demolition of the existing garage buildings a full photographic record of the buildings shall be made and submitted to the Local Planning Authority.

In the interests of archaeological recording in accordance with Policy L11 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.

9. Development shall not begin until a scheme to deal with the contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public, the environment and future occupiers when the site is developed. The scheme shall be implemented in accordance with the approved details.

Reason

To ensure that adequate measures have been taken to mitigate against contamination to accord with Policies EP1/EP6 of the South Gloucestershire Local Plan (Adopted) January 2006.

10. Prior to the commencement of development, site investigation works shall be carried out to the written satisfaction of the Council, to confirm or otherwise the presence of shallow mine workings and the location and condition of mine entries within the site. In the event that the site investigations confirm the need for remedial works to treat a mine entry and/or any areas of shallow mine workings to ensure the safety and stability of the proposed development, these works shall also be undertaken in advance of any development and to the written satisfaction of the Local Planning Authority.

Reason

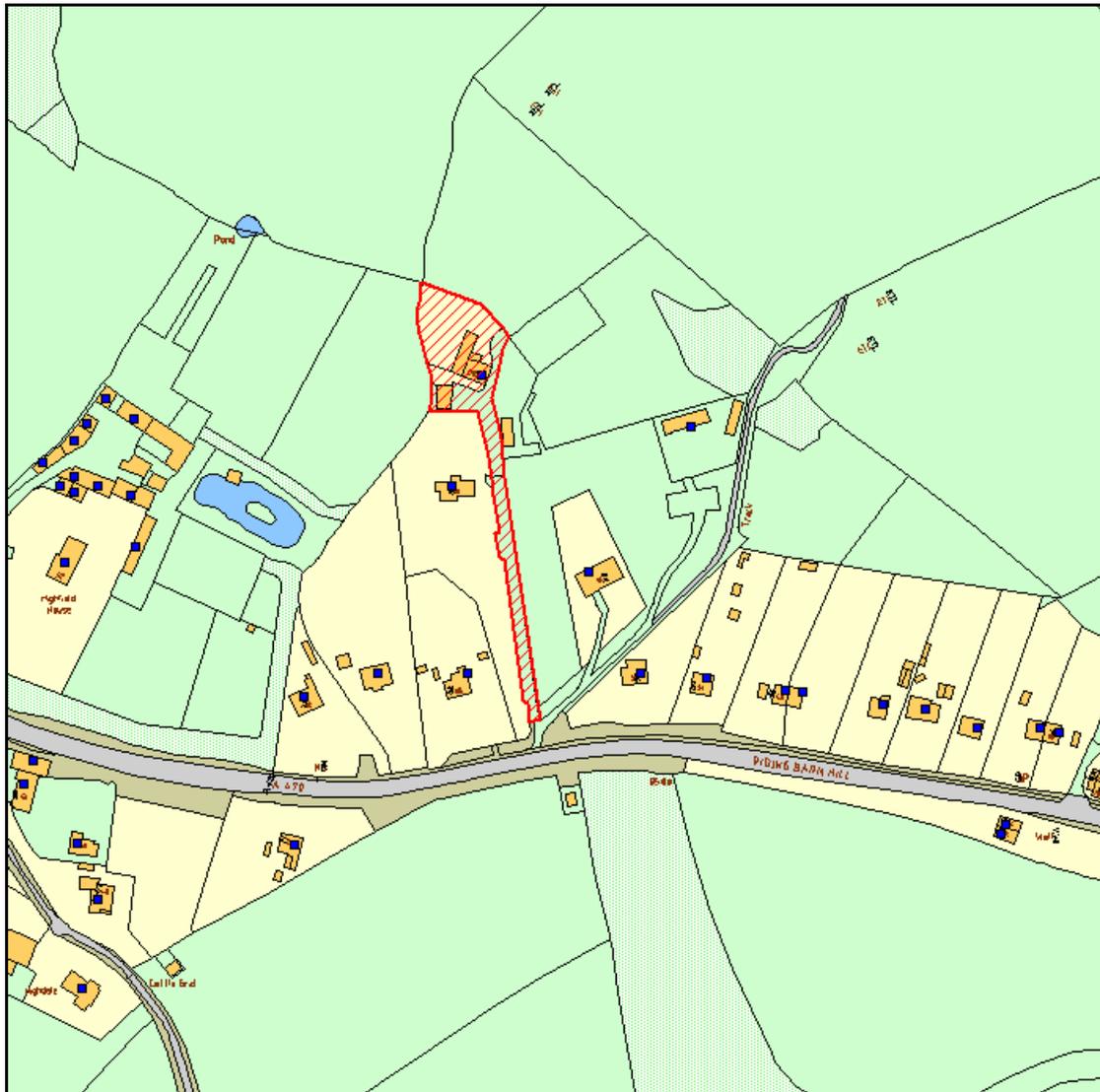
To take full account of the previous coal mining activity within the location of the site in accordance with Policy EP7 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.

# ITEM 4

## CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011

**App No.:** PK11/2531/F  
**Site:** 66A Riding Barn Hill Wick Bristol  
South Gloucestershire BS30 5PA  
**Proposal:** Subdivision of house to form 2no. self-contained dwellings.  
**Map Ref:** 369090 172907  
**Application Category:** Minor

**Applicant:** Mrs Kim Namdjou  
**Date Reg:** 18th August 2011  
**Parish:** Wick And Abson  
Parish Council  
**Ward:** Boyd Valley  
**Target Date:** 10th October 2011



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100023410, 2008.

**N.T.S.**

**PK11/2531/F**

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

This application has been forwarded to the Council's Circulated Schedule of applications as a representation has been received from the Parish Council raising views which are contrary to the Officer recommendation.

### **1. THE PROPOSAL**

1.1 The application site is situated to the north of the A420 Riding Barn Hill just west of Wick village. The application site comprises an L shaped stone former agricultural barn which has since been converted into a single dwelling situated centrally within the site and a blockwork constructed modern triple bay garage in the south west corner (now used as annexe accommodation) with stone laid hardstanding in front. A ménage and timber constructed stable block and tack room within the applicant's ownership are situated adjacent to the east boundary of the site.

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

1.2 The application proposes subdivision of the house to form 2no. self-contained dwellings.

The application has been amended following submission to remove a proposed extension to the existing garage.

### **2. POLICY CONTEXT**

2.1 National Guidance  
PPS1 Delivering Sustainable Development  
PPG2 Green Belts  
PPS7 Sustainable Development in Rural Areas

#### 2.2 Development Plans

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

D1 Design  
GB1 Green Belt  
H3 Residential Development in the Countryside  
H4 Development within Existing Residential Curtilages  
H10 Conversion and Reuse of Rural Buildings for Residential Purposes

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

CS1 High Quality Design  
CS5 Location of Development

2.3 Supplementary Planning Guidance  
South Gloucestershire Design Checklist – August 2007  
Development in the Green Belt – June 2007

### 3. RELEVANT PLANNING HISTORY

- 3.1 PK01/1704/F Conversion of agricultural building to holiday unit.  
Approved 08.07.2002
- 3.2 PK05/1956/RVC Removal of Planning Condition 9 attached to Planning Permission PK01/1704/F dated 8th July 2002 (The holiday unit shall be occupied by the same person(s) for no more than 42 days in any 12 month period).  
Approved 12.09.2005
- 3.3 PK06/0275/F Change of use from agricultural to land for the keeping of horses. Erection of 2 no. stables and tack storage room (Retrospective).  
Approved 10.03.2006
- 3.4 PK07/0921/F Change of use of holiday unit (Class C1) to residential dwelling (Class C3) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).  
Approved 01.06.2007
- 3.5 PK08/0792/F Erection of porch to front elevation  
Approved 24.04.2008
- 3.6 PK09/5522/F Installation of windows to facilitate the conversion of detached double garage and store to form residential annexe ancillary to main dwelling. Erection of extension and replacement of flat roof with pitched roof to facilitate conversion of existing store to triple garage and store.  
Approved 30.11.2009
- 3.7 PK10/0823/CLE Application for Certificate of Lawfulness for the existing use of land as residential curtilage.  
Issued 23.07.2010
- 3.8 PK10/2946/F Erection of single storey extension to form attached garage and games room.  
Approved 23.12.2010

## 4. CONSULTATION RESPONSES

### 4.1 Wick And Abson Parish Council

I have rec'd 2 abstaining from decision and one objection with the following "The changes increase the height and change the use of the annexe, which is in the green belt."

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

Sustainable transport – No objection, the proposed parking provision would not change.

### Other Representations

### 4.3 Local Residents

None received.

## 5. ANALYSIS OF PROPOSAL

### 5.1 Principle of Development

Policy H4 of the South Gloucestershire Local Plan is supportive in principle of proposals for alterations and extensions to existing dwellings within their curtilage, providing that the design is acceptable and that there is no unacceptable impact on residential and visual amenity. Policy H5 seeks to support residential conversions into smaller dwelling units provided there are no material issues in relation to residential and visual amenity, an adequate level of off street parking and amenity space is provided. Policy GB1 aims to control development within the Green Belt. There is a general presumption against inappropriate development, which would harm the openness of the green belt. Policy GB1 also seeks to protect the Green Belt from development which would harm its visual amenity.

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

## 5.2 Visual amenity

Policy D1 of the Local Plan requires all new development to be well-designed. The dwelling is situated within a rural context. The dwelling the subject of this application is a former barn which was converted for residential use in 2001. The proposal is to convert the single dwelling into two dwellings. The building is situated at the end of a long track on off the A420 which runs up hill. The dwelling is not visible from any public vantage points. The external appearance of the dwelling would remain unchanged. The future subdivision of the existing garden, although not indicated on the submitted drawings would be inevitable. However, this subdivision and further enclosure would not be significant visually due to the hidden location of the site. The proposal would therefore respect the character distinctiveness and amenity of the surrounding area. As such it is considered that the design of the proposal accords with the criteria of Policy D1.

## 5.3 Residential amenity

The dwelling is situated approximately 60m from the nearest dwelling and as such would result in no material loss of residential amenity (loss of daylight/sunlight, overbearing impact, loss of outlook) to the local residents.

## 5.4 Highway matters and parking

The site benefits from a large gravelled area on its east side which is sufficiently sized for 4+ cars with the ability to turn easily within the site. The existing 4 bed dwelling would be converted into two 2 bed dwellings and as such no additional off street parking would be required. The proposal would result in an increase in the number of dwelling units on site from 1 to 2. However, the dwellings would be 2 bed units rather than the family home which exists. Therefore the number of trip movements the proposed conversion would generate from the site in addition to the existing development is likely not to be significant. As such the intensification of the existing access onto the highway is likely not to be significant. The proposal is therefore considered to be acceptable in highway safety terms.

## 5.5 Amenity space

The block plan submitted shows a shared garden for the two resultant dwellings. In future the space will inevitably be subdivided to provide private gardens for the future occupiers. The existing residential curtilage is large and its subdivision would result in the provision of ample garden space for the two 2 bed units.

