



**LIST OF PLANNING APPLICATIONS AND OTHER PROPOSALS
SUBMITTED UNDER THE PLANNING ACTS TO BE DETERMINED BY
THE DIRECTOR OF ENVIRONMENT AND COMMUNITY SERVICES**

CIRCULATED SCHEDULE NO. 13/16

Date to Members: 01/04/16

Member's Deadline: 07/04/2016 (5.00 pm)

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 Environment of Community Services know within 5 working days of the date of this Schedule (e.g., if the schedule is published on a Friday, comments have to be received by the end of Thursday) (see cover page for the date).

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

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

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

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

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

GUIDANCE FOR 'REFERRING' APPLICATIONS

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

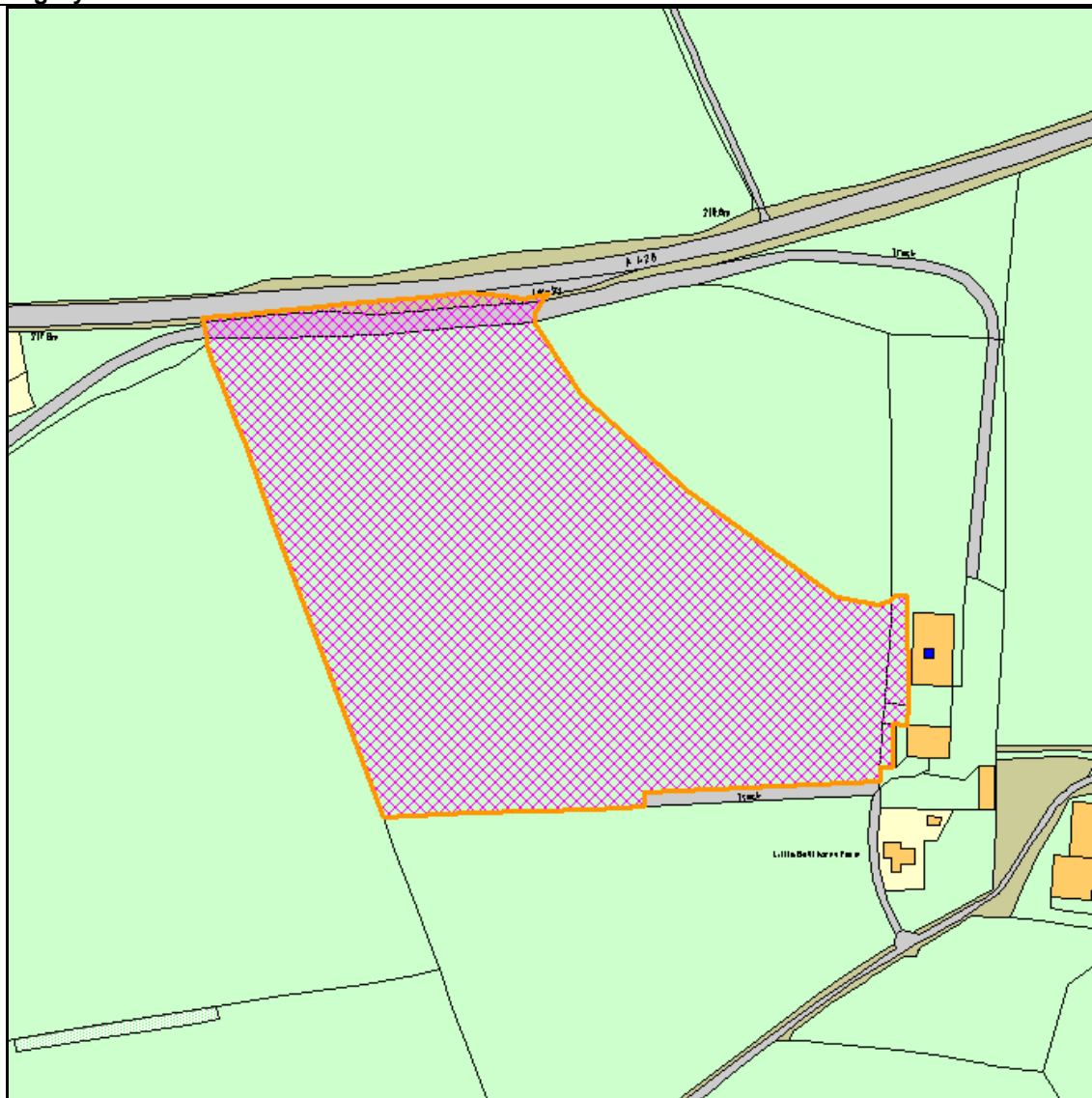
- Before referring an application always speak to the case officer or Area Planning Manager first to see if your concerns can be addressed without the application being referred.
- If you are considering referring in an application outside the ward you represent, as a courtesy, speak to the ward member(s) to see what their views are, before referring the application.
- Always make your referral request as soon as possible, once you have considered all the application details and advice of the case officer. Please do not leave it to the last minute
- Always make your referral request by e-mail to MemberReferral@southglos.gov.uk, where referrals can be picked up quickly by the Development Management Technical Support Team. Please note a copy of your referral e mail will appear on the website. **If in exceptional circumstances, you are unable to e-mail you request, please contact 01454 863519, well in advance of the deadline, to discuss alternative arrangements to ensure your response can be received.**
- When you refer an application, make clear what the planning reasons are for doing so. This will help the case officer and other members give attention to the specific issues you have raised.
- It may also allow officers to seek to negotiate with the applicant to overcome the Member's concerns and therefore removing the need for a Committee determination.

CIRCULATED SCHEDULE - 01 APRIL 2016

ITEM NO.	APPLICATION NO	RECOMMENDATION	LOCATION	WARD	PARISH
1	PK15/4318/F	Approve with Conditions	Little Ballthorns Farm Greenway Lane Cold Ashton South Gloucestershire SN14 8LA	Boyd Valley	Cold Ashton Parish Council
2	PK15/4609/CLP	Refusal	Bottoms Farm Cottage Bottoms Farm Lane Doynton South Gloucestershire BS30 5TJ	Boyd Valley	Doynton Parish Council
3	PK16/0429/CLP	No Objection	11 Blackhorse Road Kingswood South Gloucestershire BS15 8EA	Woodstock	None
4	PK16/0793/F	Approve with Conditions	1 Hill Close Emersons Green South Gloucestershire	Emersons	Emersons Green Town Council
5	PT16/0137/F	Approve with Conditions	Land At Itchington Road Tytherington South Gloucestershire BS35 3TL	Ladden Brook	Tytherington Parish Council
6	PT16/0420/F	Approve with Conditions	400 Park Avenue Aztec West Almondsbury South Gloucestershire BS32 4TR	Patchway	Patchway Town Council
7	PT16/0538/F	Approve with Conditions	Pilning Trading Standards 20 Marsh Common Road Pilning South Gloucestershire BS35 4JX	Pilning And Severn Beach	Pilning And Severn Beach Parish Council
8	PT16/0580/F	Approve with Conditions	Port Farm Hardy Lane Tockington South Gloucestershire BS32 4LN	Severn	Olveston Parish Council
9	PT16/0652/F	Approve with Conditions	37 Elm Park Filton South Gloucestershire BS34 7PR	Filton	Filton Town Council
10	PT16/0791/CLE	Refusal	Old Butchers Shop Elberton Road Olveston South Gloucestershire BS35 4AD	Severn	Aust Parish Council

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.:	PK15/4318/F	Applicant:	Mr A Humphris
Site:	Little Ballthorns Farm Greenway Lane Cold Ashton South Gloucestershire SN14 8LA	Date Reg:	6th November 2015
Proposal:	Alterations to existing access track and change of use of land from agricultural to equestrian use (as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended). Erection of 4no. stables and construction of manege	Parish:	Cold Ashton Parish Council
Map Ref:	374131 172470	Ward:	Boyd Valley
Application Category:	Major	Target Date:	4th February 2016



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 100023410, 2008. N.T.S. PK15/4318/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application appears on the Circulated Schedule as it represents a departure from relevant Green Belt Policy within the adopted Development Plan.

In this case any resolution to grant planning permission for this development does not need to be referred to the Secretary of the State for Communities and Local Government as the development is not of a large enough scale and it would not have a significant impact on the openness of the Green Belt (referral criteria is set out in the Departure Direction 2009).

1. THE PROPOSAL

- 1.1 The applicant seeks full planning permission for the change of use of land from agricultural to equestrian use, including the erection of a stable block with four stalls and the construction of a riding arena. Alterations to the existing access track are also proposed.
- 1.2 The site relates to part of an agricultural field at Little Ballthorns Farm, Greenway Lane, Cold Ashton. The site is situated within the Bristol/Bath Green Belt as well as the Cotswold Area of Outstanding Natural Beauty.
- 1.3 Amendments were received to the landscaping scheme on 17th December 2015 and then again on 27th January 2016 to address concerns raised by the Landscape Officer. A period of re-consultation was not deemed necessary as the proposed development did not materially change from that as submitted.
- 1.4 Once it became apparent that a departure from the adopted Development Plan may be the likely recommendation, and a case for Very Special Circumstances was received on 24th February 2016, the proposal was advertised as a departure for a further period of 21 days. The very special circumstances consisted of the following points:
 - Applicant had to sell their dairy herd as it was no longer profitable due to the recent economic crash of prices in the milk industry, and therefore another use of the land is required to benefit the rural business
 - The proposed use is a sporting use, which is listed as one of the exemptions in paragraph 89 and would not compromise any of the five purposes listed in paragraph 80 of the NPPF
 - The impact on openness is negligible and could be protected by conditions

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012
National Planning Practice Guidance
- 2.2 Development Plans
South Gloucestershire Local Plan (Adopted) January 2006 (saved policies)
L1 Landscape Protection and Enhancement

L2	Cotswolds AONB
L9	Species Protection
L16	Protecting the Best Agricultural Land
EP2	Flood Risk Development
E10	Horse related development
T12	Transportation
LC5	Proposals for Outdoor Sports and Recreation outside Existing Urban Area and Defined Settlement Boundary
LC12	Recreational Routes

South Gloucestershire Local Plan Core Strategy Adopted December 2013

CS1	High Quality Design
CS4a	Presumption in Favour of Sustainable Development
CS5	Location of Development
CS8	Improving Accessibility
CS9	Managing the Environment and Heritage
CS34	Rural Areas

2.3 Supplementary Planning Guidance

South Gloucestershire Design Checklist (Adopted 2007)

South Gloucestershire Supplementary Planning Document: Green Belt
(Adopted) 2007

Landscape Character Assessment (Adopted) November 2014 – Area 2:
Marshfield Plateau

3. **RELEVANT PLANNING HISTORY**

- | | | | |
|-----|-------------|---|------------|
| 3.1 | PK15/3355/F | Approve with conditions
Erection of agricultural building | 02/10/2015 |
| 3.2 | PK12/2669/F | Approve with conditions
Erection of 1 no. detached dwelling for an agricultural worker with access and
associated works | 23/11/2012 |

4. **CONSULTATION RESPONSES**

- 4.1 Parish/Town Council
No comment received.

- 4.2 Other Consultees

Sustainable Transport
No objection.

Wessex Water
No comment received.

Highway Structures
Informative required if the proposal involves alterations to the structure of the
highway.

Avon Fire and Rescue

No comment received.

Police Community Safety

No comment received.

Arts and Development

No comment.

Lead Local Flood Authority

No objection.

British Horse Society

No comment received.

Landscape Officer

Requests amendments relating to the design of the bund and type of planting.

Other Representations

4.3 Local Residents

None received.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

In the first instance the proposal must be considered in the light of current Green Belt Policy as the land lies within the Bristol and Bath Green Belt. The primary policy consideration is guidance contained in the NPPF. Design and siting for the stables will be covered by Policy CS1 and CS5 and the impact on the surrounding landscape and character of the site will be covered by Policy L2, which protects the Cotswold Area of Outstanding Natural Beauty (AONB).

- 5.2 Horse related development policy is also relevant to this proposal and is covered in this report by Policy E10 and Policy LC5. The proposal must also satisfy Policy T12 which seeks to prevent highway safety issues as a result of the change of use. If the proposal is in accordance with these policies the development should be approved unless other material considerations indicate otherwise.

5.3 Impact on the Green Belt

The NPPF states the construction of new buildings inside the Green Belt is not inappropriate development if the development relates to an appropriate facility for outdoor sport and recreation, as long as it preserves the openness of the Green Belt. It is considered that the stables are modest in size and are well located behind an existing hedgerow close to the existing cluster of agricultural buildings. It is therefore considered to have minimal impact on the openness of the Green Belt.

- 5.4 The application also includes the change of use of agricultural land to land for the recreational keeping of horses. The change of use of land does not fall

within the NPPF list of appropriate forms of development and recent case law has in fact established that the change of use of land is inappropriate. Inappropriate development is by definition harmful to the Green Belt and as such very special circumstances are required to show that the proposal would outweigh any harm by reason of definition and harm to the openness of the area. The case for very special circumstance was submitted on 24th February 2016, and raised the following points:

- Applicant had to sell their dairy herd as it was no longer profitable due to the recent economic crash of prices in the milk industry, and therefore another use of the land is required to benefit the rural business
- The proposed use is a sporting use, which is listed as one of the exemptions in paragraph 89 and would not compromise any of the five purposes listed in paragraph 80 of the NPPF
- The impact on openness is negligible and could be protected by conditions

5.5 Paragraph 80 of the NPPF states that the Green Belts serve five purposes: to check the unrestricted sprawl of large built up areas; to prevent neighbouring towns merging into each other; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration by encouraging the recycling of derelict and other urban land. The essential characteristics of Green Belts are, as outlined by paragraph 79, their openness and their permanence. Substantial weight is afforded to the fundamental aim of the Green Belt, which is to prevent urban sprawl by keeping land permanently open.

5.6 In assessing this application for a change of use substantial weight is afforded to the Green Belt designation of the land and the fundamental aim of it as summarised above.