## 5.6 Green Belt

The site lies within the Bristol/Bath Green Belt wherein development is restricted. Only development considered appropriate as identified in PPG2 and Local Plan Policy GB1 can be considered to be acceptable and not to adversely impact on the Green Belt's openness. In terms of changes of use within the Green Belt, development must fulfill the following three criteria:

- 1) The development must not have a materially greater impact than the present authorised use on the openness of the Green Belt or conflict with the purposes of including land within it
- 2) The building must be permanent and substantial construction and capable of conversion without major or complete reconstruction
- 3) Form, bulk and design of the building is in keeping with its surroundings

In terms of criteria 1 above the purposes of including land within the Green Belt are,

1. To check the unrestricted sprawl of large built-up areas;
2. To prevent neighbouring towns from merging into one another;
3. To assist in safeguarding the countryside from encroachment;
4. To preserve the setting and special character of historic towns;
5. To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

The fundamental aim of Green Belt Policy is to keep land permanently open.

The proposal would result in the conversion only of a permanently constructed building with no external alterations necessary. The additional impact on openness would result from some additional vehicles parked within the site and future subdivision of the garden area creating some additional enclosure. The additional impact on openness through vehicles and additional fencing is likely to be minimal. As such the proposal is likely to result in no materially greater impact than the present authorised use on the openness of the Green Belt.

The proposal would relate to the existing curtilage alone and would result in no encroachment into the Green Belt. Therefore it is considered that the proposal would not conflict with the 5 purposes above of including land within the Green Belt.

The building is in good construction condition and is capable of conversion.

Form, bulk and design of the building as identified in Par. 5.2 above is in keeping with its surroundings

As such the proposal is considered to be appropriate development, which would not adversely impact on the openness of the Green Belt. As indicated above the proposal is considered to be acceptable in visual impact terms and as such would not adversely impact on the visual amenity of the Green Belt. The proposal is therefore considered to accord with policy GB1 of the adopted Local Plan.

## **6. CONCLUSION**

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

6.2 The recommendation to grant permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report. A summary of reasons for granting planning permission in accordance with article 22 of the town and country planning (general development procedure) order 1995 (as amended) is given below.

- a) Due to its position in relation to the adjacent dwellings, the proposed development is considered not to give rise to a material loss of amenity to the adjacent occupiers. The development therefore accords to Policy H4, H5 and D1 of the South Gloucestershire Local Plan (Adopted) January 2006.
- b) It has been assessed that the proposed conversion would maintain the massing, scale, proportions, materials and overall design and character of the street scene and surrounding area. The development therefore accords to Policy D1, H4 and H5 of the South Gloucestershire Local Plan (Adopted) January 2006 and the South Gloucestershire Design Checklist SPD (adopted) 2007.
- c) The proposal would preserve the openness and visual amenity of the Green Belt, would represent appropriate development within the Green Belt and would not conflict with the purposes of including land within it. The development therefore accords to Policy GB1 of the South Gloucestershire Local Plan (Adopted) January 2006.
- d) The proposal would provide sufficient off street parking for two dwellings with turning and with no significant intensification of the access onto the highway. The development therefore accords to Policy H5, T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

## **7. RECOMMENDATION**

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

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

## **CONDITIONS**

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

Reason

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

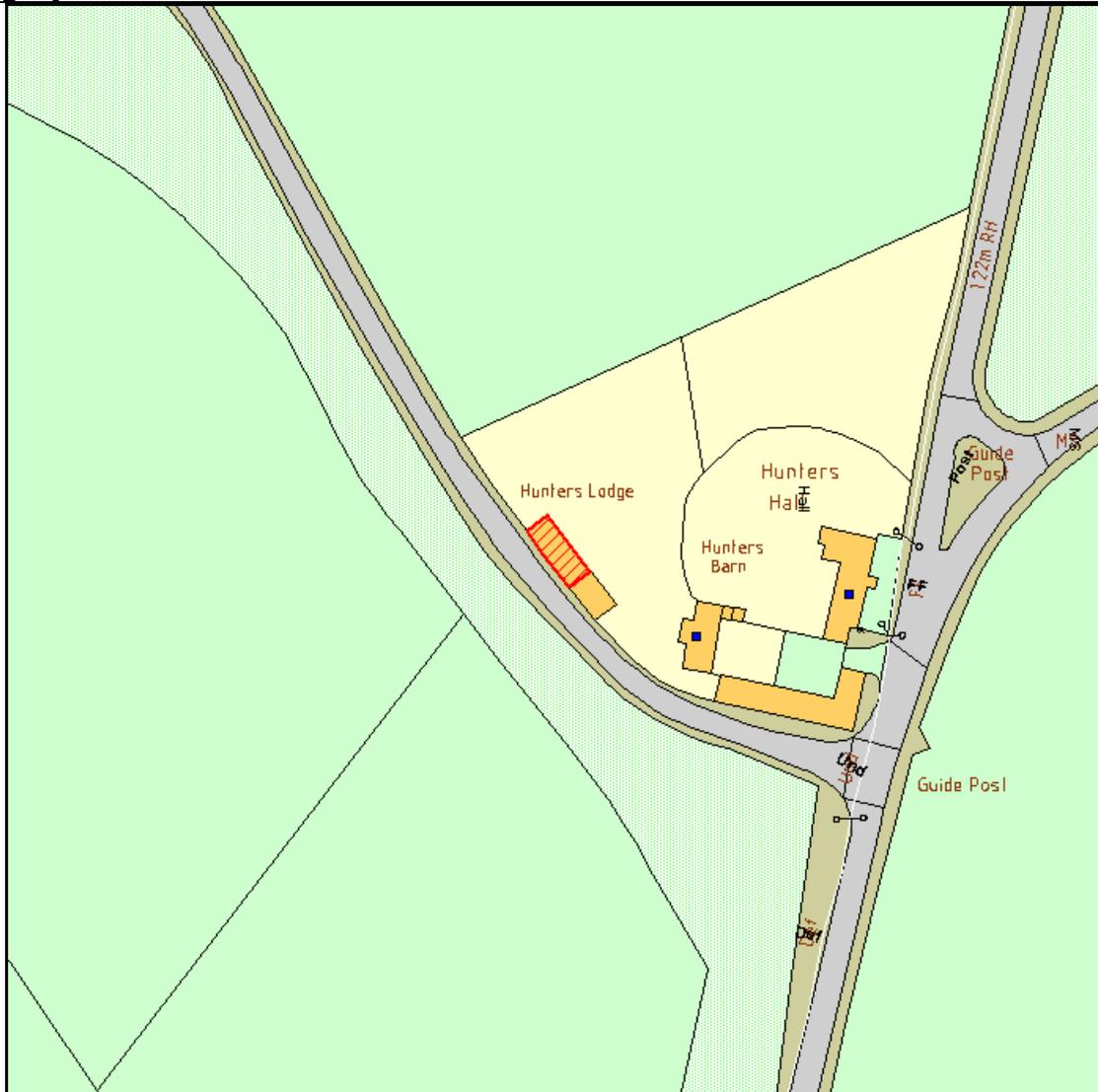
2. Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, B, D and E) other than such development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

Reason

To protect the openness and visual amenity of the Green Belt and the character and appearance of the building to accord with Policy D1, GB1 and H5 of the South Gloucestershire Local Plan (Adopted) January 2006.

**CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011**

<b>App No.:</b>	PK11/2904/CLE	<b>Applicant:</b>	Mr I Pannaman
<b>Site:</b>	Hunters Lodge Ashwicke Road Marshfield Chippenham South Gloucestershire	<b>Date Reg:</b>	14th September 2011
<b>Proposal:</b>	Application for Certificate of Lawfulness for existing use as a self contained single dwellinghouse without compliance with conditions 3 and 4 attached to planning permission P95/1472.	<b>Parish:</b>	Marshfield Parish Council
<b>Map Ref:</b>	379706 170653	<b>Ward:</b>	Boyd Valley
<b>Application Category:</b>	Minor	<b>Target Date:</b>	4th November 2011



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 100023410, 2008. **N.T.S.** **PK11/2904/CLE**

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

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

By way of information, Members should be aware, that the test to be applied to this application for a Lawful Development Certificate, is that the applicant has to prove on the balance of probability, that the development as described, has occurred for a period of 10 years consecutively, prior to the receipt of the application on the 9<sup>th</sup> September 2011.

### **1. THE PROPOSAL**

1.1 The application has been submitted under Section 191 (1) of the Town and Country Planning Act 1990 for a Lawful Development.

1.2 The application relates to a two-storey, stone built outbuilding, lying within the grounds of Hunters Barn, Ashwicke Road, Marshfield. The site lies within the open countryside, within the Green Belt and Cotswolds AONB. Erected in the 1980's, the two-storey element is attached to a separate single-storey garage, which was constructed at the same time. Planning permission P95/1472 granted consent for the conversion of the two-storey element to a self-contained holiday unit. Conditions 3 and 4 of the planning permission restricted occupation of the building to being ancillary to Hunters Barn and for short stays i.e. no more than 42 days in any 12 month period by any one person and that its use should not be severed from Hunters Barn. The conditions read as follows:

#### **Condition 3**

*'The additional residential accommodation shall only be occupied in association with the existing dwelling 'Hunters Barn' and at no time shall be severed therefrom to provide separate residential accommodation.'*

#### ***Reason***

*'The additional accommodation is considered unsuitable for occupation as a separate residential unit.'*

#### **Condition 4**

*'The accommodation hereby permitted shall not be occupied by any one person for more than 42 days in any 12 month period.'*

#### ***Reason***

*'Permission is granted on the basis that the accommodation is to be provided for holiday use only; separate residential use would be inappropriate having regard to the restrictive planning policies applicable to the locality and relationships of the accommodation to the existing dwelling house.'*

- 1.3 The applicant however submits that the unit has been occupied as separate self-contained residential accommodation in breach of both conditions 3 and 4 since 1998 i.e. a period in excess of 10 years prior to the submission of the application.

## **2. POLICY CONTEXT**

### **2.1 National Guidance**

Town and Country Planning (General Procedures) Order 1995 Article 24  
Town and Country Planning (Use Classes) Order 1897 (as amended).  
Circular 10/97: Enforcing Planning Control.

### **2.2 Development Plans**

As the application is for a Certificate of Lawfulness, the policy context is not directly relevant, as the land use merits are not under consideration. In cases relating to breach of conditions, the applicant need only demonstrate that on the balance of probability, the development has taken place for an uninterrupted period of at least 10 years prior to the receipt of the application on the 9<sup>th</sup> Sept 2011.