5.7 In the case of the proposed use, i.e. equestrianism, it is noted that the change of use of the land for what would predominantly consist of the grazing of horses would have a negligible impact on openness given its similarities to an agricultural use (e.g. grazing animals). It is noted that the proposed use can result in some intensification and as such the negligible impact is only on the provision that there is no subdivision of the land through use of additional fencing and that there is no storage of ancillary paraphernalia. However, the use is nevertheless inappropriate by definition and as such can only be approved in very special circumstances. In order for the development to be approved the very special circumstances submitted in support of the application would have to outweigh the harm that the development would have on the Green Belt and the fundamentals aims of it.

5.8 The very special circumstances submitted by the applicant are on the basis of the proposed use for outdoor recreation, the limited impact it would have on the openness of the Green Belt, and the revenue that it would generate as a rural business. Whilst it is noted that these matters are not necessarily unique in their own right they do nevertheless provide justification for the proposed use in particular with regard to the business status of the development and the contribution this would make to the rural economy. Rural business and enterprise is fully supported and encouraged by section 3 of the NPPF.

- 5.9 In reaching an overall balance substantial weight is afforded to the fundamental aim of the Green Belt as reinforced by the NPPF. It is however considered that, as the harm generated by the proposed change of use would be negligible, and given that the change of use would offer a rural economic opportunity which is actively encouraged, the justification provided by the applicant is sufficient to outweigh the harm that would occur by reason of inappropriateness. It is not considered that the development would conflict with the five purposes of the Green Belt identified by paragraph 80 of the NPPF, and would not conflict with the fundamental aim of the Green Belt. It is considered therefore, that the considerations above clearly outweigh the potential harm to the Green Belt. This is only with the provision that conditions are imposed in order to prevent equestrian paraphernalia from being introduced into the open fields.
- 5.10 Impact on AONB
The land is on the edge of the escarpment and being relatively high, flat and located to the north of the A460 it doesn't appear to be overlooked except by neighbouring Toghill Barn Farm. The Cotswold Way runs along the lane to the south but it seems views from this recreational route are not significantly adversely affected. Alterations to the steepness of the bund surrounding the proposed riding arena have been submitted to prevent it appearing over engineered, and these are considered to be acceptable. A condition on the decision notice will ensure that the amended landscaping scheme (Rev A) is adhered to at all times.
- 5.11 Design
The stables will be constructed of timber under a pitched corrugated profile roof. The overall scale, massing and design of the buildings is considered acceptable in this location. The application site is relatively well enclosed by high hedgerows, all of which would be retained and screen the building from public view.
- 5.12 A section of the proposed compacted hardcore track has been submitted. The track is to formalise an existing dirt track across the field, and given the track is to be completely flat the impact on the surroundings are minimal and it is considered acceptable in design terms. Fencing is to surround the proposed riding arena for the safety and security of the horses however this will be screened by the bund. A sample of the surface proposed for the riding arena will be conditioned to be submitted. Overall, the design of the track, riding arena and stables are considered to be acceptable.
- 5.13 Horse Development
Policies E10 and LC5 of the Local Plan support proposals for horse related development provided it does not have an unacceptable impact in relation to the environment, residential amenity, highway safety and horse welfare. Highway safety is dealt with below within the Transportation section.
- 5.14 No details of the number of horses to be kept on the site has been included with the proposal, but the stable block has room for 4no. horses. The general guidelines from the British Horse Society are that each horse should have between 1-1.5 acres of land; in this case the field is 4.04 hectares, or

approximately 9 acres (not including the riding arena). As four of the horses can be stabled part of the time, they would only require 1 acre each for grazing, whilst the remaining horses would require 1.5 acres each. This leaves adequate space on the site for a maximum of 7 horses at any one time, and this will be conditioned on the decision notice, in order to reduce the risk of overgrazing and give the ground a chance to recover.

- 5.15 It is not considered that the stables or hay store would have any adverse environmental effects by means of noise, smells, flooding or disturbance due to its size and siting. There are no residential properties in close proximity to the development and as such there would be no adverse impact on residential amenity and not prejudice the amenities of neighbouring residential occupiers. The development therefore is considered to be in accordance with the criteria listed in Policy E10 and Policy LC5 of the Local Plan (Adopted) January 2006.

5.16 Transport

Access to the field can be provided by two existing access, one to the north and one to the south, through the existing farm. The design and access statement submitted advises that the horses will be kept for business/livery purposes. Despite the rural location, the Transport officer has no objection provided that only four horses are kept, in order to keep the trip rates relatively low. Cars are able to pass each other on the access track near to the entrance and there is a large area for parking between the proposed stables and the farm house. The four stabled horses will most likely generate approximately two vehicular movements per day, whilst the other three horses will have less vehicular movements due to the fact they are grazing out in the open and do not require stables to be cleaned and to be taken in and out for exercise everyday. It is considered therefore, that a condition restricting the site to a capacity of four horses is unnecessary as the number of vehicular movements created by the extra three horses will be limited. Subject to a condition restricting no more than seven horses are kept at the site at any one time, there are no transportation objections to the proposal.

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 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above.
- 6.3 The proposal represents a departure from the Development Plan as the recommendation for approval is made on the basis that very special circumstances have been demonstrated. The application has been advertised as a departure however referral to the Secretary of State is not required as the site is not strategic in nature and does not meet the test in the Departure Direction 2009.

7. RECOMMENDATION

7.1 That the application be **APPROVED** subject to the conditions set out below.

Contact Officer: Trudy Gallagher
Tel. No. 01454 862217

CONDITIONS

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

Reason

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

2. Prior to the commencement of development, samples of the riding arena surface material shall be submitted to the Local Planning Authority for written approval, and the development shall proceed in accordance with the agreed sample.

Reason:

To protect the character and appearance of the landscape in general and setting of the Cotswolds AONB, and to accord with Policies L1 and L2 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006, Policies CS5 and CS34 of The South Gloucestershire Local Plan Core Strategy (Adopted) Dec. 2013 and the requirements of The National Planning Policy Framework March 2012. The information is required prior to commencement in order to prevent remedial works later on.

3. The landscaping scheme and bund approved in drawings titled Section A-A (Rev A) and Landscaping Scheme (Rev A) received on 27th January 2016 shall be implemented in the first planting season following the commencement of development and maintained for a period of 5 years following that planting season.

Reason: To protect the character and appearance of the landscape in general and setting of the Cotswolds AONB, and to accord with Policies L1 and L2 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006, Policies CS5 and CS34 of The South Gloucestershire Local Plan Core Strategy (Adopted) Dec. 2013 and the requirements of The National Planning Policy Framework March 2012.

4. No permanent jumps, fences (other than those hereby approved or those of a temporary nature for the purposes of land management), gates or other structures for accommodating animals and providing associated storage shall be erected on the land.

Reason: To protect the open character of the Green Belt and the appearance of the landscape in general and setting of the Cotswolds AONB, and to accord with Policies L1 and L2 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006, Policies

CS5 and CS34 of The South Gloucestershire Local Plan Core Strategy (Adopted) Dec. 2013 and the requirements of The National Planning Policy Framework March 2012.

5. The number of horses kept on the site edged in red on the plans hereby approved, shall not exceed 7.

Reason

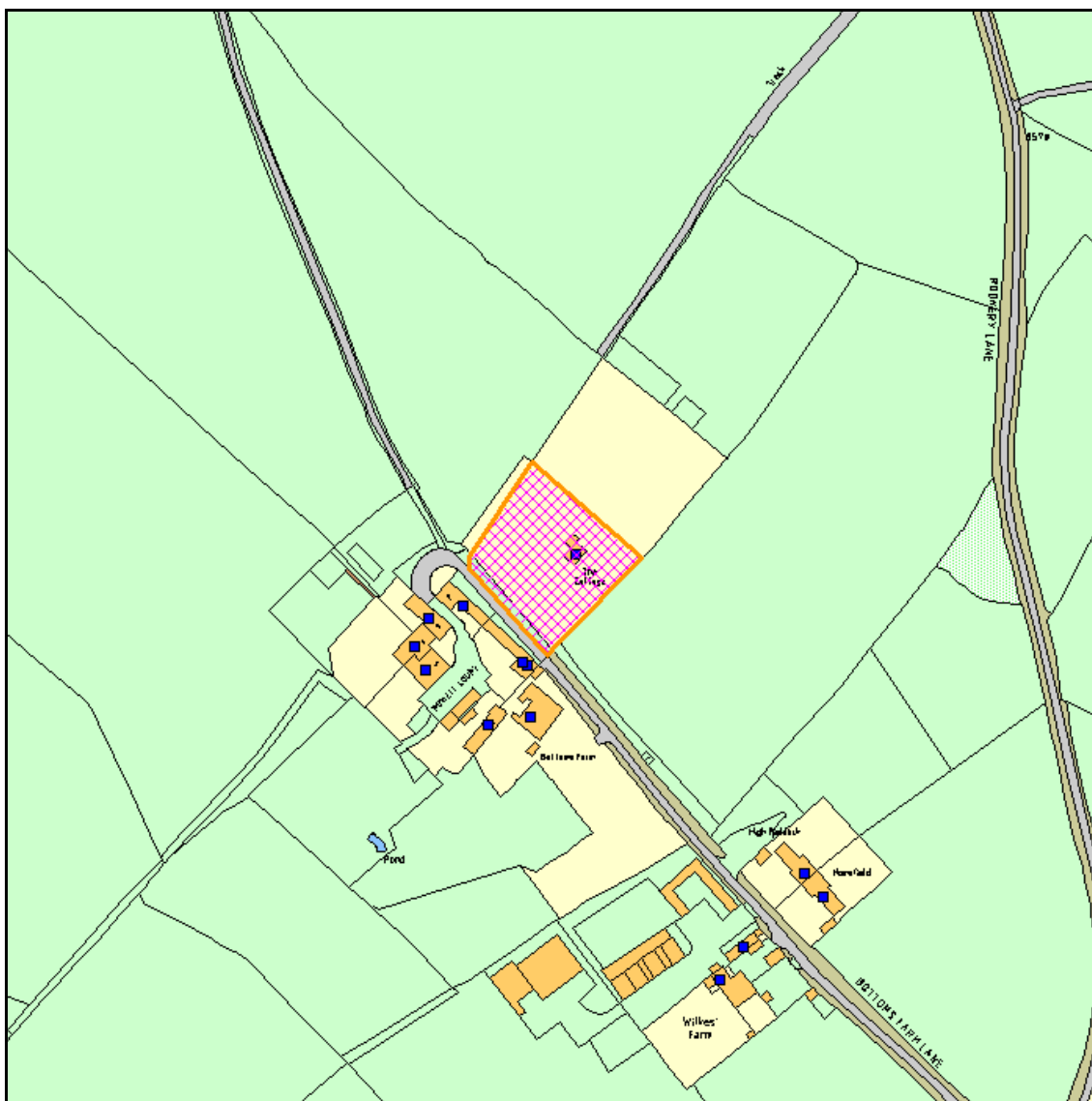
In the interests of highway safety, and to accord with Policies E10 and T12 of the South Gloucestershire Local Plan (Adopted) January 2006.

Reason

In the interests of the welfare of horses, to accord with the guidance of the British Horse Society; and Policy E10 of the South Gloucestershire Local Plan (Adopted) 6th Jan 2006.

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.:	PK15/4609/CLP	Applicant:	Mr D Hyde
Site:	Bottoms Farm Cottage Bottoms Farm Lane Doynton Bristol South Gloucestershire BS30 5TJ	Date Reg:	23rd October 2015
Proposal:	Application for a certificate of lawfulness for the proposed erection of a detached building to form stables and leisure facilities.	Parish:	Doynton Parish Council
Map Ref:	371581 174551	Ward:	Boyd Valley
Application Category:		Target Date:	15th December 2015



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PK15/4609/CLP

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is for a Certificate of Lawfulness, and as such, according to the current scheme of delegation, is required to be taken forward under the Circulated Schedule procedure.

1. THE PROPOSAL

1.1 The applicant seeks a formal decision as to whether the proposed erection of a detached outbuilding containing a gym, shower and changing area, pool service room, snooker room, tack room, four stables and a garden leisure room would be lawful. Confirmation that a 12m by 5m swimming pool is also permitted development is also sought. This is based on the assertion that the proposal falls within the permitted development rights normally afforded to householders under Class E(a), Part 1 of Schedule II of the Town and Country Planning (General Permitted Development) (England) Order 2015.

1.2 The burden of proof about the proposal rests with the applicant.

2. POLICY CONTEXT

2.1 National Guidance
Town and Country Planning (General Permitted Development) (England) Order 2015.

3. RELEVANT PLANNING HISTORY

3.1 PK06/0649/F Demolition of existing dwelling. Erection of 1 no new dwelling (Resubmission of PK05/3353/F). Refused 03.04.2006 and appeal dismissed

3.2 PK07/1785/F Erection of two and single storey rear extensions with alterations to roof and installation of dormer window to form additional living accommodation. Approved 25.07.2007

3.3 PK08/0972/F Erection of two and single storey rear extensions with alterations to roof and installation of dormer window to form additional living accommodation. (Amendment to previously approved scheme PK07/1785/F). Approved 15.05.2008

This file shows a survey plan with the front door facing the road and the property's drive being to the south of the cottage.

3.4 PK09/0270/F Erection of rear conservatory and erection of front porch. Refused 24.03.2009

3.5 PK10/1193/F Construction of access track. (Retrospective). Approved 30.07.2010

3.6 PK11/2246/F Erection of front porch Refused 26.08.2011 but appeal allowed.

- 3.7 PK12/3344/CLP Application for Certificate of Lawfulness for the proposed erection of a building incidental to the enjoyment of the dwelling house. Approved as it is considered to be permitted development 19.11.2012. (this was in a similar location to the location of the stables in the current building and was significantly smaller)
- 3.8 PK14/0589/F Erection of Alpaca barn in a field to the north of the house Approved 09.06.2014
- 3.9 PK14/3945/F Construction of access track and erection of five bar field gates. Approved 19.12.2014
- 3.10 PK15/1562/F Construction of access track and erection of five bar gate.(Amendment to previously approved scheme PK14/3945/F) Approved 02.06.2015
- 3.11 PK15/1563/F Erection of single storey front extension to form porch and boot room. Approved 15.06.2015

COM/09/5112/BOC Driveway being constructed contrary to approved plans – Closed – Corresponding case

4. CONSULTATION RESPONSES

4.1 Doynton Parish Council

The Parish does not believe the proposal to be permitted development. Interpretation of the original curtilage is questionable. A realistic view would be the square around the house – so development would be outside domestic curtilage and would exceed 50% of curtilage. The parish note that the proposed development includes a garden lounge which extends along the full front of the building. The Parish believe that under planning regulations this would clearly be defined as being ancillary use and not incidental use to the dwelling house. Sitting comfortably is something that is done in a normal house. This means that the development does not meet the criteria for permitted development and requires full planning approval.

Concern at its scale and that it would be visible from most of the village.
Concern that it should be a planning application where it is dealt with under normal planning rules not a CLP.

4.2 Councillors

No comments received.

Other Representations

4.3 Local Residents

Comments from three households, including the Powell Court Management Company were received in relation this Certificate of Lawfulness regarding the following matters;

1. Leisure complex is of such a scale as to be outside the intended purpose and spirit of Permissive Development.

2. Footprint is larger than the house.
3. Not incidental to the residential user.
4. Wrong to use the extended curtilage in the calculation of the application.
5. The original cottage and main entrance was in the road facing elevation – this should be regarded as the principal elevation.
6. Concern that 'No part of the building will be forward of the principal elevation of the original cottage (1948)' is a false statement by the agent.
7. Concern that one of the trees should be considered for a Tree Preservation Order.
8. Concern that the grass verge is misinterpreted.
9. Concern that some of the various rooms cannot be considered incidental.
10. Concern that scale of annex would be prominent in street scene and detrimental to bottoms farm (locally listed)
11. Disproportionate to recently extended Bottoms Farm Cottage and neighbouring buildings.
12. Require removal of several mature trees which abut Bottoms Farm Lane and make a significant contribution to the local landscape.
13. Concern about how the stables and their access, feed and muck would affect the area.
14. Concern about swimming pool noise affecting the stabled horses or other horses passing by.
15. Leisure complex is of such a scale as to be outside the intended purpose and spirit of Permissive Development.
16. Note that the plans include the removal of a mature native species hedge, labelled incorrectly on the plans.
17. Preferred location would be on the other side of the property.
18. Concern that the owner has planted leylandii trees right next to the lane which will grow over the lane. Adverse impact on immediate residents.
19. Concern that additional storage will be required for hay, straw, bedding.
20. Concern at likely location of muck heap and encouragement of flies and vermin.

4.4 Public Rights of Way Team

The proposed development may affect the nearest public right of way, public bridleway LWA/30/70, in Doynton Parish that runs along Bottoms Farm Lane from a point immediately outside the Cottage south east boundary. The traffic generated by the development works may have a detrimental effect on the bridleway contrary to local plan policy LC12 and for this reason limitations must be copied to the applicant and adhered to.

5. **SUMMARY OF EVIDENCE IN SUPPORT OF APPLICATION**

5.1 *Received 20th October 2015:*

Site Plan 3484

Block plan 3484/L1A

Annotated Floor plan 3484/L2A

Schematic drawing 3484 P1

Drawing showing outline of house, trees and drainage facilities. (no indication of proposal) 3484 SP

6. EVALUATION

- 6.1 The application is for a Certificate of Lawfulness for a proposed building and as such is purely an evidential test and a formal way of establishing whether or not the proposed development can be implemented lawfully without the need for planning permission. Accordingly there is no consideration of planning merit: the decision is based on the facts presented. The submission is not a planning application and as such the Development Plan (with its policies regarding visual/residential amenity, Green Belt, noise, access) is not of relevance to the determination of this application. If the evidence submitted demonstrates that the proposed development is lawful, on the balance of probabilities, the Local Planning Authority must grant a certificate confirming this.
- 6.2 Although objection comments have been received, given the type of application, only objections regarding the validity of the application in relation to the legislation Town and Country Planning (General Permitted Development) (England) Order 2015 can be taken in to account. There is no consideration of planning merit.
- 6.3 The key issue is to determine whether the proposal falls within the permitted development rights afforded to householders under Class E(a), Part 1 of Schedule II of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 6.4 The applicant through the agent has confirmed that:
The building is not attached to the house
Is to be built for the purposes incidental to the enjoyment of the house
The keeping of ponies and a horse is for personal use by the clients and their children.
The area covered is only a small portion of the domestic garden around the house.
No part of the building will be forward of the principal elevation of the original cottage (1948)
The building will only have one storey and the ridge not exceed 4m.
The building will be further than 2 metres from any domestic curtilage boundary.
- 6.5 The site consists of a dwellinghouse and its curtilage, and there is no evidence to indicate that the permitted development rights have been removed as the house appears to pre-date the introduction of the planning system. Notwithstanding this the land now associated with the dwelling appears to have grown over years since its form in 1991 which is considered later in the report.
- 6.6 For the purposes of Class E the Order identifies that “purposes **incidental** to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.’
- 6.7 Case law relating to matters not considered incidental relates to the overprovision of a particular use such that its function becomes more ancillary

to the function of the dwelling or a separate planning unit, rather than an incidental use of the dwelling.

- 6.8 This proposal is for a total of 284m² of building with an additional 60m² swimming pool. The building is made up as follows: 50m² garden leisure lounge, 40m² snooker room, 25m² pool service room, 27.5m² shower/changing facilities and 45m² gym and 96.5m² facilitating four stables and a tack room to be included within the garden area. This compares to an extended house footprint of around 127m². As such the proposal is disproportionate to the footprint size of the extended dwelling. In its favour the proposal is located only a metre from the house and as such is very well related to the original house.
- 6.9 Guidance in the GDPO does not provide a definition of incidental and as such it is right to consider case law. This would suggest that the sheer physical extent of buildings/uses proposed or being carried out while complying with the physical limitations in the GDPO may be considered to take the development out of the definition of "incidental". The 1989 case *Emin v SOS* concerning buildings that were to be erected providing facilities for archery, table tennis, billiards and pottery. A determination was sought as to whether planning permission was required. At appeal the SOS had considered that the archery use was not one that could be considered as incidental having the characteristics of a sport and none of the features of a pastime normally conducted within the confines of a dwelling. The sheer size of the buildings, which had a lavish and almost institutional aspect to them, went beyond the type of development envisaged in the Order as being incidental. The High Court agreed that the term "incidental to the enjoyment of the dwelling house" should not rest solely on the unrestrained whim of a householder and there should be some connotation of reasonableness in the circumstances of each case.
- 6.10 **Analysis to determine whether the proposed out-building can be described as being incidental to the enjoyment of the dwellinghouse.**

In *Emin v Secretary of State for the Environment and Mid-Sussex County Council*, QBD, 1989, 58 P&CR there were two schemes for buildings in the curtilage of a dwellinghouse. The first was to accommodate a utility room and garden/games room. The second was for archery, billiards and pottery. In the judgement Sir Graham Eyre QC refers to the need to address "*the nature of the activities to be carried on in the proposed building to ensure that they are incidental or conducive to the very condition of living in the dwellinghouse.*" He explained that the scale of those activities is an important matter and "*in that context the physical sizes of buildings could be a relevant consideration in that they might represent some indicia as to the nature and scale of the activities.*" "*When a matter is looked at as a whole, size may be an important consideration but not by itself conclusive.*" Whilst it is a matter primarily for the occupier to determine what incidental purposes they propose to enjoy, an objective test of reasonableness should be applied having regard to the

circumstances of a particular case. Whether a building is required for a purpose associated with the enjoyment of the dwellinghouse *“cannot rely on the unrestrained whim of he who dwells there.”* **It was considered that the test to be applied is whether the use of the proposed buildings, when considered in the context of the planning unit, are intended to be, and will remain, incidental or subordinate to the main use of the property as a dwellinghouse.**

- 6.11 It is considered that this would support the concern in relation to the scale of the proposals here. Even though the proposed uses of the building might of themselves be classed as being incidental in a more modest building, the test to be applied is whether the use of the proposed buildings, when considered in the context of the planning unit, is intended to be or would remain incidental or subordinate to the main use of the property as a dwellinghouse. Due to the scale of the combined individual activities and the large size of the proposed outbuilding, it is considered that the outbuilding would not remain incidental or subordinate to the main use of the property. Emin confirms that the scale of the proposal is a relevant consideration in determining this. It is recognised that the Gym element of the building is located very close to the house but this does not overcome the concerns about scale.
- 6.12 This is further supported by an appeal decision at 167 Hempstead Road, Kent (APP/A2280/X/12/2174843) where an Inspector declined to issue a lawful development certificate for an outbuilding, finding that it would go beyond a purpose incidental to the enjoyment of a dwelling. The single-storey outbuilding was proposed to have a footprint of 64 sqm and comprise three rooms consisting of a store for gardening equipment, a room to be used as a children’s play area and a workshop. The Council expressed concern about the layout and the potential for the outbuilding to be used for business purposes. The Inspector was not convinced that such large areas were necessary for workshop and storage purposes and took the view that they went beyond what would be reasonably necessary for a domestic and hobby workshop or for the storage of material and equipment associated with household and garden maintenance.
- 6.13 At Eight Acre, Harpenden (APP/B1930/X/07/2061614) the Inspector allowed an appeal and granted an LDC for an outbuilding to contain a swimming pool, a room for snooker, gym and play area and a bbq area. The building’s footprint of 397 square metres would be more than four times larger than the host dwelling. The Inspector found that the proposed uses were typical, every day pursuits. He considered that the building would not be disproportionate to what was required to house the proposed uses. Whilst this case shows that the size of the outbuilding was four times larger than the host dwelling the proposed uses meant that the size was considered necessary.
- 6.14 In contrast to that case the outbuilding proposed at Bottoms Farm Cottage does not cover the swimming pool. Nevertheless the uses proposed within the outbuildings at Bottoms Farm Cottage are considered to be disproportionately larger than what is required to house the proposed uses. There is no

justification as to why such large floor areas are necessary or why the stables are designed as they are, integrated into the residential building. Having said that generally stables would be expected to be 3m by 3m in floor area. Two of the stables are of this sort of scale but two are significantly larger at 4.5-5m by 3.2m. A 5m by 5m area for plant machinery, three showers, and large changing area also appear oversized for an incidental use. Further the 9m by 5m gym and 10m by 5m lounge are not justified in any way. Cumulatively each aspect of the building are disproportionately larger than might be reasonably provided for within a much more modest building. The scale is at a degree that has gone beyond that which may be considered incidental to the enjoyment of the modest dwellinghouse, despite the generous grounds.

- 6.15 At Longford Lane, Gloucester (APP/U1620/X/11/2160151). The Inspector held that the floorspace of the uses proposed within the outbuilding (gym, Jacuzzi, garage, workshop) were of a size that one would expect to find in a domestic setting and that the activities fell into the category of uses incidental to the enjoyment of the dwellinghouse. The circumstances of that case are not considered to be directly applicable to the circumstances of this proposal. It is not disputed that the uses might be incidental if contained within a more modest structure relative to the dwellinghouse – it is the scale of the building, and therefore the extent of the uses that undermines this.
- 6.16 An appeal decision at 253 Shinfield Road, Reading (APP/X0360/X/08/2064662) explains that a Certificate of Lawfulness was sought for an incidental outbuilding comprising a snooker/gym room, WC and shower and a double garage. The Inspector noted that the resulting building, measuring 184 sqm would double the amount of accommodation in the existing dwelling. A games room and garage would normally be considered to be incidental but in this case the building exceeded that which would be reasonably required to serve the leisure purposes required.
- 6.17 In conclusion, based on the reasoning above, it is considered that due to the cumulative scale of uses, the disproportionate size of the outbuildings in relation to their proposed use cannot be described as incidental to the main dwelling. On the balance of the evidence therefore the proposal would not fall within the remit of Class E given that it is not accepted that they would be incidental to the enjoyment of the dwellinghouse.
- 6.18 The remainder of the report is primarily in the interest of fullness of information in order to show that had the proposed outbuilding being considered to be incidental to the enjoyment of the host dwelling, the building would otherwise have fallen within the remaining criteria of Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.
- 6.19 **Permitted Development:**
Permitted development Class E(a), Part 1 of Schedule II of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows for the following:

E. *The provision within the curtilage of the dwellinghouse of—*

(a) *any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or*

Development not permitted

E.1 Development is not permitted by Class E if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

The dwelling house is a longstanding house not granted under these parts of the Schedule. Therefore it is entitled to use its permitted development rights.

(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

Aerial photography indicates that the original domestic garden may not have included the area fenced off and planted on the Council's aerial photo of 1999. The aerial photo dated 2005 appears overgrown and new planting appears to be protected. At that point in time the curtilage would have been more than enough to accommodate the requirements of (b). Further to this the curtilage of the house was extended by new drive way works as indicated as part of PK08/0972/F, which were previously part of the field to the northeast of the site and by the enclosure of land south of this which has been accepted as part of the domestic curtilage. This was also accepted as curtilage for the previous certificate of lawfulness application PK12/3344/CLP for a smaller incidental building.

In conclusion the 530m² combined footprint of the extended house and the proposed pool and building are easily less than half of the curtilage.

(c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

The principal elevation of the dwellinghouse changed on the erection of the extension under PK08/0972/F.

The principal elevation of this property is now considered to be that facing northwest over the new drive. This being because the front door faces northwest together with the drive giving access to the road and associated parking area. Paragraph (c) does not refer to the *original principal* elevation of the original dwellinghouse – simply the *principal* elevation of that house. As such the owners benefit from having more domestic curtilage behind the principal elevation.