## **3. RELEVANT PLANNING HISTORY**

- 3.1 P84/1776 - Erection of two-storey building for use as a garage, storeroom and workshop (in accordance with the amended plans received 17 July 1984).  
Approved 17 Sept. 1984
- 3.2 P95/1472 - Change of Use of ancillary domestic building to one self-contained holiday unit.  
Approved 20 March 1996
- 3.3 PK11/2730/RVC - Removal of Conditions 3 and 4 attached to planning consent P95/1472 to allow use as self-contained residential accommodation.  
Refused 5<sup>th</sup> Oct. 2011 for the following reasons:

*1. The proposal would create a dwelling house in an unsustainable and remote location within the countryside, which would be contrary to the spirit of Policies H3 and H10 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.*

*2. The proposal would intensify the use of the residential curtilage associated with the building to the detriment of the visual amenity of the Green Belt and natural beauty of the Cotswolds AONB and contrary to the purposes of including land within the Green Belt which would not accord with Policy GB1 and L2 respectively of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006 or PPG2 - 'Green Belts'.*

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

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

**No.    Document**

1. Letter from York William Tillyer dated 4<sup>th</sup> April 2011 to Tim Roberts (DLP Planning Ltd.) confirming his continuous occupation of Hunters Lodge between April 1998 and March 2011 as a self-contained single dwelling house completely independent of Hunters Barn. Mr Tillyer also used the separate access onto Ashwicke Road and the separate parking area to the side of Hunter's Lodge.
2. E.Mail dated 23 Aug 2011 from Rachel Madden to Tim Roberts (DLP Planning Ltd) confirming Mr York Tillyer registered on the electoral roll in 2003, 2004 and 2008, with Lisa Howe registered in 2001 at Hunters Lodge.
3. Emails dated 15 April 2011 and 5 April 2011 respectively from Sabrina Ayres at Strakers to York Tillyer re: deposit on rental property and from York Tillyer to Irvin Pannaman re: bank details.
4. Separate Council Tax Bill 2007/2008 dated 2 April 2007 for Hunters Lodge (Ref: single occupancy) from South Glos. Council to Mr. Irvin Pannaman.
5. Separate Council Tax Annual Bill 2007/2008 dated 5 March 2007 for Hunters Lodge (Ref: single occupancy) from South Glos. Council to Mr. Irvin Pannaman.
6. Letter from Valuation Office dated 8 Jan 2007 to Mr Irvin Pannaman re: notice of alteration to an existing entry in the valuation list (Ref: Hunters Lodge).
7. Letter from South Glos. Council dated 8 Jan 2007 to Mr Irvin Pannaman re: Single Occupier discount (Ref: Hunters Lodge).
8. Council Tax Bill 2006/07 dated 8 Jan 2007 for Hunters Lodge (Ref: single occupancy) from South Glos. Council to Mr Irvin Pannaman.
9. Council Tax Bill 2006/07 dated 4 Jan 2007 for Hunters Lodge (Ref: single occupancy) from South Glos. Council to Mr Irvin Pannaman.
10. Letter from South. Glos. Council to Mr York Tillyer dated 12 Dec 2006 re: outstanding payment of Council Tax bill for Hunters Lodge.
11. Council Tax bill 2006/2007 from South Glos. Council to Mr York Tillyer for Hunters Lodge dated 9 Nov. 2006.
12. Letter from Valuation Office dated 9 Oct 2006 to Mr York Tillyer re: Notice of making a new entry in the valuation list for Hunters Lodge.
13. Letter from South Glos. Council dated 14 Sept. 2006 to Mr Irvin Pannaman re: Council Tax Account for 'new dwelling' Hunters Lodge.
14. Letter from South Glos. Council to Mr York Tillyer dated 31 Aug 2006 re: Council Tax for Hunters Lodge.

15. Memorandum dated 16 Oct 1999 to tenancy agreement between Mr Irvin Clifford Pannaman and York William Tillyer and Lisa Claire Howe regarding Hunters Lodge.
16. Memorandum dated 16 April 1998 to tenancy agreement between Mr Irvin Clifford Pannaman and York William Tillyer and Lisa Claire Howe regarding Hunters Lodge.

4.1 The applicant also submits that Hunters Lodge is recognised by the Post Office as a separate residential address as is evidenced by the addresses available under the postcode SN14 8AS.

4.2 The applicant's agent Tim Roberts also claims to have seen a number of Bank Statements for 13no. different months dating from 19 March 2003 to 18 Feb 2011, which contain details of payments from York Tillyer to Mr & Mrs Pannaman. Copies of these Bank Statements have not been submitted but are available upon request. Mr Roberts has quoted the monthly amounts paid, which range from £675 in March 2003 rising to £755 in Feb 2011. The agent confirms that the Statements make no reference as to the purpose of the payments or that they relate to the occupation of Hunters Lodge but considers that the sums corroborate the continuing tenancy of Mr York Tillyer as evidenced by the Tenancy Agreement, the Council Tax billing, the Valuation Office correspondence and the electoral roll entries for Hunters Lodge.

## 5. **SUMMARY OF CONTRARY EVIDENCE**

- 5.1 The letter received from Mr. Gavin Alcott dated 27 Sept. 2011, the occupier of Hunters Hall. The comments received are summarised as follows:
  - Half of the ground space to Hunters Lodge is garaging.
  - The garaging has for 9 years been used by the applicant for wood storage, a depository for excess belongings and as a garage for his car.
  - Only half of Hunters Lodge was let out for occupation, the remainder being retained for use by the occupants of the main dwelling.
  - Hunters Lodge has continued to be occupied in association with Hunters Barn. Over the past 13 years part of Hunters Lodge has been let out on a permanent basis, rather than a short term one, but the relationship to the main building (Hunters Barn) has remained as it would have, as if the applicant had rented it as a holiday unit.
  - When a Planning Investigation Officer visited the property on 17<sup>th</sup> March 2011, there was no tenant present.
  - The building has been empty for seven months; the permanent residential use of Hunters Lodge has therefore been abandoned.
- 5.2 In response to the letter from Mr Alcott the applicant's agent submitted a letter in response in which he confirmed the following:
  - The application actually only relates to the two-storey element of Hunters Lodge and excludes the attached garage. The comments about the use of the garage are therefore irrelevant.

- The tenant of 13 years (Mr Tillyer) informed the applicant (Mr Pannaman) on the 5<sup>th</sup> February 2011 that he had purchased a property in Chippenham and gave one month's notice of his intention to vacate Hunters Lodge. A full month's rent was paid on the 18<sup>th</sup> Feb, an overpayment to take into account when final accounting took place after vacating.
- Mr Pannaman had no prior knowledge of the arrival of a Planning Enforcement Officer.

## 6. **OTHER CONSULTATIONS**

6.1 Marshfield Parish Council  
No objection

6.2 Local Councillor  
No response

6.3 Sustainable Transport  
From a review of the documentation attached to the application, there are no proposed changes to the existing traffic volumes and movements as a result of removing these conditions as the dwelling has been occupied for a number of years. The accident data base for the surrounding area has been checked and there have been no safety issues in the last 10 years.

6.4 Conservation Officer  
No comments

6.5 Newspaper Advert  
The application was also advertised in the local press. No responses directly attributed to the advert were received.

6.6 Local Resident

- 1no. letter of objection was received from Mr Gavin Alcott, the occupier of Hunters Hall. (See 5.1 above)

## 7. **ASSESSMENT**

7.1 The issues, which are relevant to the determination of an application for a Lawful Development Certificate are whether or not, in this case, the use described has been carried out for a continuous period exceeding 10 years and whether or not the breach of condition is in contravention of any Enforcement Notice, which is in force.

7.2 Dealing with the latter point, as noted in the 'History' section above there are no enforcement notices relating to this property.

7.3 The relevant test of the submitted evidence

The onus of proof is firmly on the applicant and the relevant test of the evidence on such matters is "on the balance of probability". For a certificate to be issued, the building within the red edged application site plan must have

been continuously occupied in breach of the conditions for a 10-year period prior to 9<sup>th</sup> Sept. 2011 i.e. the date of receipt of the application. Advice contained in Circular 10/97 states that a certificate should not be refused because an applicant has failed to discharge the stricter criminal burden of proof, i.e. “beyond reasonable doubt.” Furthermore, the applicant’s own evidence need not be corroborated by independent evidence in order to be accepted. If the Council has no evidence of their own, or from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous. The planning merits of the use are not relevant to the consideration of the purely legal issues, which are involved in determining an application. Any contradictory evidence, which makes the applicant’s version of events less than probable, should be taken into account.

#### 7.4 Hierarchy of Evidence

The evidence submitted comprises a letter from the previous occupier of Hunters Lodge, plus a variety of emails, letters, memos and bill copies relating to the electoral roll; Council Tax billing, Valuation Office and Tenancy Agreement. Inspectors and the Secretary of State usually value and give weight to evidence in the following order of worth:-

1. Personal appearance, under oath or affirmation, by an independent witness whose evidence can be tested in cross-examination and re-examination, especially if able to link historic events to some personal event that he/she would be likely to recall.
2. Other personal appearance under oath or affirmation.
3. Verifiable photographic evidence.
4. Contemporary documentary evidence, especially if prepared for some other purpose.
5. Sworn written statements (witness statements or affidavits), which are clear as to the precise nature and extent of the use or activity at a particular time.
6. Unsworn letters as 5 above.
7. Written statements, whether sworn or not, which are not clear as to the precise nature, extent and timing of the use/activity in question.

7.5 As noted above, the evidence to support the case is in the form of un-sworn letters and supporting documents only.

#### 7.6 Examination of evidence

The main issue, which needs to be resolved in the determination of this application, is whether or not, the building within the red edged application site plan i.e. the two-storey element of Hunters Lodge only, has been continuously occupied as a separate dwelling house, for a 10-year period prior to 9<sup>th</sup> Sept. 2011 i.e. the date of receipt of the application. The relevant period to consider is therefore 9 Sept. 2001 – 9 Sept. 2011.

- 7.7 From the hierarchy of evidence listed above, the most weight should be given to Document no.1, the letter from Mr. York William Tillyer who clearly states that he came to live at Hunters Lodge in April 1998 and that he stayed there until March 2011; he also confirms that he lived there 'continuously and completely separately and independently from Mr and Mrs Pannaman' the owners of Hunters Lodge and owners and occupiers of Hunters Barn.
- 7.8 Document 15 is a Tenancy Agreement, which clearly relates to Hunters Lodge and is made between Irvin Clifford Pannaman (the landlord) and York William Tillyer and a Lisa Howe (the tenant). It is noted that the Tenancy Agreement is for a 12-month period only and that the rent is £675.00p; the date of the Tenancy Agreement is 16 Oct 1999. The amount of rent ties in with the earliest figures quoted by Tim Roberts (agent) i.e. for March 2003. This Tenancy Agreement follows on from an earlier similar Agreement (Document 16) for a 6-month tenancy dated 16 April 1998 (see Document 16) and is an extension of the original Tenancy Agreement dated 16 Oct 1997.
- 7.9 The earlier Tenancy Agreement (Document 16) appears to confirm Mr Tillyer's statement that he came to live at Hunters Lodge in April 1998 but at the time was sharing occupancy with Lisa Howe. This might explain why Lisa Howe is listed under Document 2 as being registered on the Electoral Role at Hunters Lodge in 2001. It is noted that Mr Tillyer was not registered on the Electoral Role in 2001, the first record of his being registered at Hunters Lodge being in 2003 and subsequently in 2004 and 2008. Whilst this might bring into question Mr Tillyer's statement that he lived at Hunters Lodge continuously from April 1998, it is more a matter of how Hunters Lodge was occupied rather than who occupied it. Whether it was Mr Tillyer or Ms Howe who lived there or both, is not the issue, it is whether or not the building was occupied continuously as a separate dwelling for the relevant 10-year period. However, if Ms Howe moved out there is no evidence to indicate exactly when she did but from the Electoral Roll evidence contained in Document 2 it would suggest that it was some time between 2001 and 2003.
- 7.10 As the first Tenancy Agreement (Document 16) is for a 6-month period only from 16 April 1998 then the period of that Agreement falls well outside the relevant 10-year period and in effect can be discounted. The second Tenancy Agreement (Document 15) is for a one-year period, from 16 Oct 1999, which also falls well short of the relevant 10-year period. Other than the two Tenancy Agreements and the 2001 Electoral Roll reference, there is no other reference to Lisa Howe living at Hunters Lodge.
- 7.11 As regards the payments made by Mr Tillyer to Mr & Mrs Pannaman, as quoted by Tim Roberts, the earliest of these is made 19 March 2003, some 18 months into the relevant 10-year period.
- 7.12 Moving to the other supporting documents:
- Document 3 is somewhat confusing as it appears to refer to a deposit on a rental property but does not state which one. The correspondence is dated 5<sup>th</sup> and 15<sup>th</sup> April 2011, i.e. the time when Mr Tillyer apparently moved out of Hunters Lodge.

Documents 4 and 5 are Council Tax bills for the year 2007/2008. They relate to Hunters Lodge and include a 25% reduction for single occupancy. They are both addressed to Mr Irvin Pannaman but do not confirm who was occupying the building at the time.

Document 6 is a letter from the Valuation Office dated 8 Jan 2007. The letter relates to Hunters Lodge as a separate entity but does not confirm who was living there at the time as it is merely addressed to The Council Taxpayer.

Document 7 is a letter dated 8 Jan 2007 relating to the Council Tax single occupancy discount for Hunters Lodge. Oddly the letter refers to Mr I Pannaman as the single occupier. It appears that a letter was sent in response, however a copy of the letter has not been submitted as evidence.

Documents 8 and 9 are Council Tax Bills relating to the years 2006/2007. They relate to Hunters Lodge and include a 25% reduction for single occupancy. The documents are both addressed to Mr I Pannaman at Hunters Lodge but do not confirm who was occupying the building at the time.

Document 10 is a letter from South Glos. Council dated 12 Dec. 2006 referring to non-payment of Council Tax. The letter is addressed to Mr Y Tillyer at Hunters Lodge. The amount requested i.e. £147.18p concurs with the first instalment for Hunters Lodge quoted in Document 8.

Document 11 is a Council Tax Bill also relating to the year 2006/2007 but in this case is addressed to Mr York Tillyer at Hunters Lodge. The Bill includes a 25% reduction for single occupancy.

Document 12 is another letter from the Valuation Office dated 9 October 2006 i.e. earlier than Document 6. The letter relates to Hunters Lodge and is addressed to Mr Tillyer. It is noted that the letter refers to Hunters Lodge having been re-assessed as being in Band A as opposed to Band C i.e. a significant reduction, which would suggest separate occupation of Hunters Lodge at this time.

Document 13 is a letter from South Glos. Council dated 14 Sept 2006, addressed to Mr I Pannaman at Hunters Barn. The letter makes reference to Hunters Lodge being a 'new dwelling'. The letter does not confirm who was living in Hunters Lodge at the time.

Document 14 is a letter from South Glos. Council dated 31 Aug 2006 addressed to Mr Y. Tillyer at Hunters Lodge. Again the letter makes reference to Hunters Lodge as a 'new property'. If Hunters Lodge was being occupied as a separate dwelling since April 1998, as Mr Tillyer suggests in his letter, this rather begs the question why it was not until 2006 that Hunters Lodge was registered as a 'new dwelling' for Council Tax purposes.

7.13 Notwithstanding the letter from Mr Tillyer (Document 1) much of the evidence relates to the period 2006 to 2008. The evidence relating to this short period does indicate that Mr Tillyer was living alone at Hunters Lodge, and that

Hunters Lodge was being occupied separately from Hunters Barn. There is however little evidence relating to the relevant period between 9 Sept. 2001 to 2006 and for that matter 2008 to 9 Sept 2011. There are no copies of Tenancy Agreements submitted that relate to the relevant 10 year period.

- 7.14 To some extent the letter from Mr Alcott at para. 3, corroborates the applicant's assertion that Hunters Lodge has been occupied as a separate dwelling for 13 years. It is however also noted that Mr Alcott states at para.1 of his letter, that he has only lived at Hunters Hall for 9 years.
- 7.15 Moving to the period after Mr Tillyer moved out of Hunters Lodge; the applicant does not dispute that the building has been unoccupied since i.e. a period of some 7 months and this is pending the sale of Hunters Barn/Hunters Lodge. The applicant states that the sale is conditional on Hunters Lodge being a separate dwelling. The assertion is that the prospective purchaser of Hunters Barn and Hunters Lodge intends to continue the separate and independent occupation of Hunters Lodge however no evidence has been submitted to corroborate this statement.
- 7.16 The question therefore arises, has the non-occupation of Hunters Lodge resulted in a return to the authorised use of the building as a Holiday Let? If it has, then the uninterrupted period of 10 years required to issue a certificate has not been satisfied.
- 7.17 The applicant's agent has addressed this issue in paras. 9 to 11 of his supporting statement. Officers concur with the agent's submission that abandonment is a concept that has arisen out of planning history and is a matter of fact and degree based on the following factors:
1. The Physical Condition of the Building  
From the officer site visit the building appeared to be perfectly habitable. The sales particulars (Hamptons) submitted in support of the application clearly show the Lodge laid out for habitation as a separate dwelling.
  2. The Period Since the Building was Last Occupied  
This now amounts to a period approaching 7 months but needs to be considered in the light of the following two factors.
  3. Intervening Uses  
There is no evidence to suggest that there have been any intervening uses during the 7 month period. Furthermore there is no evidence to indicate that Hunters Lodge has ever been used other than a separate self-contained dwelling.
  4. The Owner's Intentions  
It is the owner's intention to sell both Hunters Barn and Hunters Lodge and in order not to encumber the sale with a tenant in situ the Lodge has remained unoccupied since Mr Tillyer left of his own volition. Officers consider that this is not an unusual scenario where properties are being sold. The applicant states that the prospective purchaser intends to continue the separate occupation of Hunter's Lodge and that this is a

condition of sale. Officers consider that it is only understandable therefore that the Lodge remain empty whilst the unauthorised use is regularised by way of Certificate of Lawfulness.

## **8.0. CONCLUSION**

- 8.1 The submitted evidence adequately covers the relevant 10-year period prior to receipt of the application. The letter from Mr Tillyer together with the supporting documents provides sufficient evidence in favour of granting a certificate and there is no counter evidence whatsoever. Officers are satisfied that there has been no abandonment of the use of the Lodge as a separate self-contained dwelling and that the intention is to continue the use after the sale of the property.
- 8.2 The evidence indicates that for the 10 years continuous to the receipt of the application the building shown edged red on the submitted plan was a separate, self-contained dwelling house, contrary to conditions 3 and 4 attached to planning permission P95/1472.
- 8.3 In the absence of any contrary evidence, it is the considered view therefore that on the balance of probability the applicants have provided the evidence to support the claim and that a Certificate should be issued.

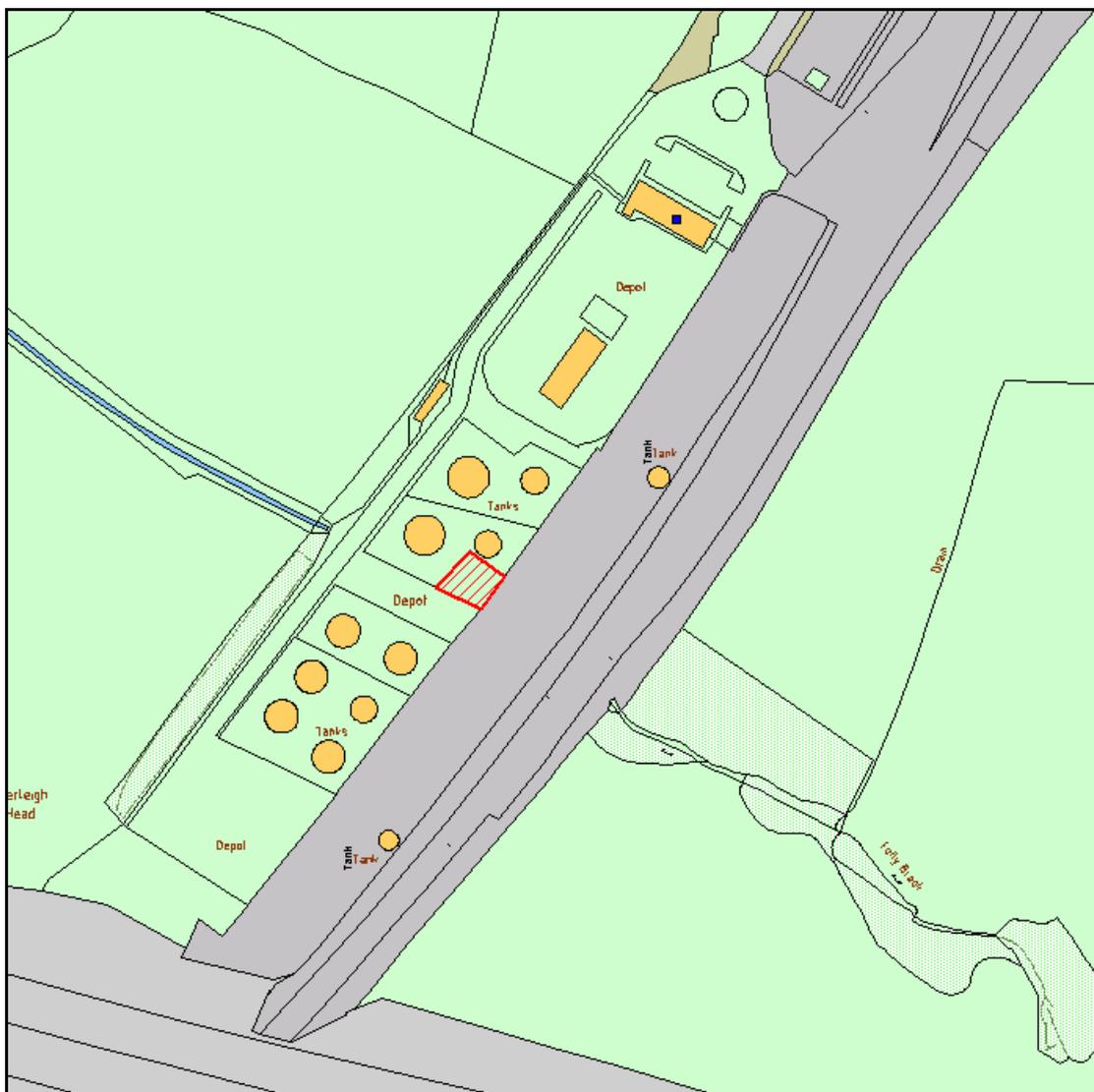
## **9. RECOMMENDATION**

- 8.1 That a Certificate of Existing Lawful Use be GRANTED for the continued occupation of Hunters Lodge as a separate, self-contained, dwelling house (C3) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) without compliance with conditions 3 and 4 attached to Planning Permission P95/1472 that restrict the use of Hunters Lodge to a Holiday Let in association with Hunters Barn.