(d) the building would have more than a single storey;

The building is only single storey

(e) the height of the building, enclosure or container would exceed—

(i) 4 metres in the case of a building with a dual-pitched roof,

(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or

(iii) 3 metres in any other case;

The agent advises that 'roof height does not exceed four metres' and is shown with a pitched roof. The building starts close to the house where the natural ground level is highest. The land slopes gently away down to the road. As such the majority of the building would be no more than 4m relative to the ground level however the structure is so large/sprawling, shown without steps in the indicated roof or floor plans that the stable area would likely be higher than 4 m.

(f) the height of the eaves of the building would exceed 2.5 metres;

For the same reasons as those found in e(iii) above the height of the eaves of the building would exceed 2.5 metres from natural ground level near the stables.

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

The property is not located in the curtilage of a listed building.

(h) it would include the construction or provision of a verandah, balcony or raised platform;

No verandah, balcony or raised platform is advised

(i) it relates to a dwelling or a microwave antenna; or

The proposal is not shown to be a dwelling or a microwave antenna

(j) the capacity of the container would exceed 3,500 litres.

The development is a building not a storage container.

Development is also restricted in an Area of Outstanding Natural Beauty, the Broads, a National Park or a World Heritage Site, but the site does not fall within any of those amenity areas.

6. RECOMMENDATION

6.1 That a Certificate of Lawfulness for Proposed Development is REFUSED for the following reason:

It is concluded that on the balance of probabilities the proposed development could not reasonably be described as for purposes incidental to the enjoyment of the dwellinghouse (Bottom Farm Cottage) due to its scale. The likely uses in relation to the modest size of the dwellinghouse would go beyond that which may be considered incidental. Furthermore, it is not considered that the height of the building proposed accords with the limits in Class E. Accordingly, the development would not constitute permitted development within Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.

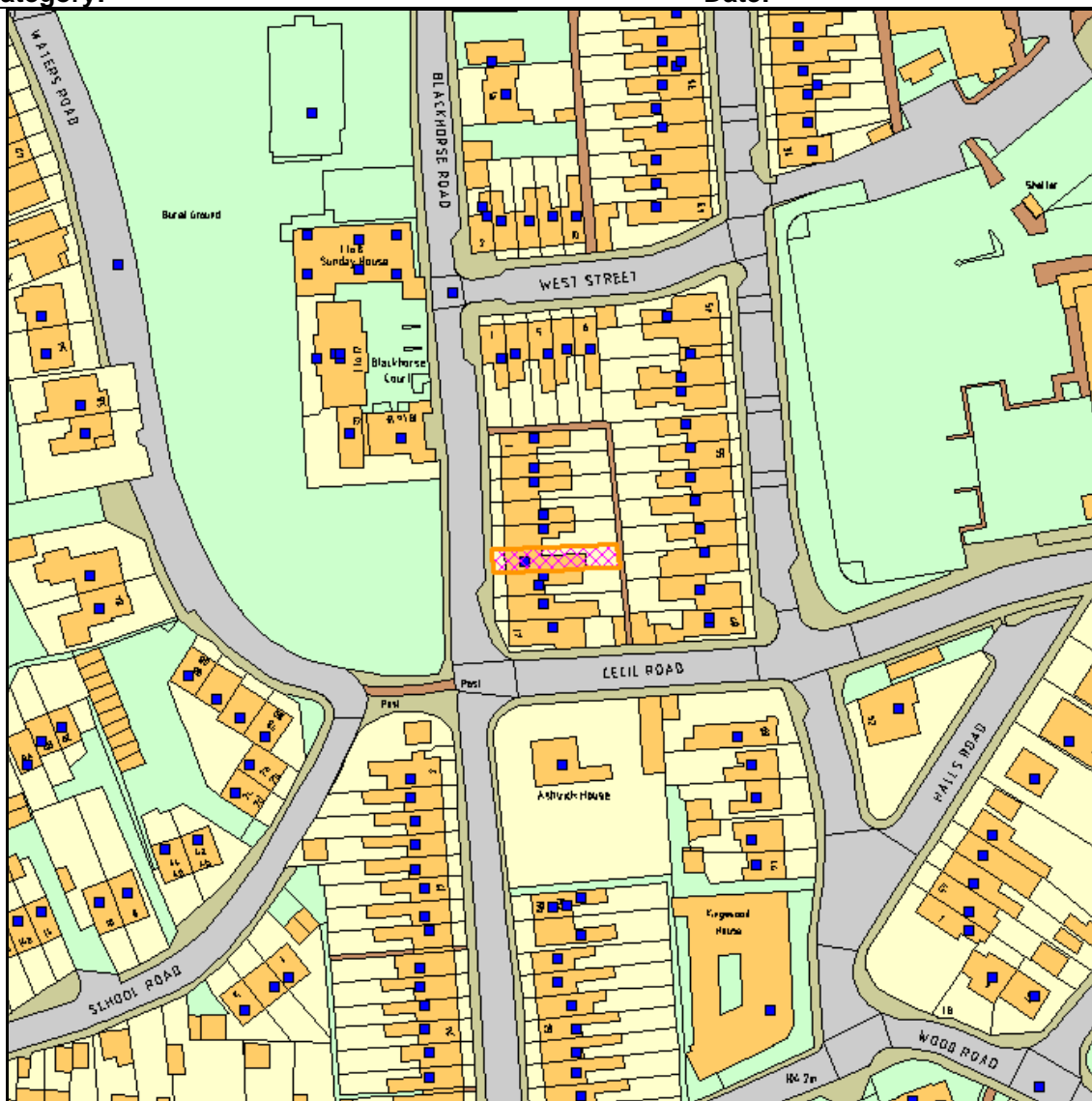
Contact Officer: Karen Hayes
Tel. No. 01454 863472

REASONS FOR REFUSAL

1. It is concluded that on the balance of probabilities the proposed development could not reasonably be described as for purposes incidental to the enjoyment of the dwellinghouse (Bottom Farm Cottage) due to its scale. The likely uses in relation to the modest size of the dwellinghouse would go beyond that which may be considered incidental. Accordingly, the development would not constitute permitted development within Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.
2. The proposal by reason of the height of the building and the height of the eaves level above natural ground level, at the location of the stables, would not remain below 4m and 2.5m respectively. Accordingly, the development would not constitute permitted development within Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.:	PK16/0429/CLP	Applicant:	Dr Tim Percival
Site:	11 Blackhorse Road Kingswood Bristol South Gloucestershire BS15 8EA	Date Reg:	2 February 2016
Proposal:	Application for a certificate of lawfulness for the proposed installation of 2no. rear dormers, 2no. front and 1no. rear roof windows to facilitate loft conversion. Installation of 3no.rooflights to existing rear extension and replacement windows to rear elevation.	Parish:	None
Map Ref:	364531 173685	Ward:	Woodstock
Application		Target	24th March 2016
Category:		Date:	



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PK16/0429/CLP

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is for a Certificate of Lawfulness, and as such, according to the current scheme of delegation, is required to be taken forward under the Circulated Schedule procedure.

1. THE PROPOSAL

- 1.1 The applicant is seeking a formal decision as to whether the proposed erection of 2 no. rear dormers, 2no. front and 1no. rear roof windows to facilitate loft conversion. Installation of 3no. rooflights to existing rear extension and replacement windows to rear elevation at 11 Blackhorse Road, Kingswood would be lawful development. This is based on the assertion that the proposal falls within the permitted development rights normally afforded to householders under the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 1.2 The application is formal way of establishing whether the proposal requires planning permission or not. Accordingly there is no consideration of planning merit, the decision is based on the facts presented.

2. POLICY CONTEXT

- 2.1 National Guidance
Town and Country Planning Act 1990 (As Amended) 1990 section 192
Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)

The submission is not a full planning application and the Adopted Development Plan is not of relevance to the determination of this application; the decision rests on the evidence that has been submitted. If the evidence submitted demonstrates that the proposed use is lawful on the balance of probabilities, the Local Planning Authority must grant a Certificate confirming the proposed development is lawful against the GPDO.

3. RELEVANT PLANNING HISTORY

- 3.1 K1996 – Refusal – 01/11/1977 - Conversion of dwellinghouse into two self-contained flat units.

4. CONSULTATION RESPONSES

- 4.1 Kingswood Town Council
No Comment
- 4.2 Other Consultees
None Received

Other Representations

- 4.3 Local Residents
No Comments Received

5. SUMMARY OF EVIDENCE IN SUPPORT OF APPLICATION

- 5.1 Application Form; Existing Elevations; Proposed Elevations; Site Location and Block Plans; Proposed Floor Plans; Existing Floor Plans

6. ANALYSIS OF PROPOSAL

6.1 Principle of Development

The application for a Certificate of Lawfulness is purely an evidential test and is a formal way of establishing whether or not the proposed development can be implemented lawfully, without the need for planning permission. Accordingly there is not consideration of planning merit, the application is based on the facts presented. This submission is not an application for planning permission and as such the development plan is not of relevance to the determination of this application; the decision rests upon the evidence that has been submitted. If the evidence submitted demonstrates that the proposed use is lawful, on the balance of probabilities, the Local Planning Authority must grant a certificate confirming that the proposed development is lawful.

- 6.2 The key issue in this instance is to determine whether the proposal falls within the permitted development rights afforded to the householders under Schedule 2, Part 1 Classes B and C of the GPDO (2015).
- 6.3 The proposed development consists of the introduction of 2no rear dormers 2 no. front Velux rooflights and 1no. rear roof window to facilitate the loft conversion and the introduction of 3no. velux rooflights to the existing rear extension. This development would be within Schedule 2, Part 1 Class B and C of the GPDO (2015), which allows additions etc. to the roof of a dwellinghouse and other alterations to the roof of a dwellinghouse, provided it meets the criteria detailed below:

Class B – Additions etc to the Roof of a Dwelling house

B.1 Development is not permitted by Class B if –

- (a) **Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)**

The dwellinghouse was not granted under classes M, N, P or Q of Part 3.

- (b) **Any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;**

The proposal would not exceed the height of the highest part of the existing roof.

- (c) **Any part of the dwellinghouse as a result of the works, extend beyond the plane of any existing roof slope which forms a principle elevation of the dwellinghouse and fronts a highway;**

The proposal will be situated to the rear elevation and does not front a highway.

- (d) **The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than –**
(i) **40 cubic metres in the case of a terrace house, or**
(ii) **50 cubic metres in any other case**

The proposal would result in an additional volume of less than 40 m³.

- (e) **It would consist of or include –**
(i) **the construction or provision of a verandah, balcony or raised platform, or**
(ii) **the installation, alteration or replacement of a chimney, flu or soil and vent pipe;**

The proposal does include any of the above.

- (f) **The dwellinghouse is on article 2(3) land.**

The host dwelling is not on article 2(3) land.

B.2 Development is permitted by Class B subject to the following conditions—

- (a) **the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;**

The materials used will be of a similar appearance.

- (b) **the enlargement must be constructed so that –**
(i) **other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension –**
(aa) **the eaves of the original roof are maintained or reinstated; and**
(bb) **the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measure along the roof slope from the outside edge of the eaves; and**

- (ii) **other than in the case of an enlargement which joins the original roof to the roof of a side or rear extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and**

The proposal would be greater than 0.2 metres from the outside edge of the eaves of the original roof and does not protrude beyond the outside face of any external wall of the original dwellinghouse.

- (c) **any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be—**
 - (i) **Obscure-glazed, and**
 - (ii) **Non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is to be installed.**

The proposed windows to the rear extension but forming a side elevation are above 1.7 metres from the floor of the room in which they are located.

Class C – Other Alterations to The Roof of a Dwelling House

C.1 Development is not permitted by Class C if—

- (a) **Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)**

The dwellinghouse was not granted under classes M, N, P or Q of Part 3.

- (b) **the alteration would protrude more than 0.15 metres beyond the plane of the original roof when measure perpendicular with the external surface of the original roof;**

The roof window to the front pitch of the roof will not protrude beyond 0.15 metres beyond the plane of the original roof.

- (c) **It would result in the highest part of the alteration being higher than the highest part of the existing roof; or**

It would not result in the highest part of the alteration being higher than the highest part of the existing roof.

- (d) **It would consist of or include –**
 - (i) **The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or**
 - (ii) **The installation, alteration or replacement of solar photovoltaics or solar thermal equipment.**

The proposal does not include any alterations, installation or replacement of chimneys, flues, soil and vent pipes or solar photovoltaics or solar thermal equipment.

7. RECOMMENDATION

- 7.1 That a certificate of Lawfulness for Proposed Development is **granted** for the following reason:

Evidence has been provided to demonstrate that the proposed alterations would be allowed as it is considered to fall within the permitted rights afforded to householders under Schedule 2; Part 1, Classes B and C of the Town and Country Planning General Permitted Development Order 2015.

Contact Officer: Hanni Osman
Tel. No. 01454 863787

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.: PK16/0793/F

Applicant: Mr And Mrs G Davies

Site: 1 Hill Close Emersons Green Bristol
South Gloucestershire BS16 7HH

Date Reg: 22nd February 2016

Proposal: Erection of 3 no. attached dwellings
with new access and associated works.