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

**CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011**

<b>App No.:</b>	PK11/3012/CLP	<b>Applicant:</b>	Murco
<b>Site:</b>	Westerleigh Terminal Oakleigh Green Farm Lane Westerleigh South Gloucestershire BS37 8QE	<b>Date Reg:</b>	27th September 2011
<b>Proposal:</b>	Application for Certificate of Lawfulness for the proposed erection of 4no. bioethanol storage tanks within the existing storage tank bund.	<b>Parish:</b>	Pucklechurch Parish Council
<b>Map Ref:</b>	369042 178188	<b>Ward:</b>	Boyd Valley
<b>Application Category:</b>	Minor	<b>Target Date:</b>	22nd November 2011



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 100023410, 2008. **N.T.S.** **PK11/3012/CLP**

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

This application appears on the Circulated Schedule List because it comprises a Certificate of Lawfulness.

### **1. THE PROPOSAL**

- 1.1 The applicant seeks a Certificate of Lawfulness for the erection of 4 no. bioethanol storage tanks within the existing storage tank bund at Westerleigh Terminal Oakleigh Green Farm Lane, Westerleigh.
- 1.2 The proposed storage tanks would be constructed from painted stainless steel and would measure 12.5 metres high and 4 metres in diameter.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010

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

- 3.1 P85/1304 Use of site as petroleum storage terminal, comprising erection of office building, erection of 7 storage tanks of tanker loading bay, and construction of associated car and tanker parking facilities. Approved 06.04.88
- 3.2 P89/1156 Use of land for petroleum storage terminal including erection of office building, storage tanks, lading bay and ancillary structures. Construction of vehicular access and car and lorry parking areas (To be read in conjunction with P85/1304) Approved 11.05.89
- 3.3 P92/1999 Erection of three oil storage tanks measuring 15 metres in height by 9.2 metres in diameter. Refused 16.09.92
- 3.4 P94/1605 Erection of three oil storage tanks measuring 15 metres in height by 9.2 metres in diameter. Approved 02.06.95
- 3.5 PK05/3235/F Change of use from British Rail Sidings (Sui Generis) to Car Park (Sui Generis). Construction of bund with associated works. Approved 20.12.05

### **4. CONSULTATION RESPONSES**

- 4.1 Pucklechurch Parish Council  
No objection
- 4.2 Sustainable Transport  
No objection

The applicant states that there will be no changes to the overall layout of the site and that the site access will remain unaffected by the proposals. It is proposed that construction traffic would use the existing access to the site.

Therefore, there are no adverse traffic or transportation comments on this application

- 4.3 Council Natural and Built Environment  
No comments made on the proposal.

### **Other Representations**

- 4.4 Local Residents  
No comments received

## **5. ANALYSIS OF PROPOSAL**

- 5.1 Principle of Development

This application is seeking a Certificate to state that the proposed development is lawful. It is not a planning application where the relative merits of the scheme are assessed against policy; it is an evidential test of whether it would be lawful to proceed with the proposal. The key evidential test in this case is whether the proposal falls within the permitted development rights afforded to industrial and warehouse development.

The proposal relates to the construction of 4 no. bioethanol storage tanks within the existing storage tank bund. The applicant claims that the proposal falls within the criteria of Schedule 2, Part 8, Class B of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010.

The Order states that

Permitted Development

‘Development carried out on industrial land for the purposes of an industrial process consisting of (a) the installation of additional or replacement plant or machinery.

Development described in this Class is not permitted if

- (a) it would materially affect the external appearance of the premises of the undertaking concerned; or
- (b) any plant or machinery would exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.

Interpretation of Class B

In Class B, “industrial land” means land used for the carrying out an industrial process, including land used for the purposes of an industrial undertaking as a dock, harbour or quay but does not include land in or adjacent to and occupied together with a mine.’

## 5.2 Assessment of the proposal

An outline planning permission (P85/1304) was granted for the use of site as petroleum storage terminal, comprising erection of office building, erection of 7 storage tanks, erection of tanker loading bay, and construction of associated car and tanker parking facilities in March 1985. Subsequently, planning permission (P89/1156) was granted for details of development in January 1989.

The proposal is to erect 4 no. bioethanol storage tanks within the existing storage tank bund. The authorised use of the site is as a storage and distribution terminal for petroleum products, which is classified as 'Sui Generis'. It is therefore considered that the application site would not be considered as industrial land. In addition, officers consider that the proposal is related to storage oil tanks, which would not be considered as plant or machinery.

Given the above, it is considered that the proposal would not comply with Schedule 2, Part 8, Class B of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010.

## 6. RECOMMENDATION

- 6.1 A Certificate of Lawfulness of Proposed Use be REFUSED as it has not been shown on the balance of probability that the proposal complies with Schedule 2, Part 8, Class B of the Town and Country Planning (General Permitted Development) Order (Amendment) (No.2) (England) Order 2010.

**Contact Officer: Olivia Tresise**  
**Tel. No. 01454 863761**

## REFUSAL REASON

1. On the balance of probability the evidence does not demonstrate that the proposal falls within terms of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 that are claimed and accordingly a Certificate of Lawful Proposed development cannot be granted. Therefore, it is considered that planning permission is required for the proposal.

CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011

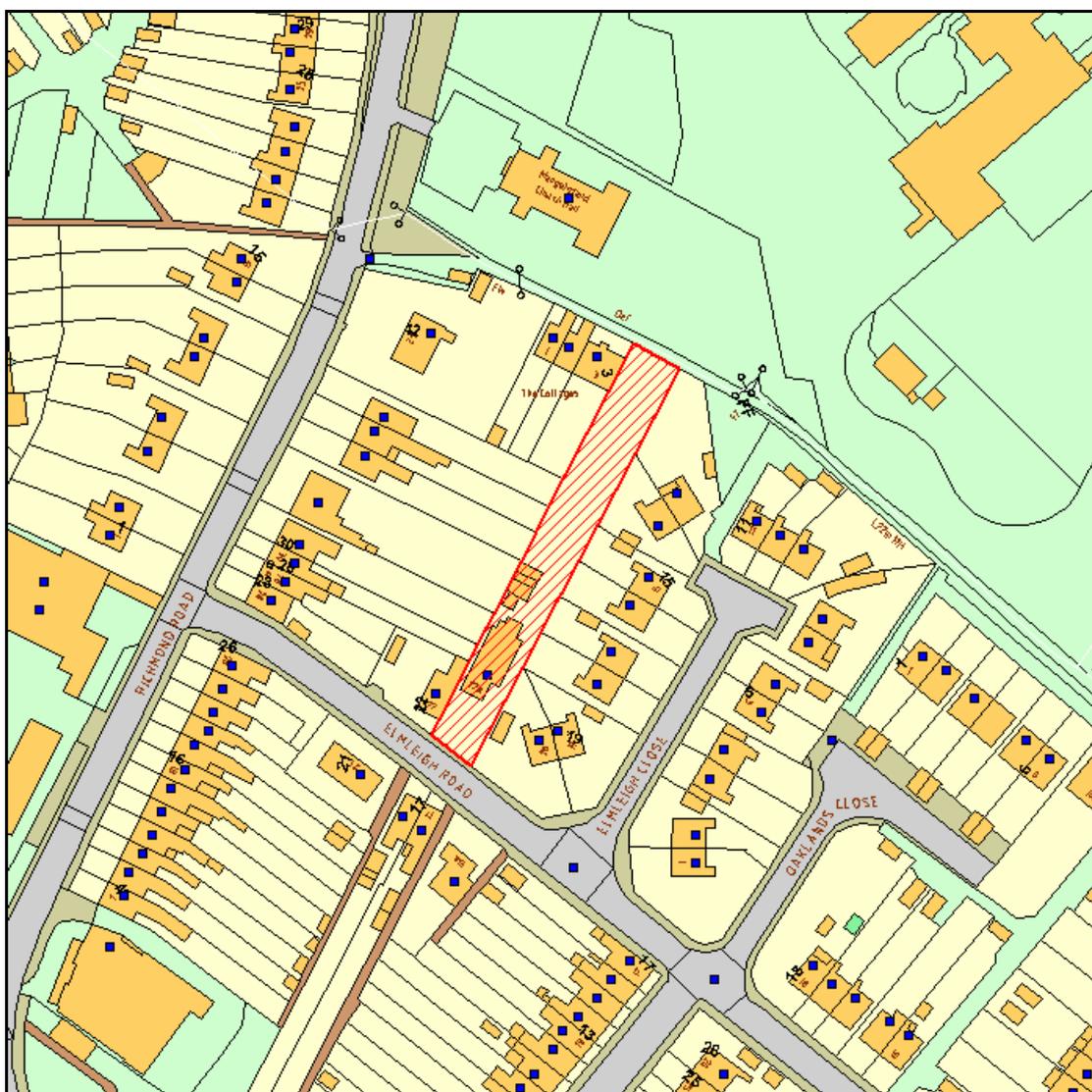
**App No.:** PK11/3233/EXT  
**Site:** 22A Elmleigh Road Mangotsfield Bristol South Gloucestershire BS16 9EX  
**Proposal:** Change of use from Residential (ClassC3) to Residential Home for ten persons with learning difficulties (Class C2) ) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended). Alterations to roofline of existing dwelling to facilitate the creation of additional floor space .Erection of rear single storey link extension with dormer over to provide additional floor space. Erection of single storey front extension. Consent to extend time limit implementation for PK08/2227/F. 366461 176370

**Applicant:** Mr Mike Hoare  
**Date Reg:** 18th October 2011

**Parish:** None

**Map Ref:**  
**Application Category:** Minor

**Ward:** Rodway  
**Target Date:** 12th December 2011



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

Objections were received, contrary to the officer recommendation.

### **1. THE PROPOSAL**

1.1 This application seeks to extend the time limit of condition 1 of planning permission PK08/2227/F for the change of use of the site from residential to a residential home for 10 persons with learning difficulties, which was due to expire on 28 November 2011. In accordance with the requirements for time extension applications, no changes have been made to the scheme, which is therefore the same as previously approved.