Parish: Emersons Green Town
Council

Map Ref: 366775 177657

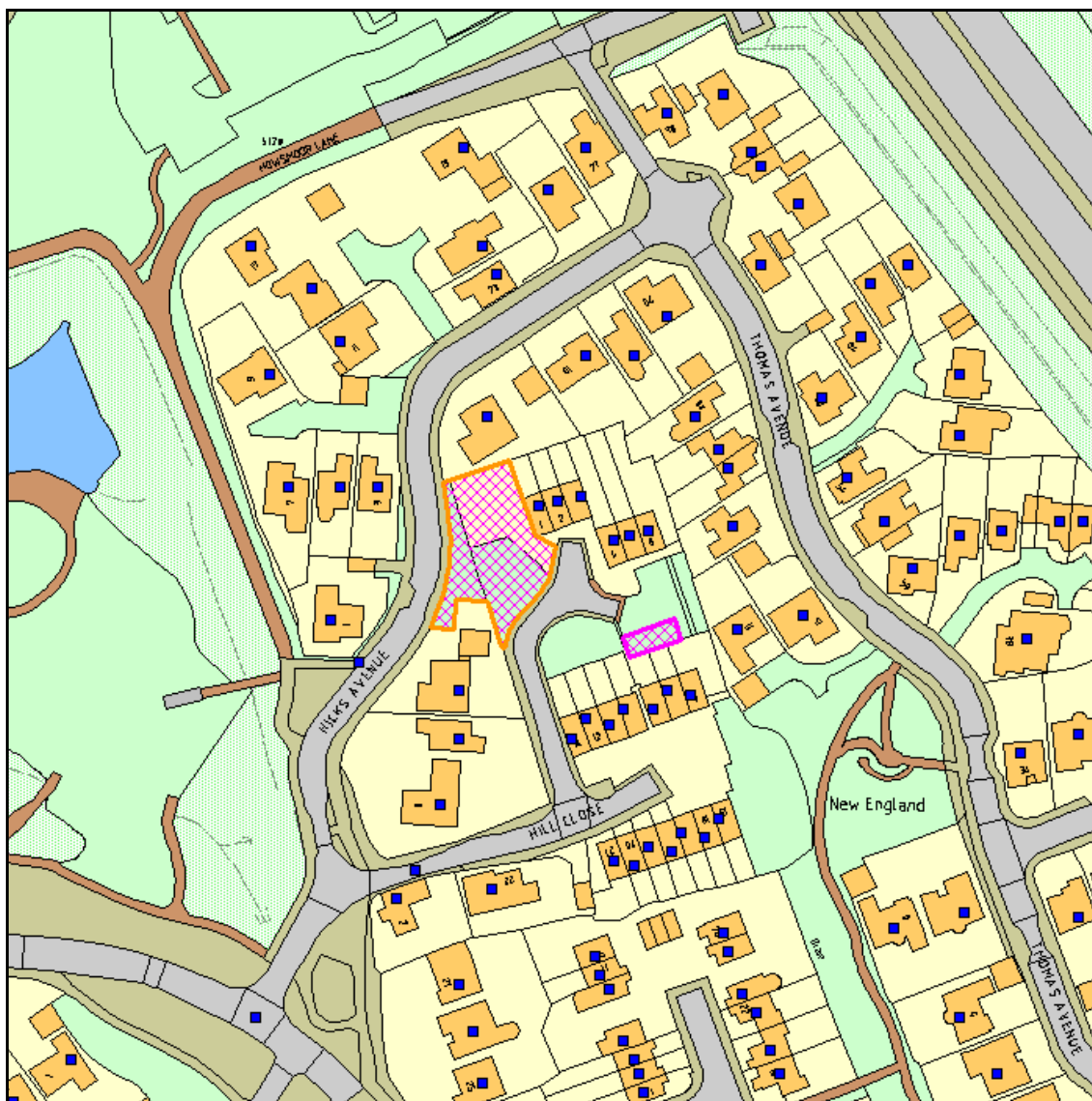
Ward: Emersons Green

Application Minor

Target 14th April 2016

Category:

Date:



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PK16/0793/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is referred to the circulated schedule for determination as a number of comments of objection have been received. These are contrary to the officer recommendation for approval.

1. THE PROPOSAL

- 1.1 This application seeks planning permission for the erection of 3 dwellings on an area of hardstanding used for parking adjacent to no.1 Hill Close in Emersons Green. The site includes a strip of land currently laid to hardstanding accessed from Hicks Avenue which is dissected from the rest of the site by a close boarded fence. The inclusion of this strip of land is the significant difference between this and the preceding applications for development on this site.
- 1.2 The application site is located within the existing urban area of the East Fringe of Bristol. A willow tree, which is subject to a tree preservation order is situated on a grass verge to the front of the site. There is an extant permission for the erection of 2 dwellings on part of the land included within this application.
- 1.3 Hill Close is comprised of 2-storey terraces of 3 to 4 houses in length. Parking areas for the houses are provided in areas of hardstanding within the close.
- 1.4 Revised plans have been submitted to address minor revisions to the proposal; the officer's recommendation is based upon these plans.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012

- 2.2 Development Plans

South Gloucestershire Local Plan Core Strategy Adopted December 2013

CS1 High Quality Design
CS4a Presumption in Favour of Sustainable Development
CS5 Location of Development
CS8 Improving Accessibility
CS9 Managing the Environment and Heritage
CS15 Distribution of Housing
CS16 Housing Density
CS17 Housing Diversity
CS29 Communities to the East Fringe of Bristol

South Gloucestershire Local Plan Adopted January 2006 (Saved Policies)

L1 Landscape
L5 Open Areas within Existing Urban Areas
T7 Cycle Parking
T12 Transportation

- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist SPD (Adopted) August 2007
Residential Parking Standard SPD (Adopted) December 2013

3. RELEVANT PLANNING HISTORY

- 3.1 PK15/2169/F Approve with Conditions 10/07/2015
Erection of 2no. semi-detached dwellings with parking and associated works.
(Re-submission of PK14/4876/F to reduce number of dwellings).
- 3.2 PK14/4876/F Refusal 12/03/2015
Erection of 3no. terraced dwellings with access and associated works.

Refusal Reason:

1. The proposed development would have a harmful impact on the street scene, visual amenity of the locality and the setting of the TPO Willow tree. The additional built form would create a cramped appearance and the amenity value of the TPO Willow tree would be diminished. The proposed development fails to respect the open feel and character of the area and is therefore contrary to Policy CS1 and CS9 of the South Gloucestershire Core Strategy (Adopted) December 2013, saved policies L1, L5 and H4 of the South Gloucestershire Local Plan (Adopted) January 2006 (Saved Policies), and the provisions of the National Planning Policy Framework (2012).
- 3.3 PK13/2312/F Approve with Conditions 07/10/2013
Erection of 2no. attached dwellings with associated works. (Resubmission of PK13/0987/F).
- 3.4 PK13/0987/F Withdrawn
Erection of 2no. attached dwellings with associated works.
- 3.5 PK01/0954/RM Approve with Conditions 06/07/2001
Erection of 20no. dwellings and associated garages and access (Reserved Matters) (Resubmission of planning application PK00/2651/RM).
- 3.6 P99/4586 Approval of Outline Permission 25/01/2000
Residential development (outline)

4. CONSULTATION RESPONSES

- 4.1 Emersons Green Town Council
Objection: harmful impact on streetscene and visual amenity; cramped; reduce amenity value of TPO'd Willow tree.
- 4.2 Highway Structures
No comment
- 4.3 Lead Local Flood Authority
Soakaways must be located 5 metres from any structure (including the highway)

4.4 Transportation

No objection to development as proposed; parking provision should be secured by condition

4.5 Tree Officer

No objection based on Barton-Hyett Arboricultural Report; contents of report should be secured by condition

Other Representations

4.6 Local Residents

8 comments of objection have been received which raise the following matters:

- result in loss of light/overshadowing
- result in loss of privacy
- increase in traffic and on-street parking
- highway safety concerns
- provide pedestrian cut-through between Hicks Avenue and Hill Close
- overdevelopment of the site
- not in keeping with local character
- result in additional pressure for works to TPO'd tree
- building works would cause a disturbance
- harmful impact to streetscene and visual amenity
- buildings on Hicks Avenue have a different appearance to those on Hill Close
- previous development was refused
- poor parking layout; insufficient parking provision
- poor private amenity space provision
- proposal would not have been allowed when Emersons Green was first planned
- bin storage is poorly positioned
- boundary materials need greater thought
- queries over build in of boundaries into existing structures
- applicant does not live at the site

5. ANALYSIS OF PROPOSAL

5.1 This application seeks planning permission for the erection of three dwellings at a site in Emersons Green.

5.2 Principle of Development

The site is located within the existing urban area of the East Fringe of Bristol, a location where Policy CS5 would direct development. However, the council is (at present) unable to demonstrate a 5 year housing land supply. In such circumstances the NPPF dictates that policies in the development plan, insofar as they relate to housing, are out of date and applications should be determined against the presumption in favour of sustainable development. This presumption states that permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits of the proposal or specific guidance in the NPPF states development should be resisted.

- 5.3 In this instance, as the site is located in an area where the council would direct development, the housing land supply position does not have noticeable impact on the principle of development. However, it does require applications to be assessed on a 'harm versus benefits' analysis rather than directly against housing policies in the development plan.
- 5.4 Therefore, the proposed development is acceptable but should be determined against the analysis set out below.
- 5.5 Benefits of Proposal
This development, if permitted, would result in 3 houses in an area considered a sustainable location for development (as it is within the existing urban area). Given the nature of the site it is likely that the dwellings would be provided within a period of 5 years. Therefore the benefit of the proposal is the provision of 3 dwellings which make a small but valuable contribution to the council's 5 year housing land supply.
- 5.6 Previous Planning Decisions
Before discussing the specifics of the current proposal, it is worth noting the planning history on this site. Planning permission PK15/2169/F is extant and granted permission for 2 dwellings to be erected on part of the site. A previous application, PK15/4876/F, for 3 dwellings was refused as the proposal was deemed to amount to overdevelopment of the site.
- 5.7 The main difference between the current application and the extant permission is the site area. Additional land to the west of the parking area has been purchased by the applicant and is now included within the application. The extant permission amounts to a development density of 50 dwellings per hectare (dph). The previous refusal for 3 dwellings would have resulted in a density of 75dph. With the inclusion of additional land, the current proposal would, if permitted, have a development density of 50dph. Whilst density can be a crude measure and would not take into account specific design requirements, it is clear that (in terms of density) the proposal would not be inconsistent with the surrounding area or that which has previously been found to be acceptable.
- 5.8 Design and Layout
It is proposed to erect a short terrace of three 2-storey houses. Unit 1 and 2 contain two bedrooms and unit 3, three bedrooms. Externally, the proposed terrace resembles the existing buildings on Hill Close. Amendments have been made to the scheme to revise the design of the canopies to match those elsewhere on the close and to replicate as much as possible the existing fenestration. In terms of the visual appearance, the proposed dwellings would be in keeping with the existing dwellings on Hill Close. Although visible from Hicks Avenue, the difference in architectural style is not so significant as to harm the visual amenity and the street scene of Hicks Avenue.
- 5.9 The layout of the site proposes to erect the building behind the existing tree on the existing parking area. The stepped approach is consistent with the existing layout of Hill Close. Although the proposed buildings are tight to the back of

the plot, they are not materially closer to other buildings than the extant planning permission and the layout is not considered to be harmful.

- 5.10 It is, however, considered undesirable that the proposed properties be extended without further consideration. It is therefore considered both necessary and reasonable to restrict the proposed properties' permitted development rights.
- 5.11 A difference between the current proposal and the extant consent is that access to the third dwelling will be provided from Hicks Avenue. This area is currently paved with bollards to prevent parking. It is separated from Hill Close by a dilapidated close board fence. At present, this area contributes little to the visual amenity of the locality.
- 5.12 The paved area would be retained in part (although resurfaced) and used to provide parking for Unit 3. Other areas will be dug up and laid to landscaping set behind a low brick wall and railings, such as that already evident on Hicks Avenue. The dilapidated fence between the two roads would be replaced with a 1 metre high railing. This would enable views of the open area surrounding the Willow tree and provide a visual link between the two streets. It would not, however, provide an access route.
- 5.13 Finally, the existing first floor window on the side elevation of 1 Hill Close would be repositioned to the rear. This would match that seen on other properties in the terrace.
- 5.14 The design and layout are considered to be acceptable. No harm has been identified that would significantly or demonstrably outweigh the benefits of the provision of 3 residential units.
- 5.15 Living Conditions
Development should seek to secure a good standard of residential amenity. This should consider the living conditions of the future occupiers and also the impact on the residential amenities of existing occupiers.
- 5.16 Although small, the LPA at present does not have a minimum standard for private amenity space provision and the proposed gardens are sufficient to meet the needs arising from the development.
- 5.17 Concern has been raised that the proposed development would lead to overlooking and a material loss of privacy. Permission has already been granted for development on this site and the proposed development would not result in overlooking to a significantly greater degree than already permitted. What is new are the windows on the side elevation of unit 3 which overlook Hicks Avenue. Given that Hicks Avenue falls into an area considered public, it does not follow that these windows would result in a prejudicial impact on residential amenity as they would not result in overlooking over and above that reasonably expected of a public area. A condition is proposed to prevent new windows being installed on the first floor of the side elevation of unit 1 which would enable overlooking of 1 Hill Close.

- 5.18 Concern has also been raised about overshadowing. It is noted that the proposal is to the south of existing residential dwellings. However, the level of impact is not considered to be significant and no greater than that previously approved.
- 5.19 The impact of the proposed development is considered to be acceptable. No harm has been identified that would significantly or demonstrably outweigh the benefit of the provision of 3 residential units.
- 5.20 Transport and Parking
The site is accessed primarily from Hill Close with access to unit 3 from Hicks Avenue. Neither of these roads are a classified highway and highways officer raises no objection on the basis of safety.
- 5.21 With development of this nature, after safety the next consideration is the provision of adequate off-street parking. Parking requirements are set out in the Residential Parking Standard SPD. This requires 2-bedroom properties to provide 1.5 parking spaces and 3-bedroom properties 2 spaces.
- 5.22 Parking spaces have been provided at the site to meet the requirements of the SPD. In terms of the provision of parking, the proposal is acceptable. However, it has been noted that the allocated parking spaces for some of the dwellings are distant from the properties that they serve. The parking locations for the dwellings not included as part of this application are beyond the scope of what can be considered. It should be noted that the extant planning permission also has a detached parking arrangement with some spaces distant from the respective houses.
- 5.23 Given that the distance between the parking spaces has previously been considered acceptable, an objection on this basis cannot now be raised. Parking is provided within a reasonable distance of the proposed dwellings and the location of these parking spaces is deemed to be acceptable.
- 5.24 The impact of the proposed development is considered to be acceptable. No severe harm has been identified to highways safety and therefore the minor issues of parking space location are outweighed by the benefits of the proposal.
- 5.25 Landscape
As stated above, to the front of the site within the grass verge stands a protected Willow tree. This tree has been identified as making a significant contribution to the visual amenity of the locality.
- 5.26 The proposed building is situated just outside of the root protection area of the tree although some of the parking areas would be formed within this zone. An arboricultural report has been submitted with the application that assesses the impact of the development on the tree. This report has identified, subject to certain works, that the development would not have an adverse impact on the tree.

- 5.27 It is, however, noted that development of such close proximity to a protected tree is likely to lead to increased demand to undertake tree works. Any works to the tree would require a separate consent from the local planning authority and thus can be adequately managed in the future. Whilst development in such close proximity to a protected tree can be undesirable, it has previously been found to be acceptable and therefore no objection on this basis can now be raised.
- 5.28 Yet, the proposed development does have a distinct benefit. The replacement of the dilapidated close board fence with railings will open up views of the tree from Hicks Avenue. The impact of this is that the visual amenity of the tree would be able to be enjoyed from a greater geographical area in the immediate vicinity of the tree.
- 5.29 The other benefit of the development is the loss of the existing hardstanding 'verge' on Hicks Avenue. This will be replaced with an area of landscaping. Details of the landscaping will be required by condition.
- 5.30 The impact of the proposed development has been considered and has been found to be acceptable. Future tree works would be subject to further consideration and the development brings certain landscape benefits. The identified harm is considered to be low and is outweighed by the benefit of the proposal.
- 5.31 Waste Management
Bin stores have been identified on the proposed site plan. The bin store for unit 3 is well placed; it is in close proximity to the back door of the dwelling and to the presumed collection point on Hicks Avenue. The proposed bin store for 1 Hill Close is also well placed as it is close to the house and a short distance to the collection point.
- 5.32 Having said that, the storage points for units 1 and 2 are not ideal. It would involve the transportation of waste from the dwelling to the communal bin storage area. Whilst should be avoided where possible, the proposed location does free up space within the gardens for amenity uses. Given that the local planning authority cannot at present demonstrate a 5 year housing land supply, concerns over the location of bin storage is noted but would not be sufficient to be a significant or demonstrable harm.
- 5.33 The proposed waste management facilities are acceptable. Although not ideal, the harm identified is not sufficiently significant to be a robust reason to resist the development and at any rate it would be outweighed by the benefits of the proposal.
- 5.34 Other Matters
A number of comments have been received that are not addressed in the main body of this report. For clarity, these shall be considered here.
- 5.35 Whether the applicant lives on the site is not a planning matter and is given little weight in making a recommendation on this proposal.

- 5.36 No comment is made as to whether the proposal would have been deemed acceptable when Hill Close was planned. Notwithstanding that, the proposal should be assessed against current policy (which supports, in principle, increased residential density within the existing urban areas) and the current housing land supply situation.
- 5.37 Building works can cause disturbance and some disturbance would not be unreasonable as it is temporary in nature. However, to ensure that work is carried out during reasonable hours, a condition is proposed that restricts certain types of work to specific times.

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 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report - including the local planning authority's current 5 year housing land supply.

7. RECOMMENDATION

- 7.1 It is recommended that planning permission is GRANTED subject to the conditions listed below.

Contact Officer: Griff Bunce
Tel. No. 01454 863438

CONDITIONS

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

Reason
To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (as amended).
2. Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (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 ensure a satisfactory standard of design, to protect residential amenity, and to secure sufficient off-street parking and to accord with policy CS1 and CS8 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 and the National Planning Policy Framework.

3. Prior to the commencement of development a schedule 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 CS1 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013; and the National Planning Policy Framework. This is required prior to commencement to prevent remedial works.

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 (to include full details of the proposed railings) 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. All planting shall be carried out before the end of the first planting season following the first occupation of any of the dwellings hereby permitted.

Reason

To ensure a satisfactory standard of external appearance and to accord with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 and Policy L1 of the South Gloucestershire Local Plan (Adopted) January 2006 (Saved Policies); and the National Planning Policy Framework. This is required prior to commencement to prevent remedial works.

5. No windows other than those shown on the plans hereby approved shall be inserted at any time in the side elevation of the property identified on the accompanying plans as 'Unit 1'.

Reason

To protect the privacy and amenity of neighbouring occupiers, and to accord with the National Planning Policy Framework.

6. The off-street parking facilities (for all vehicles, including cycles) shown on plan 2593/21A 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 Policy CS8 of the South Gloucestershire Local Plan; Core Strategy (Adopted) December 2013; and the South Gloucestershire Residential Parking Standards SPD (Adopted) December 2013.

7. The development hereby permitted shall be carried out in strict accordance with the recommendations contained with the Barton Hyett Arboricultural Report (PB/ND/0316) dated 10 March 2016.

Reason

To ensure the works are carried out in an appropriate manner and in the interests of the health and visual amenity of the tree, and to accord with The Town and Country Planning (Tree Preservation) (England) Regulations 2012

8. The hours of working on site during the period of construction shall be restricted to 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 Saturdays, and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site

Reason

To protect residential amenity during construction works and to accord with the National Planning Policy Framework.

9. The development hereby permitted shall be carried out in accordance with the following plans: 2593/21A Proposed Site Plan, and 2593/22A Proposed Plans and Elevations, received by the Council 9 March 2016.

Reason

For the avoidance of doubt and in the interests of proper planning.

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.:	PT16/0137/F	Applicant:	Edenstone Homes
Site:	Land At Itchington Road Tytherington South Gloucestershire BS35 3TL	Date Reg:	20th January 2016
Proposal:	Temporary change of use of land from redundant farmland to storage/parking area to facilitate the development of Itchington Limeworks. Creation of new access and gates. (Retrospective).	Parish:	Tytherington Parish Council
Map Ref:	365634 187282	Ward:	Ladden Brook
Application	Minor	Target	9th March 2016
Category:		Date:	



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PT16/0137/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is referred to the Circulated Schedule as objections have been received which are contrary to the officer recommendation for approval.

1. THE PROPOSAL

- 1.1 The application seeks retrospective planning permission for the temporary change of use of agricultural land to a storage and parking area use in connection with the development of 18 houses at the nearby Lime works. The new storage compound is sited approximately 5 metres from the boundary of the development and adjacent to the bridleway used to access the site. The area of land used for the compound is approximately 20 metres by 60 metres. The compound is situated off the Itchington Road in the open countryside within the Bristol and Bath Green Belt.
- 1.2 The storage compound is already in use and was installed following consultation with the Councils Highways Engineer. The land owner has confirmed that the agricultural land used for the change of use was redundant and overgrown land. Prior to the storage compound construction all deliveries to the Lime works development were via the bridleway. The development company Edenstone Homes have explained that they were unaware that planning permission was needed for the temporary change of use of the land.
- 1.3 The storage compound is used for the storage of materials for the Lime works housing development and for site car parking and allows deliveries to site by large vehicles to be made to the new storage compound and then taken via the adjacent bridleway by smaller vehicles to the new housing development. The construction of the compound also involved the creation of an entrance and erection of low level iron gates.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012
- 2.2 Development Plans
South Gloucestershire Local Plan (Adopted) January 2006 (saved policies)
T12 Transportation Development Control
L1 Landscape Protection and Enhancement
South Gloucestershire Local Plan Core Strategy Adopted December 2013
CS1 High Quality Design
CS5 Location of Development
CS34 Rural Areas
- 2.3 Supplementary Planning Guidance

3. RELEVANT PLANNING HISTORY

- 3.1 No relevant planning history for the land comprising the storage compound.
- 3.2 PT02/3497/F Erection of 18 dwellings. The application was referred to the Secretary of State who approved the development under APP/P0119/V/03/1122916 for the nearby land.

4. CONSULTATION RESPONSES

4.1 Tytherington Parish Council

No objections but concern regarding safety issues with vehicles crossing the Itchington Road. Would require land returned to former condition and a condition regarding no access to compound via the A38 direction.

4.2 Transportation Officer

No objection subject to conditions regarding the supervision of all deliveries from the compound to the development site and that all deliveries to the new compound shall be via the South access to the site and not via the The Slad.

4.3 Archaeology Officer

Refusal recommended unless a programme of archaeological mitigation is agreed with the Council.

4.4 Landscape Officer

No objection subject to a condition that a landscape reinstatement plan is submitted for approval.

Other Representations

4.3 Local Residents

The Council have received 7 letters of objection that can be summarised as below:

- The land is not redundant farmland but a haven for wildlife such as badgers, rabbits, hares.
- The surrounding roads are narrow and the compound is situated in a dangerous position
- The vehicles transporting materials from the new compound to the development site are unsupervised and causing highway conflict and safety issues and have restricted views when exiting and entering the site
- Staff would be safer parking on the development site
- The compound is against green belt policy
- Damage to grass verges caused by vehicles using the compound
- The development is in close proximity to a listed building

- Feasibility of the lime works housing scheme all work should be stopped
- All traffic should be routed via one access and not through the Itchington Road via The Slad
- Access to the site should be limited to certain times to reduce the disruption to local residents

5. **ANALYSIS OF PROPOSAL**

5.1 Principle of Development

The land is in the open countryside and lies within the Bristol and Bath Green Belt and the Government attaches great importance to Green Belts. National Planning Policy is established by the National Planning Policy Framework (2012) which seeks to prevent urban sprawl by keeping land permanently open and asserts that the essential characteristics of Green Belts are their openness and their permanence. The Green Belt serves five purposes, one of which is to safeguard the countryside from encroachment.

- 5.12 The NPPF provides some exceptions to 'inappropriate development' in the Green Belt, but the change of use to the storage of building materials does not meet any exception criteria and is inappropriate development in the Green Belt.
- 5.13 Paragraph 87 of the NPPF confirms that 'as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'.
- 5.14 Paragraph 88 adds that, 'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.
- 5.15 The development consist of an area of hard standing that facilitates the temporary storage of materials and parking of vehicles in association with the near by housing development The Lime works. This temporary change of use has an impact on the openness of the Green Belt such that it is contrary to the National Planning Policy Framework (2012) and it will fall to the Council to consider whether there are very special circumstances to outweigh this harm to the Green Belt. I allocate significant weight to this harm albeit to a limited extent due to the temporary nature of the development and that the land will be restored to its former condition after the completion of the adjoin housing development.

5.2 Very Special Circumstances.

- 5.21 The NPPF provides that where development is inappropriate in the Green Belt, substantial weight should be given to the harm arising and the application may not be recommended for approval unless Very Special Circumstances exist to outweigh that harm. The applicant has submitted Very Special Circumstances

pertaining to each of the primary considerations for this application and these are therefore considered below:

5.3 Very Special Circumstances Highway Safety

- 5.31 Prior to the construction of the compound all deliveries and access to the development at the Lime works was via a bridleway off Itchington Road. The bridleway is only 3.4 metres wide in places and deliveries were causing disruption and conflict to other users of the bridleway e.g. horse riders and dog walkers. In discussion with the Councils Highways Engineer and Area Streetcare Inspector a small storage compound was agreed adjacent to the bridleway but accessed via the Itchington Road. This storage compound now allows materials to be delivered via larger vehicles via the Itchington Road then stored and transferred to the Lime works via smaller more agile vehicles more suited to the size of the bridleway.
- 5.32 The Councils Transportation Officer has no objection to this retrospective application and considers that the storage and parking compound will reduce the number of movements on the bridleway. This will benefit all users of the bridleway and has the potential of reducing conflict by large site vehicles over more vulnerable users such as pedestrians, horse riders and other users of the bridleway. The Officer also states that the use of the compound for receiving deliveries and then taking them up to the site when needed and under controlled conditions is an improvement over the alternative of having the compound within the development site. The officer agrees that the compound has sub standard visibility and would require a condition that all deliveries to and from the compound should be controlled by a banks man. The developer has already agreed to the use of a banks man and this could be secured via a condition to ensure all deliveries to and from the compound are supervised at all times.
- 5.33 The Transportation Officer noted that there were concerns from local residents regarding the route used for deliveries to the site and new compound. Prior to this application the existing approved traffic management plan secured via a planning condition carried no restriction on delivery routes used to access the Lime works development site. The Transportation Officer has recommended that all deliveries are from the south of the site and no deliveries should be routed via the Slad end of the Itchington Road. The developer has already written to all potential suppliers of the site with this information and all deliveries to site can be conditioned to be via the south of the new storage and parking compound. Implementing this alternative scheme would be an improvement over the existing arrangements. I conclude that significant weight should be allocated to this aspect of the Very Special Circumstances due to the improvement in highway safety

5.4 Very Special Circumstances Temporary Nature of Development

- 5.41 The compound will only be used for a temporary period whilst the development is completed it is understood that the development should be completed by December 2016. The developer has already agreed that the land will be restored to its former condition and the access and gate removed and the

existing stone wall rebuilt. The developer has confirmed to the Highways Engineer that a geo textile membrane has been used in the construction of the compound. This membrane is in place beneath the stone separating it from the subsoil so there should be no contamination/mixture of materials when the compound is removed. The Councils Landscape Officer has required that a landscape plan is submitted for approval prior to reinstatement of the land. This landscape plan will be secured via condition and will ensure the land is returned to its former condition. I conclude that due to the temporary nature of the development and that the land will be restored within approximately 9 months that significant weight can be attributed to the temporary nature of the development as there would be minimal permanent harm to the land.