1.2 Since the development already benefits from planning permission in 2008 and was assessed against the policy framework at that time, this report will concentrate on policy changes which have occurred since then and analyse how the proposal meets the changed policy requirements.

### **2. POLICY CONTEXT**

2.1 National Guidance since the application was first approved  
Draft National Planning Policy Framework

2.2 Development Plans since the application was first approved  
South Gloucestershire Core Strategy (pre-submission publication draft) 2010  
CS1 High quality design  
CS5 Location of development

2.3 Supplementary Planning Guidance  
No new relevant documents

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

3.1 PK08/2227/F Change of use from residential (C3) to residential home for ten persons with learning difficulties (C2). Alterations to roofline of existing dwelling to facilitate the creation of additional floor space. Erection of single storey link extension with dormer over. Erection of single storey front extension. (resubmission of PK07/3195/F). Approved

### **4. CONSULTATION RESPONSES**

4.1 Mangotsfield Rural Parish/Town Council  
No reply received

4.2 Other Consultees  
Sustainable Transportation  
There have been no previous highway objections to this development and as this is simply a request to extend the time period for the planning permission, with no material changes proposed, there remain no highway grounds for objection.

Public Rights of Way  
No objection in principle

Coal Authority

No objection

## **Other Representations**

### 4.3 Local Residents

Two letters of objection were received, citing the following concerns:

- 16 surrounding properties could be affected by the proposed development
- The boundary wall is of an inadequate height to containment purposes in terms of noise, safety and security, including for passing schoolchildren
- Lack of adequate parking for staff, visitors and residents
- Depreciation of property values
- Increase in traffic and on-street parking, affecting access for emergency vehicles, which may be required by the site
- Object to the extension of the time limit for commencement as the local community has the right to regularly scrutinise and input into the process given the context of other development, for instance the residential development at Cossham Street

## **5. ANALYSIS OF PROPOSAL**

### 5.1 Principle of Development

This application seeks further time in which to implement the planning permission. Since the scheme was originally approved, there have been no changes to the site or its surroundings. In terms of applicable policy, the only change to the framework under which the original application was assessed is the South Gloucestershire Core Strategy, which is not yet adopted. The implications of the Core Strategy policies are analysed below. At national level, the National Planning Policy Framework has been published, but in draft form. As such, it carries little weight until adopted. Even so, it does not contradict the policies under which the proposal was assessed in 2008.

### 5.2 Core Strategy

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

#### Policy CS1 High Quality Design

Much of this policy follows the principles set out in policy D1 of the adopted South Gloucestershire Local Plan and is informed by the Design Checklist (2007) which this scheme was considered to be in accordance with.

#### Policy CS5 Location of Development

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

### 5.3 Other Issues

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

on the grounds that this development may be affected by other development nearby. While this is could be the case, this particular application requires determination at this time. It cannot be considered premature by virtue of the fact that it seeks an extension of the time required to be implemented, a decision that has already been taken. Policy changes since the earlier decision are not considered to amount to a change in the initial recommendation.

## **6. CONCLUSION**

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine applications in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The extension to the time limit for the commencement of this outline development would allow for the provision of a residential home in a sustainable location, contributing towards a mixed and balanced community. The proposed development accords with policies D1, H2, T7, T8 and T12 of the adopted South Gloucestershire Local Plan.
- 6.3 The recommendation to approve permission has been taken having regard to the policies and proposals in the South Gloucestershire Local Plan (Adopted) January 2006 set out above, and to all the relevant material considerations set out in the report.

## **7. RECOMMENDATION**

- 7.1 That the planning permission is re-issued, with an extension to the time to commence development as applied for.

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

## **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 off-street parking facilities (for all vehicles, including cycles) shown on the plan hereby approved shall be provided before the building is first occupied, and thereafter retained for that purpose.

Reason

To ensure the satisfactory provision of parking facilities and in the interest of highway safety and the amenity of the area, and to accord with Policies T7, T8 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

3. Prior to the commencement of development details/samples of the roofing and external facing materials proposed to be used shall be submitted to and approved in

writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason

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

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

Reason

To protect the character and appearance of the area to accord with Policies H2, D1 and L1 of the South Gloucestershire Local Plan (Adopted) January 2006.

5. No windows other than those shown on the plans hereby approved shall be inserted at any time in any elevation or roofslope of the property.

Reason

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

6. The premises shall be used for a residential home for people with learning difficulties and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason

Other uses within Class C2 will require further consideration, in order to ensure the protection of the amenities of the occupiers of nearby dwelling houses, and to accord with Policy H2 of the South Gloucestershire Local Plan (Adopted) January 2006.

**CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011**

<b>App No.:</b>	PK11/3261/F	<b>Applicant:</b>	Mr And Mrs J Govey
<b>Site:</b>	33 Colthurst Drive Hanham Bristol South Gloucestershire BS15 3SG	<b>Date Reg:</b>	18th October 2011
<b>Proposal:</b>	Erection of single storey side extension to form residential accommodation ancillary to existing dwellinghouse and single storey rear extension to provide garden room.	<b>Parish:</b>	Hanham Parish Council
<b>Map Ref:</b>	365165 172121	<b>Ward:</b>	Hanham
<b>Application Category:</b>	Householder	<b>Target Date:</b>	8th December 2011



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

An objection has been received which is contrary to the officer recommendation.

### **1. THE PROPOSAL**

- 1.1 This application seeks planning permission for two elements, the erection of a single storey side extension and a single storey rear extension, the latter forming a garden room and the former allowing an annex to be formed, within the extended dwelling. The house on the site is a detached two storey bradstone and tile dwelling in an estate of similar houses, it has a double integral garage, with a room over the garage nearest to the house. Under this proposal, the double garage would be widened and essentially become the annex, with an extension to the rear to form its kitchen. An independent entrance for the annex would be formed in the front elevation of the property, while a lean to roof would be built over the garage currently closest to the site boundary.
- 1.2 The proposed garden room would extend 3.675 metres from the rear building line, on the other side of the dwelling as the garages. It is proposed to have a hipped apex roof.
- 1.3 Two parking spaces are proposed to be retained on the hardstanding currently in front of the garages.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
PPS1 Delivering Sustainable Development  
PPG13 Transportation
- 2.2 Development Plans  
South Gloucestershire Local Plan (Adopted) January 2006  
D1 Design  
H4 House extensions  
  
South Gloucestershire Core Strategy -Submission Draft (December 2010)  
CS1 High Quality Design

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

- 3.1 None since permission approved for estate

### **4. CONSULTATION RESPONSES**

- 4.1 Hanham Parish Council  
No objection
- 4.2 Other Consultees [including internal consultees of the Council]  
None

### **Other Representations**

- 4.3 Local Residents  
One letter of objection was received, citing the following concerns:

- The replacement side wall would be nearer, higher and longer than the existing one, in close proximity to a half-landing window, leading to loss of light and open outlook
- Unable to obtain information on dimensions from neighbour

## 5. **ANALYSIS OF PROPOSAL**

### 5.1 Principle of Development

This application stands to be assessed against the policies listed above, in the light of all material circumstances. The main one of these is considered to be the fact that another dwelling within eyesight of the site has converted its garage into living accommodation. The proposed side and rear extensions will be examined separately.

### 5.2 Residential Amenity: Side Extension

No. 31, adjoining this property, has a habitable room window currently facing the flank wall of the garage at first floor level. Below this window, the proposal would extend the existing garage wall closer to the site boundary and the neighbouring window, but above this point, the proposed lean-to roof would slope away from the neighbouring window, potentially increasing the amount of light it receives and increasing its outlook marginally. With regard to this window, the design of the proposal is considered to represent an improvement in the current level of residential amenity and accords with the aims of policy H4 of the Local Plan.

### 5.3 Residential Amenity: Rear Extension

The rear extension would be closest to No. 35, separated by a 2 metre high larchlap fence, with a 4 metre high conifer screen at the rear of the garden. The only likely impact in terms of residential amenity is likely to be on No. 35, which shares a common rear building line with the house on site. No. 35 has a conservatory of a similar projection close to the site's boundary. The projection of 3.7 metres is considered not to cause any overbearing impact, particularly as it would be offset from the boundary and its first two metres of height would be screened by the fence. It is considered that this element of the proposal accords with policy H4 of the Local Plan.

### 5.4 Design and Visual Amenity: Side Extension

The extension itself is not designed in an unusual manner, but the lean-to roof is somewhat out of keeping with the host dwelling. However, taking into account the benefit that it creates in terms of residential amenity to the adjacent property, along with its lack of prominence in the street scene (it would be close to the adjoining property and screened by that property and the host dwelling to all views other than immediately across the street) it is considered to be acceptable in visual terms. Both proposed extensions would employ materials to match the host dwelling, as listed on the application forms and this is considered to be appropriate, reflecting local distinctiveness. This part of the proposal is considered to accord with policy D1 of the adopted Local Plan.

### 5.5 Design and Visual Amenity: Rear Extension

The design of the rear extension has been kept simple and its roof is considered to be appropriate to its footprint. It is considered to be an appropriate extension to the host dwelling and accords with policy D1.

## 5.5 Other Issues

A condition below ensures that the proposed annex is retained in such a use, ancillary to the host dwelling. The plans show that it would be connected to the host dwelling via a connecting door between an internal utility room and the proposed kitchen, despite the annex having an independent front door.

A further condition shown below requires the parking to be implemented as indicated on the plans. The double garage would be lost as part of this proposal, but the two parking spaces at the front of the property would be retained and a further space created to serve the annex. Given the fact that, under this proposal, parking for the house would affect the annex's residential amenity, as it would be in close proximity to at least one habitable room in the annex, it is considered that the annex could not be used independently of the host dwelling.

From the consultation reply received it would appear that the objector has not been able to access the plans for this proposal. These plans have been available to view on the Council's website in accordance with standard consultation procedures.

## 6. CONCLUSION

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

6.2 The proposed development would facilitate the creation of an internal annex as well as enlarged family accommodation. The proposal would marginally improve existing standards of residential amenity for the adjoining property to the south, while not creating any harmful impact on existing levels of residential amenity. The proposal is considered to accord with policies D1 and H4 of the adopted South Gloucestershire Local Plan.

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

## 7. RECOMMENDATION

7.1 That planning permission is approved.

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

## **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 off-street parking facilities shown on the plan hereby approved shall be provided before the building is first occupied, and thereafter retained for that purpose.