5.5 Very Special Circumstances Fallback Position

- 5.51 Due to changes in the original 2002 planning permission for the Lime works development the existing site car parking arrangements are no longer workable. The existing site car parking specified in the travel management plan for operatives and visitors are now needed for the first phase parking spaces for plots 1,2,6,7 and 8. Other changes have been secured via recent planning permissions and non material amendments to the original scheme that has limited the availability of on site storage areas. The temporary storage of materials would be required to implement the development and the materials need to be stored and accessed on land on or near the development. The Town and Country Planning (General Permitted Development) Order 2015 recognises this and allows under Part 4 (Temporary buildings and uses) for land to be used temporarily in connection with building operations being carried out on adjoining land. The land subject of the change of use is approximately 5 metres from the boundary of the development and is not considered to be strictly adjoining the land and therefore fails to be considered as permitted development under Part 4 of the above legislation. Nevertheless a material consideration is that the developer would have the option to store materials and plant on land that was adjoining the development with no benefits to highway safety. I conclude that limited weight can be given to the Fallback position.

5.6 Landscape

- 5.61 The land subject of the temporary change of use was redundant and overgrown prior to change of the use. The landowner has confirmed this in writing and this is confirmed via aerial photography that appears to show the land has an overgrown and unused parcel of land. The developer has indicated that they are willing to restore the land once the Lime works development is complete. This can be secured via condition to ensure the landscape is protected and is restored to ensure the character; distinctiveness and visual amenity are maintained and improved. Therefore the development accords with saved policy L1 Landscape protection of the South Gloucestershire Local Plan (Adopted) January 2006.

5.7 Transportation

- 5.71 There have been a number of objections received regarding highway safety and increased number of traffic movements on the surrounding highways. The

increase in traffic is an inevitable consequence of developing the Lime works site and the increase in traffic movements would be the case even if the storage compound and parking was on site. The Councils Transportation officer has stated that the compound will not increase traffic in the highway network and is an improvement on having the compound within the development site. The Councils Highways Engineer and Area Streetcare Inspector have no objection to the entrance and gates erected to access the compound onto the unclassified Itchington Road. Therefore the development accords with saved policy T12 Transportation Development Control of the South Gloucestershire Local Plan (Adopted) January 2006.

5.8 Residential Amenity

- 5.81 Objections have been received regarding working hours. The existing conditioned hours for the Lime Works housing development limit the hours of working on site to 08.00 to 18.00 Monday to Friday with no deliveries on Sundays or Bank Holidays. To ensure that deliveries and working within the compound minimise disturbance to adjoining residential properties a condition will be attached reflecting the existing conditioned hours. As already discussed the Councils Transportation officer as highlighted the improvement in highway safety of having the storage compound and a condition will be attached to ensure that all deliveries are routed through the South of the site to ensure that deliveries are not made through The Slad where the road is predominantly narrow. Subject to the attachment of such conditions, and given the temporary nature of the development, it is not considered that the development will have such a detrimental impact on existing levels of residential amenity to warrant refusal of the application.

5.9 Other Matters

- 5.91 The Councils Archaeology Officer was unclear of what ground disturbance had taken place as the land is potentially of archaeological interest. The developer has confirmed that a membrane was placed on the land prior to the laying of stones for the compound and this has ensured no contamination with the existing soil. To ensure that further ground disturbance is kept to a minimum a condition will be attached to the permission. This condition will ensure that when the development is completed the land is restored to ensure that any further harm is alleviated.

- 5.92 Damage to the highway verges have also been highlighted within objections to this application. This is a not a matter that can be dealt with within this application and the issue has been directed to the Councils Streetcare team for investigation.

5.10 Summary

Although the development is considered to be inappropriate development in the Green Belt it is considered that Very Special Circumstances exists that outweigh the harm. The main consideration is that the compound serving the development improves highway safety and improves the use of the bridleway

for other more vulnerable users. The change of use of the land is for a short period and the land will be returned to its former condition therefore the harm to the Green Belt is of a temporary nature that will be rectified once the development is completed. The Very Special Circumstances necessary to justify the development for a temporary period therefore exist and in consequence there would be no conflict with policy contained within the NPPF and Local Plan Policy.

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 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

- 7.1 That planning permission is granted subject to conditions

Contact Officer: Kevan Hooper
Tel. No. 01454 863585

CONDITIONS

- 1. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the compound outside the following times Monday to Saturday 08.00 until 18.00 nor at any time on Sundays or Bank Holidays.

Reason

To minimise disturbance to occupiers of nearby residential dwellings and to accord with Policy E3 of the South Gloucestershire Local Plan (Adopted) January 2006 and the provisions of the National Planning Policy Framework.

- 2. All deliveries to the storage compound shall be via the south of the compound via the litchington Road and not via The Slad/A38. All delivery vehicles exiting the compound shall exit via the south of the compound. All deliveries to the compound and materials transferred from the compound to the Lime works development shall at all times be supervised by a Banks man.

Reason

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

3. Within 3 months of this decision a Restoration Plan shall be submitted and agreed by the Local Planning Authority detailing how the land will be restored following the completion of the Lime works housing development. The approved Restoration Plan shall be completed within 3 months of the completion of the Lime works housing development.

Reason

To protect the character and appearance of the area to accord with Saved Policy L1 of the South Gloucestershire Local Plan Adopted January 2006, Policy CS1 of the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 and the National Planning Policy Framework.

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.:	PT16/0420/F	Applicant:	PCC For Avon And Somerset Constabulary (Estates Dept)
Site:	400 Park Avenue Aztec West Almondsbury Bristol South Gloucestershire BS32 4TR	Date Reg:	8th February 2016
Proposal:	Erection of 31 metre high telecommunications mast and associated works	Parish:	Patchway Town Council
Map Ref:	360440 182693	Ward:	Patchway
Application Category:	Minor	Target Date:	1st April 2016



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PT16/0420/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application appears on the Circulated Schedule as a result of consultation responses received, contrary to Officer recommendation.

1. THE PROPOSAL

- 1.1 The proposal is for the erection of 31 metre high lattice style telecommunications mast and associated works on behalf of Avon and Somerset Constabulary.
- 1.2 The application site is location adjacent to a unit within an existing employment estate site, located at Aztec West.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012
National Planning Policy Guidance
- 2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006 (saved policies)
S5 Telecommunications
LC12 Recreational Routes
T12 Transportation

South Gloucestershire Local Plan Core Strategy Adopted December 2013
CS1 High Quality Design
CS5 Location of Development
- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist 2007

3. RELEVANT PLANNING HISTORY

- 3.1 Various and numerous consents associated with the areas use as an employment area

4. CONSULTATION RESPONSES

- 4.1 Pucklechurch Parish Council
No objection

Sustainable Transportation

We note that this planning application seeks to erect a telecommunications mast and carry out associated works within the curtilage of 400 Park Avenue, Aztec West. Our examination reveals that this application seeks permission to erect a 31m high lattice girder mast for the use of the Avon and Somerset Constabulary who are occupying the adjacent building. As this mast is not located immediately adjacent to the highway, we have no highways or

transportation comments about this application.

Great Western Air Ambulance

From a Flight Ops perspective I have no specific issue with the site of the mast. It is over 1200m from the Almondsbury site, and over 2000m from Filton. As such it does not impinge on the obstacle environment at either site. For general Aviation awareness it would be beneficial to have it lit with the appropriate red obstruction lights

Tree Officer

No objections

PROW

The development proposal may affect the footpath OAY 47 that runs along the border of the development area. For this reason the developer will need to be made aware of limitations for the application in relations to the PROW, should it be granted permission.

Lead Local Flood Authority

No comment

Highways Structures

No comment

Other Representations

4.3 Local Residents

Two letters have been received raising concern to the proposals, as follows:

'The mast will overpower the view from my house and garden it would be a lot better on the north side of the site'

'Although my husband and myself have no objection to this planning application, the mast is planned for the south corner of the site which will be directly in our line of vision.'

'We would respectfully request that the developers consider siting the mast at the north of the building where it will be away from our direct line of vision.'

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

Policy of S5 the SGLP states that telecommunications development will be permitted provided that it would not unacceptably prejudice local amenity, siting, design and landscape aspects are acceptable and the possibility of sharing a site or locating the equipment on a building is not viable. The site is to serve the adjacent and associated unit which will be occupied by Avon and Somerset Constabulary, within the existing employment area. A mast such as this is not considered to conflict with the sites safeguarded employment designations in terms of protecting or impacting upon employment land and is considered, in principle, acceptable, subject to detailed development management considerations.

5.2 Design/Appearance/Siting

The proposals are for equipment which will essentially serve the adjacent unit. The mast is relatively high but is located within the context of an existing employment site with associated buildings and structures. There are lattice style lighting columns within the immediate vicinity to around 10 metres in height. On this basis it is not considered that the proposals would be significantly or materially out of keeping with the general context of the area. Concerns relating to siting and lines of sight are noted. The nearest residential properties are located approximately 35 metres to the south, across Park Avenue, on the opposite side of Hempton Lane. It is not considered practical to relocate the mast to the rear of the site as it would result in the loss of more landscaping and would not be highly accessible from the roadside for future maintenance. The context of the site as a safeguarded employment area and its associated buildings and structures must also be taken into account. On this basis there is considered to be no objection in terms of siting. The design of the mast is a lattice style in a conical shape which serves to reduce the bulk of the structure.

5.3 Local Amenity

The proposal would be on an existing employment site, next to a building which it would serve. The nearest residential properties are located approximately 35 metres to the south, across two roads. Declarations of EU conformity for the proposed apparatus have been provided. Given the use and location of the development, it is considered that the proposal is acceptable.

5.4 Transportation/PROW

It is not considered that there would be a significant or material impact in terms of highways or public rights of way.

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 proposals are at an existing employment location and the development is considered to be acceptably sited and of an appropriate standard in design in context with the site and surroundings. As such the proposals accord with Policies S5 and T12 of the South Gloucestershire Local Plan (Adopted) 2006 and Policy CS1 of the South Gloucestershire Local Plan Core Strategy December 2013.

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 planning permission is granted, subject to the conditions recommended.

Contact Officer: Simon Ford
Tel. No. 01454 863714

CONDITIONS

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

Reason

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

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.: PT16/0538/F
Site: Pilning Trading Standards 20 Marsh
 Common Road Pilning South
 Gloucestershire BS35 4JX

Applicant: Fortress Properties
Date Reg: 17th February 2016

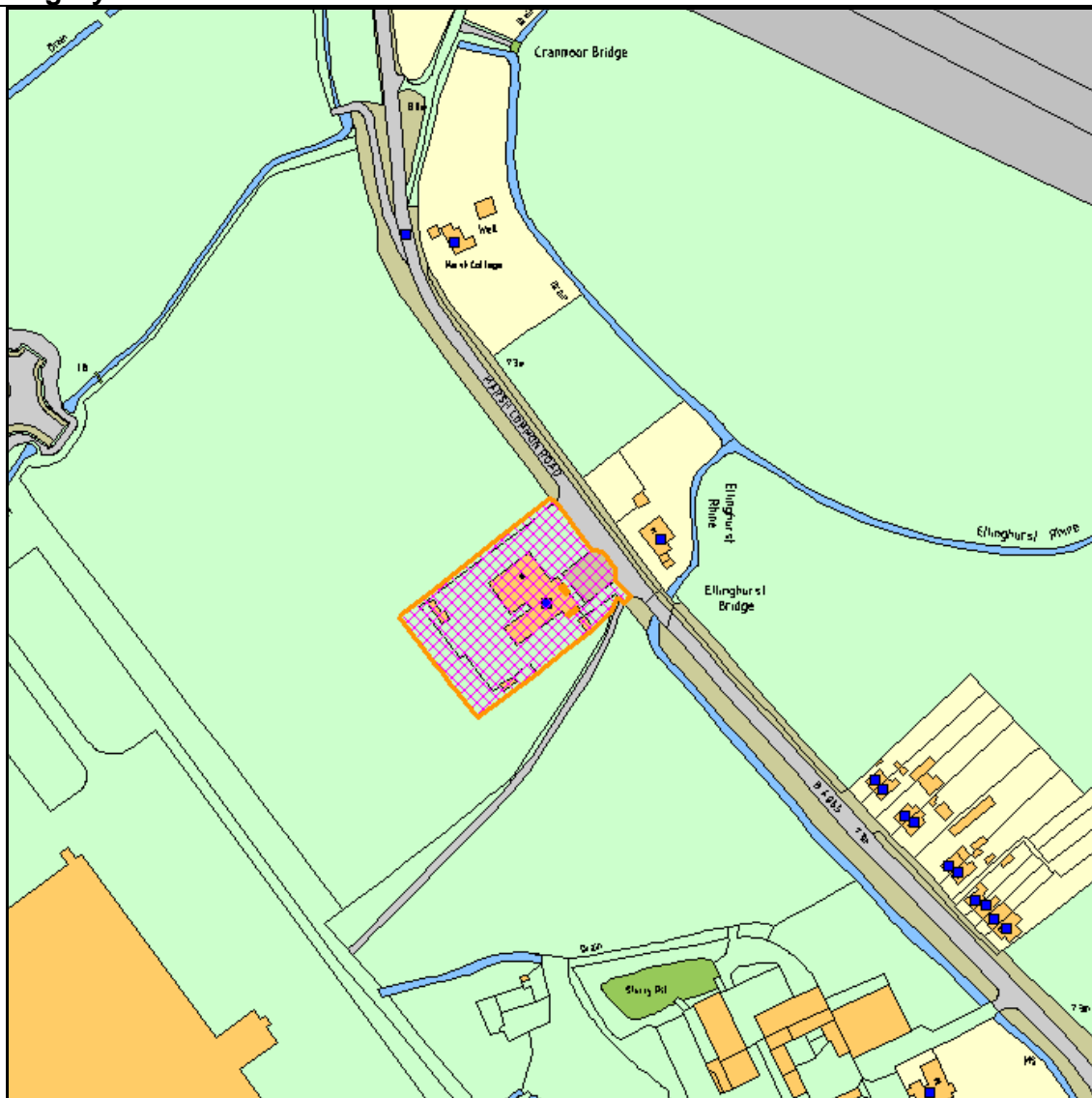
Proposal: Erection of two storey extension to
 facilitate change of use from B1 to
 Mixed Use (sui generis) as defined in
 the Town and Country Planning (Use
 Classes) Order 1985 (as amended)

Parish: Pilning And Severn Beach
 Parish Council

Map Ref: 355891 184418

Ward: Pilning And Severn Beach
Target
Date: 11th April 2016

Application Minor
Category:



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REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application appears on the Circulated Schedule as a result of consultation responses received, contrary to Officer recommendation.