### Reason

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

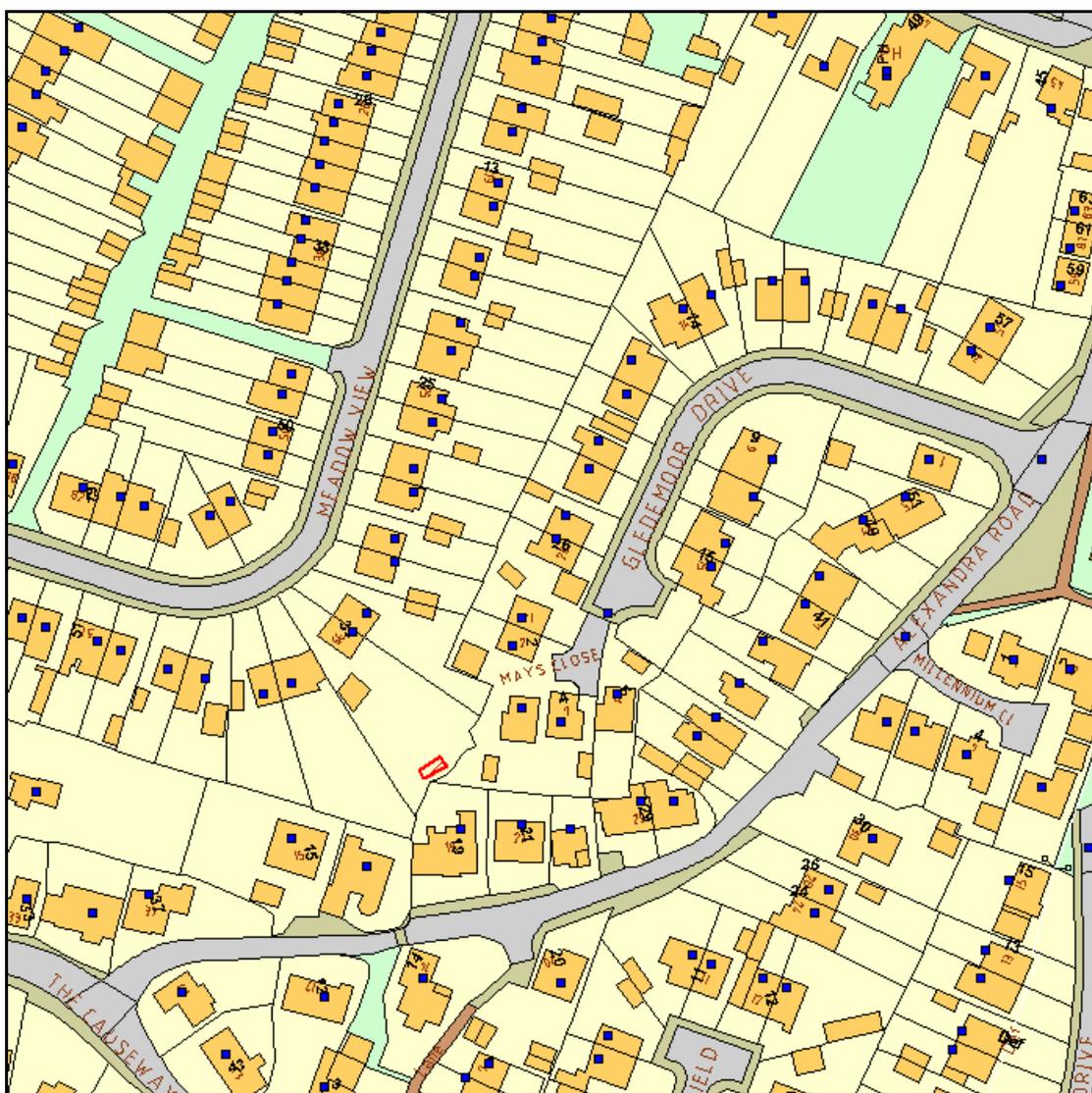
3. The annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 33 Colthurst Drive, Hanham.

### Reason

The annex cannot be occupied as a separate unit of accommodation without its residential amenity being unaffected by parking associated with the host dwelling in close proximity to habitable rooms within it and due to its lack of separate amenity space, to accord with policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006.

**CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011**

<b>App No.:</b>	PT11/2613/TRE	<b>Applicant:</b>	Mrs C Blackmore
<b>Site:</b>	39 Meadow View Frampton Cotterell Bristol South Gloucestershire BS36 2NF	<b>Date Reg:</b>	18th August 2011
<b>Proposal:</b>	Works to remove two stems to ground level to 1 no Oak Tree covered by South Gloucestershire Council Tree Preservation Order (37 and 39 Meadow View Coalpit Heath) dated 3rd January 2003.	<b>Parish:</b>	Frampton Cotterell Parish Council
<b>Map Ref:</b>	367569 181356	<b>Ward:</b>	Frampton Cotterell
<b>Application Category:</b>		<b>Target Date:</b>	10th October 2011



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

This application is being circulated to Members because the officer's recommendation is contrary to written representations received from local residents.

### **1. THE PROPOSAL**

- 1.1 This application seeks permission to reduce two stems of a three stemmed oak tree located at the bottom of the garden belonging to 39 Meadow View. The tree is covered by a Tree Preservation Order.
- 1.2 The applicant lives at 19 Alexandra Road and the Oak tree is located very close to the rear boundary of the applicant's garden. The reason for this application arises from concerns regarding two stems of this oak tree which rub together. The applicant is concerned about the condition of the tree.

### **2. POLICY CONTEXT**

- 2.1 National Guidance  
PPS1 Delivering Sustainable Development
- 2.2 Town and Country Planning (Trees) Regulations 1999

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

- 3.1 Works to various Oak Trees removal of self stem set, 4 metre crown lift and removal of 2 metre of lowest branches of over hanging Oak Trees covered by South Gloucestershire Council (Tree Preservation Order 05/02 37 and 39 Meadow View, Coalpit Heath) dated 3rd January 2003. Approve with conditions.
- 3.2 Works to fell 1 no. Oak Tree covered by South Gloucestershire Council Tree Preservation Order 05/02 (37 and 39 Meadow View) dated 3rd January 2003. Refusal.

### **4. CONSULTATION RESPONSES**

- 4.1 Frampton Cotterell Parish Council  
No objection.
- 4.2 Tree Officer  
No objection.
- 4.3 Ecologist  
Objection.

#### **Other Representations**

- 4.4 Local Residents  
3 letters were received from local residents objecting to the proposal on the following grounds:
  - ◆ not clear which tree involved

- ◆ trees not close to house structure at 19 Alexandra Road
- ◆ few trees in locality means this will have a relatively high impact on amenity
- ◆ bats have been seen in the area and the tree may be/is a roost or feeding area
- ◆ Policy L1 supports retention.
- ◆ Will removal of stems affect the rest of the tree?
- ◆ Change in appearance of the landscape
- ◆ The copy of a letter submitted in relation to PT11/1800/TRE, received 15/8/2011 should not be used to support this application.

## 5. **ANALYSIS OF PROPOSAL**

### 5.1 Principle of Development

This application is considered under the Tree Regulations 1999, where the principal reason for protecting trees is their visual amenity. This then is main issue against which the proposal is assessed. By way of background policies L1 of the South Gloucestershire Local Plan (Adopted) seek to conserve and enhance the quality and amenity of the landscape and distinctiveness of the locality and to protect the features that contribute to the character or appearance of the area. However the merits or otherwise of proposals to do works to trees have to be considered in respect of the visual amenity and the health of the tree, not the Councils wider to desires set out in policy L1.

### 5.2 Assessment of Proposal

The tree is situated on the rear boundary of 39 meadow View within a group of other oak trees and birch. The tree in question is not subject of an individual TPO but is part of that group of trees growing very close to one another. The tree subject to this application is made up of three stems. The proposed works are for the removal of two stems which are growing as part of a number of stems originating from the same root plate.

The two stems in question are crossing and have rubbed against each other creating a weakness and a point of potential failure.

As the stems overhang the garden of the neighbouring property, 19 Alexandra Way. it is considered. due to the inherent weakness, that the stem present an unacceptable health and safety hazard and should be removed.

There should be no loss of visual amenity as the trees are growing as a group the remaining trees will soon spread fill any spaces created by the removal of the two stems.

### 5.3 Other issues

The issue of bats using the trees has been raised by objectors. Whilst all species of bats and their roosts are protected under the Wildlife & Countryside Act 1981 (as amended) and Countryside & Rights of Way Act 2006, as well as by European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Fauna and Flora ('the Habitats Directive 1992'), this is not a matter for consideration in this report.

- 5.6 As a European Protected Species (EPS), if bats were present a licence under Regulation 53/56 of the 1994 Habitat Regulations would be required for the removal of the tree stems to be lawful under those regulations.
- 5.8 It would be appropriate for the applicant to have a recommended tree surgeon who is experienced in bats, undertake an initial assessment of the stems to be removed in order to ensure that there are no openings or areas of potential roosting. Notwithstanding this, bats and other wildlife are protected by different legislation and whilst it is a prosecutable offence to disturb bats or their roosts under such legislation, it cannot be amount to a material consideration in this application under the Tree Regulations. Applications for works to protected trees are assessed on the visual amenity offered by the tree to the area and not on protected species. As such the potential presence of bats and lack of ecological information is not sufficient to refuse the application.

## **7. RECOMMENDATION**

- 7.1 That consent be granted for the following reason:

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

### **CONDITIONS**

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

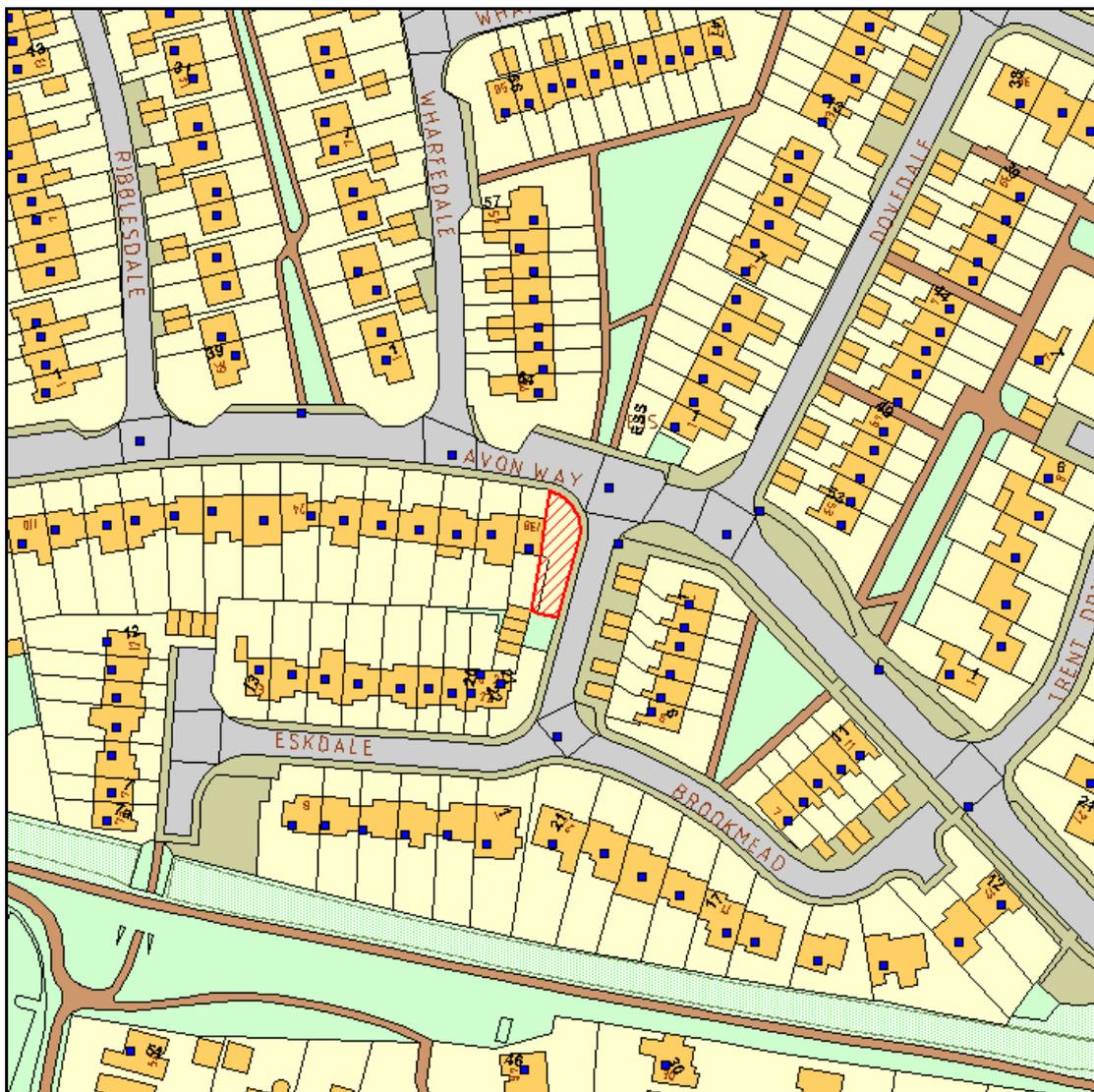
In the interests of the long term health of the tree, and to accord with the Town and Country Planning Act 1990 and Town and Country Planning (Trees) Regulations 1999.

2. The works hereby authorised shall comply with British Standard 3998: 2010 - Recommendations for Tree Work.

In the interests of the long term health of the tree, and to accord with the Town and Country Planning Act 1990 and Town and Country Planning (Trees) Regulations 1999.

**CIRCULATED SCHEDULE NO. 44/11 – 11 NOVEMBER 2011**

<b>App No.:</b>	PT11/3099/F	<b>Applicant:</b>	Mr And Mrs N Woodward
<b>Site:</b>	136 Avon Way Thornbury Bristol South Gloucestershire BS35 2DP	<b>Date Reg:</b>	30th September 2011
<b>Proposal:</b>	Erection of 1no. attached dwelling with associated works.	<b>Parish:</b>	Thornbury Town Council
<b>Map Ref:</b>	364591 189460	<b>Ward:</b>	Thornbury South And Alveston
<b>Application Category:</b>	Minor	<b>Target Date:</b>	22nd November 2011



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## **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 1no. attached dwelling with associated works.
- 1.2 The application site relates to a modern semi detached property located within the settlement boundary of Thornbury. The applicant proposes a two storey attached dwelling to be built in the side garden of the property.
- 1.3 An amended elevations plan was received following Officer's concerns in respect of the proposed appearance of the new dwelling.

### **2. POLICY CONTEXT**

#### **2.1 National Guidance**

PPS1	Delivering Sustainable Development
PPS3	Housing
PPG13	Transport

#### **Emerging National Guidance**

Written Ministerial Statement: Previously Developed Land and Density (9 June 2010)  
Draft National Planning Policy Framework (published 25<sup>th</sup> July 2011)

#### **2.2 Development Plans**

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

D1	Achieving Good Quality Design
EP1	Environmental Pollution
H2	Proposals for Residential Development within the Defined Settlement Boundaries
H4	Development within Existing Residential Curtilage
L1	Landscape Protection and Enhancement
L5	Open Areas within Defined Settlements
T8	Parking Standards
T12	Transportation Development Control Policy for new Development

#### **Emerging Development Plan**

**Core Strategy Proposed Changes Submission Publication Draft (December 2010)**

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

### 2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist (Adopted) 2007

## 3. **RELEVANT PLANNING HISTORY**

3.1 No relevant history.

## 4. **CONSULTATION RESPONSES**

### 4.1 Thornbury Town Council

No objection in principle subject to necessary consideration being given to the possible effect of increased vehicular access to the highway.

### 4.2 Other Consultees

#### Highways

No objection.

#### Drainage

No objection subject to condition.

### **Other Representations**

### 4.3 Local Residents

One letter of objection received on the grounds that the proposed plan will not be in keeping with the surrounding properties in terms of character and appearance. No. 134 Avon Way will change from a semi detached property to an end terrace, having a detrimental effect on the value of the property.

## 5. **ANALYSIS OF PROPOSAL**

### 5.1 Principle of Development

The application site is situated within the Thornbury settlement boundary, as shown on the South Gloucestershire Local Plan Proposal Maps (Adopted) January 2006. PPS3 (Housing), the Joint Replacement Structure Plan and Policies H2 and H4 of the Local Plan allows for new residential development within settlement boundaries and the curtilages of dwellings. On this basis the proposed development would be acceptable in principle.

- 5.2 PPS3 expects schemes to make an effective use of the site by achieving the maximum density compatible with the sites accessibility, environmental constraints, and its surroundings. The expectation under Policy H2 of the Local Plan states that all developments will achieve a minimum density of 30 dwellings per hectare.
- 5.3 Notwithstanding this policy context in June 2010 the Coalition Government issued a Ministerial Statement under the title of *'New Powers for Local Authorities to Stop 'Garden Grabbing'*. The Ministerial Statement has raised some important points regarding the design and density of new residential development. Firstly the statement reiterated the need to ensure that residential development does not result in the overdevelopment of neighbourhoods, the loss of green space, and impact upon local character. These matters can be reasonably resisted on the basis of existing policies (D1, L5, H2, and H4) within the South Gloucestershire Local Plan.
- 5.4 The second point relates to the requirement in PPS3 for all new residential developments to achieve the national indicative density target of 30 dwellings per hectare. This policy objective was reflected in Policy H2(b) of the South Gloucestershire Local Plan which stated that the maximum density compatible with the sites location should be achieved, but with an expectation that it will achieve a minimum density of 30 dwellings per hectare. The Ministerial Statement has removed the requirement for new residential development to achieve the national indicative minimum density, and thus very limited weight should be given to Policy H2(b).
- 5.5 The remaining advice in PPS3 states *"Good design is fundamental to using land efficiently..."* (Para. 48) and *"Careful attention to design is particularly important when chosen local strategy involves intensification of the existing urban fabric. However when well designed and built in the right location, it can enhance the character and quality of an area"* (Para. 49). *"Density is a measure of the number of dwelling that can be accommodated on a site or in an area. The density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment."* (Para. 50)
- 5.6 On this basis in this application the need to achieve an efficient use of land is still an important material consideration. However this need should be carefully balanced against the requirement to consider the character of the area and whether the proposal is good quality design. Policy D1 of the South Gloucestershire Local Plan recognises this, and density is one of the design factors that this policy requires to be assessed.
- 5.7 Density
- The proposed site extends to approximately 0.015 hectare, giving a density of approximately 65 dwellings per hectare. Other properties on Avon Way are set within similar sized plots although the proposed development plot is slightly smaller and would have a fairly high density. Nevertheless, it is considered that

the plot size can accommodate an attached dwelling with sufficient amenity space for occupiers. The density is therefore considered appropriate given the characteristics of the application site, and would respect the character of the development pattern in the surrounding context.

## 5.8 Design

The new property is to be located on land currently in use as the side garden for no. 136 Avon Way. To the rear (south) of the site is a tarmac parking area with garages serving properties in Brookmead. To the east side of Brookmead are more garages associated with 'Radburn' style properties. Although no. 136 is part of a row of fairly uniformed link semi detached dwellings there are examples of very similarly designed terrace dwellings in close proximity, to the south, north and east of Avon Way. Materials on the new property would consist of brick, hanging tiles and slate roof tiles all to match no. 136. The parking spaces to the rear would be close to existing ones serving other Brookmead properties and the close boarded fencing proposed is in keeping with the area. Given the design and appearance of the new dwelling which would match the properties it would be attached to, the proposal is considered appropriate to the character of the surrounding area and would cause no visual harm.

## 5.9 Residential Amenity

### Privacy Analysis

Fenestration is proposed to the front and rear of the new property and nearby properties to the front and rear are a sufficient distance away for there to be no undue loss of privacy.

### Overbearing Impact

The new property is on a corner plot and there would be no undue overbearing/loss of light as a result of the proposal.

### Amenity Space

The proposal identifies an acceptable level of private amenity space for the new property whilst maintaining a satisfactory garden area for no. 136 Avon Way.

## 5.10 Transportation

The proposed dwelling and access points do not interfere with existing levels of visibility at or around the junction of Avon Way and Brookmead. Two off street parking spaces are provided for this three bedroom dwelling and this is considered acceptable.

### 5.11 Drainage

No objection is raised subject to a condition requiring full drainage details to be submitted to the Council prior to the commencement of development.

### 5.12 Other Matters

Concern was raised by a local resident that the proposal would impact on the value of a nearby property. This is not considered to be a material planning consideration.

## 6. CONCLUSION

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

The recommendation to grant permission is for the following reasons:

1. The proposed layout has been configured to allow a form of development that would be in keeping with the general pattern of residential development within the locality. As such, the proposal would be compliant with Planning Policies D1 (Achieving Good Quality Design in New Development), H2 (Residential Development) and H4 (Development within Residential Curtilages) of the South Gloucestershire Local Plan (Adopted) January 2006.
2. The proposal would provide an appropriate level of density having regard to the site, its location and accessibility. As such, the proposal is considered to be compliant with the requirements of planning policy H2 (Residential Development) of the South Gloucestershire Local Plan (Adopted) January 2006 and the provisions of PPS3.
3. The proposal would not cause any significant adverse impact to residential amenity. The proposal is therefore considered to accord with Planning Policies H2 (Residential Development) and H4 (Development within Residential Curtilages) of the South Gloucestershire Local Plan (Adopted) January 2006.
4. The proposal is considered to be acceptable in highway safety terms and compliant with Planning Policies T8 (Parking Standards) and T12 (Transportation Development Control Policy for New Development) of the South Gloucestershire Local Plan (Adopted) January 2006.

5. The proposal has considered all environmental issues associated with the site and there are no constraints to granting planning permission on this basis. The proposal is therefore considered to accord with Planning Policy EP1 (Environmental Pollution) of the South Gloucestershire Local Plan (Adopted) January 2006.

## **7. RECOMMENDATION**

- 7.1 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).