1. THE PROPOSAL

- 1.1 This proposal relates to change the use of a former fire station building/Trading Standards building for office, warehouse and storage purposes associated with a company specialising in contaminated land remediation. Upgrade and refurbishment of the premises is also required, involving, in planning terms a two storey extension to facilitate the change of use. It is understood that no treatment or storage of contaminated materials would take place at the site.
- 1.2 The site comprises a workshop and office surrounded by hardstanding forecourt to the front sides and rear and is located on the southwestern side of Marsh Common Road, near Pilning. The site is located outside of any defined settlement boundary and within Flood Zone 3. The nearest residential property is located immediately opposite.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March
National Planning Policy Guidance
- 2.2 Development Plans

South Gloucestershire Local Plan (Adopted) January 2006 (saved policies)
EP2 – Flood Risk and Development
EP4 – Noise Sensitive Development
E4 – Safeguarded Employment Areas
T12 – Transportation Development Control Policy for New Development

South Gloucestershire Local Plan Core Strategy Adopted December 2013
CS1 High Quality Design
CS11 – Distribution of Economic Development Land
CS12 – Safeguarded Areas for Economic Development

Emerging Plans:
South Gloucestershire Policies Sites and Places Plan – Proposed Submission:
PSP9 – Residential Amenity
PSP21 – Flood Risk, Surface Water and Watercourse Management
PSP22 – Environmental Pollution and Impacts
PSP28 – B8 Storage and Distribution Uses

3. RELEVANT PLANNING HISTORY

- 3.1 The site is located with the area covered by the 1957 ICI Consent, which permits a range warehousing and industrial uses.

- 3.2 N4164 – Removal of existing facade and reinstate with brick and aluminium window in timber frames. Approved 1st March 1978.
- 3.3 N4154/1 – Change of use to calibration and metrology centre. Approved 7th March 1980.
- 3.4 PT02/1734/R3F – Erection of spread spectrum radio aerial. Deemed consent 15th July 2002.

4. CONSULTATION RESPONSES

- 4.1 Pilning and Severn Beach Parish Council
Objection, on the following grounds:

1) the proposed extension will lead to an intensification of use of the land in the greenbelt extending beyond the existing building itself. As the site has been isolated from the surrounding land which benefits from the 1957 agreement, it cannot use the 1957 planning agreement to extend beyond the existing building.

2) the proposed entrance does not allow for a safe pull-in of vehicles from the highway into the site.

3) the proposed fence surrounding the site is unsightly and not in keeping with the greenbelt.

4) the proposed activity for the site has not included any hours of restriction

5) the lorry wash area has not allowed for the collection of contaminated water from the vehicles

- 4.2 Other Consultees

Environmental Protection

B8 use on the site has the potential in the future to be detrimental to residential amenity by reason of noise.

Late night and early morning deliveries and use of the site together with associated vehicle movements although initially small may give rise to noise disturbance and if lighting is not controlled, light nuisance to nearby residents.

Any future expansion and intensification of the B8 use with regards to storage and distribution may lead to conflict between the residential and commercial uses.

The Planning officer should also request further information and detail on the use of the workshop on the site and any noise implications associated with this activity.

I would therefore recommend that an hours of use condition for the B8 also be considered:

7:30 -18:00 Monday to Friday 08:00-18:00 Saturday. No use permitted on Sunday, Public and Bank Holidays

Environmental Services

It is understood that a de-commissioned underground petrol storage tank (UST) exists to the south east of the main building. Although the proposed extensions to the building are relatively small, where works such as service trenches are proposed in the vicinity of the UST, there is the potential to introduce new pathways should any contamination exist within the ground. A condition is therefore recommended should consent be approved.

Trading Standards

South Gloucestershire Council Trading Standards Service is the Petroleum Enforcement Authority (PEA) for the storage of petroleum spirit within the Authority. It should be brought to the applicants attention that there is a redundant underground petrol tank at the site, as well as an underground water storage tank. It would be diligent to take the opportunity to remove the tank. The applicant should seek the advice of the Environmental Health Pollution Control Team on matters concerning the tanks.

Lead Local Flood Authority

No objections in principle, subject to recommended conditions. A SUDS requirement should be made and a emergency flood plan will be required for the site occupants.

Economic Development

The site is within the Severnside Enterprise Area which is designated as a strategically important employment area within the West of England City Region Deal.

The Economic Development Team recognises that this proposed development could lead to the relocation of a business from nearby Avonmouth, which will have an initial economic development displacement impact, however we believe this growth of a local business should be, overall, beneficial to the Enterprise Area's economy.

The team believes this proposal offers sustainable development, thus supporting Policies CS11 and CS12 of the Core Strategy, which states that the council should seek to maintain and enhance the local economy and increase employment opportunities by supporting the redevelopment of employment sites, particularly those within a safeguarded area.

In conclusion, the South Gloucestershire Council Economic Development team believes that this application will have a positive impact on the local economy within South Gloucestershire, through encouraging the development of a local business and currently vacant premises

Highway Structures

The application includes a boundary wall/fence alongside the public highway or open space land then the responsibility for maintenance for this structure will fall to the property owner.

Sustainable Transportation

The exact nature of the existing uses is unclear from the information provided, however, we consider that the proposed change of use is likely to reduce the B1 element of this development. Hence, it will reduce the overall traffic generation of this site. This will, in-turn, lead to less intensive use of the site's access. Consequently, we believe that this application will be broadly beneficial in terms of highway use and safety.

We note that if this building were to be used wholly for B1 uses, then Policy T8 of the South Gloucestershire Local Plan indicates that approximately 30 car parking spaces should be provided. We understand that the current proposals include 22 spaces (plus two disabled spaces). Therefore, given that some of the site is to be devoted to B8 rather than B1 uses, this provision is considered to be adequate. As result, we have no highways or transportation comments about this application.

Other Representations

4.3 Local Residents

Two letters of objection have been received, the first raises matters relating to highways and concerns over vehicles exceeding the weight restrictions placed on roads through the villages of Pilning and Easter Compton.

The second raises the following issues:

- In principle the re-use of this redundant site is to be welcomed, however it is an opportunity to make an improvement to the frontage of the site, to the benefit of the amenity of the area.
- The current design of the frontage dates from its original use as a fire-station, but the understandable intention to now enclose and secure the frontage, retaining two accesses, provides the opportunity for achieving a more sensitive design.
- As this is the approach into the village of Pilning, as the front of the site is the boundary of the Green Belt, and as the site is the northern edge of the massive Avonmouth-Sevenside commercial development area, there is a responsibility to reflect those factors in the design of the hard and soft landscape of the site frontage.
- The suggestion of palisade fencing is entirely inappropriate for the location,
- the proposal for a pedestrian footway to the frontage is totally unnecessary, as there is no footway on this side of Marsh Common Rd, and none needed.
- the proposals should be required to use a more visually sensitive form of fencing, such as the weldmesh type used on many South Glos schools
- the gateway widths should be restricted to the minimum widths necessary, set back from the road to be less obtrusive,
- the frontage be grass verge and native hedge, as elsewhere along the road..

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The building has previously been used as a calibration and metrology centre, as illustrated in the planning history above. It is also thought to have been used

as a fire station. It has also been used subsequently as offices for Trading Standards. Both these uses are considered to be Use Class B1 (as defined in the The Town and Country Planning (Use Classes) Order (as amended)). The site forms a small part of the much larger 1957 ICI consent which would also in the past have permitted warehousing and industrial uses. Notwithstanding the 1957 consent, a new planning chapter has opened on the planning unit by virtue of the B1 consent highlighted above. The proposed use of the site involves storage of equipment in the workshop/garage area, external parking and storage and offices. It is considered that the use proposed falls within at least two Use Classes (B1 – offices and light industry and B8 – storage and distribution) and on this basis it is considered to be 'sui generis' (mixed use) development. It is understood from the application that no treatment, processing or storage of contaminated materials would take place at the site, and this would constitute a different use class and requiring additional considerations.

- 5.2 Policies CS11 and CS12 of the Core Strategy, seek to maintain and enhance the local economy and increase employment opportunities by supporting the redevelopment of employment sites, particularly those within a safeguarded area and encourages opportunities to redevelop through intensification and remodelling which can make more efficient use of existing employment land. Given the history of the site, highlighted above, the uses permitted in the past, there is a relevant planning history that should be taken into account and given weight. On this basis the proposal is acceptable in principle and, subject to detailed development management considerations. The site is not located within the designated Green Belt, the boundary of which is the opposite side of the road.

5.3 Local Amenity

Concerns relating to potential impacts upon local amenity are noted. The nearest residential property is a dwelling on the opposite side of Marsh Common Road. The use of the site will include offices, internal and external storage of plant and machinery and maintenance inside the existing workshop building. The planning history and the existing use and buildings on the site already permit certain activities on the site and must be taken into account and given considerable weight. It is not considered that the proposals the subject of this application would have a significant or material impact upon the surrounding area, in addition to that which is already permitted on site. An hours of operation condition is recommended and this will satisfactorily address amenity issues in this respect.

5.4 Transportation

The site is an existing B1 unit with associated external parking and yard areas. Access would be off the main road. It is not considered that these proposals would significantly or materially impact upon highways considerations over and above this and there are no transportation objections. The granting of planning permission would not imply that localised weight restrictions on roads could be ignored, the breaching of which would remain a police/civil matter to enforce.

5.5 Design

The existing building contains a number of building materials and finishes and incorporates a number of roof shapes and design styles with little design merit

or coherency. The proposed extension is largely 'infill' around and above the existing building and is not out of keeping with the existing premises in terms of design or materials. The site is bounded to the north east by Marsh Common Road and surrounded by agricultural land in all other directions, (which is also safeguarded employment land previously covered by the 1957 consents). The boundaries consist of mix of hedgerow and trees, which are more prominent and established on the north western boundary and a post and wire fence surrounds the site, except to the frontage, which remains open. Palisade fencing to 2.4 metres is proposed around the whole site, with gated entrances to the front, as a means of enclosure and security. The site is an existing employment/light industrial site in its own right and is set upon a backdrop of being located within largescale employment land designation. It is not considered that the proposed additional boundary treatment is an unreasonable addition or that it raises significant or material landscape concern such as to warrant and sustain an objection or refusal of the application on this basis.

5.6 Drainage

The site is located within Flood Zone 3. A Flood Risk Assessment has been submitted. Given that the site is located within the safeguarded area of the 1957 consents and constitutes the re-use of an existing built facility, it is considered that the proposals are appropriate and acceptable in this respect. The small non-residential extension within the confines of the existing built area are also considered acceptable in this context. Further SUDS details will be required by condition and the occupiers should be informed of their health and safety requirements, relating to existing underground tanks and the requirement for an on site emergency flood 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 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. RECOMMENDATION

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

Contact Officer: Simon Ford
Tel. No. 01454 863714

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 commence until surface water drainage details including SUDS (Sustainable Drainage Systems e.g. soakaways if ground conditions are satisfactory), for flood prevention; pollution control and environmental protection have been submitted and approved by the Local Planning Authority.

To comply with Policy CS1 and CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 and National Planning Policy Framework 2012.

3. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times 7:30 -18:00 Monday to Friday and 08:00-18:00 on Saturdays, nor at any time on Sunday or Bank Holidays.

Reason

To minimise disturbance to nearby occupiers and to accord with Policy E3 of the South Gloucestershire Local Plan (Adopted) January 2006 and the provisions of the National Planning Policy Framework.

4. It is understood that a de-commissioned underground petrol storage tank (UST) exists to the south east of the main building. Although the proposed extensions to the building are relatively small, where works such as service trenches are proposed in the vicinity of the UST, there is the potential to introduce new pathways should any contamination exist within the ground. The following condition is therefore recommended should consent be approved.

A) Where ground works (such as service trenches etc) are to be carried out in the vicinity of the underground de-commissioned petrol storage tank, prior to commencement, an investigation shall be carried out by a suitably qualified person, into contaminants likely to affect the development. Where potential contaminants are identified, prior to the commencement of development, an investigation shall be carried out by a suitably qualified person to ascertain the extent, nature and risks the contamination may pose to the development and how any unacceptable risks will be mitigated. A report shall be submitted prior to commencement of the development for the written approval of the Local Planning Authority setting out the findings and what mitigation measures are proposed to address these. Thereafter the development shall proceed in accordance with any agreed mitigation measures.

B) Prior to occupation, where works have been required to mitigate contaminants (under section A) a report verifying that all necessary works have been completed satisfactorily shall be submitted to and agreed in writing by the Local Planning Authority.

C) If unexpected contamination is found after the development is begun, development shall immediately cease upon the part of the site affected. The Local Planning Authority must be informed immediately in writing. A further investigation and risk assessment should be undertaken and where necessary an additional remediation scheme prepared. The findings and report should be submitted to and agreed in writing to the Local Planning Authority prior to works recommencing. Thereafter the works shall be implemented in accordance with any further mitigation measures so agreed.

Reason

To ensure that adequate measures have been taken to mitigate against contaminated land to accord with Policy CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 and the National Planning Policy Framework.

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.: PT16/0580/F

Applicant: Mr M Wheeler

Site: Port Farm Hardy Lane Tockington
Bristol South Gloucestershire
BS32 4LN

Date Reg: 16th February
2016

Proposal: Erection of single storey rear
conservatory

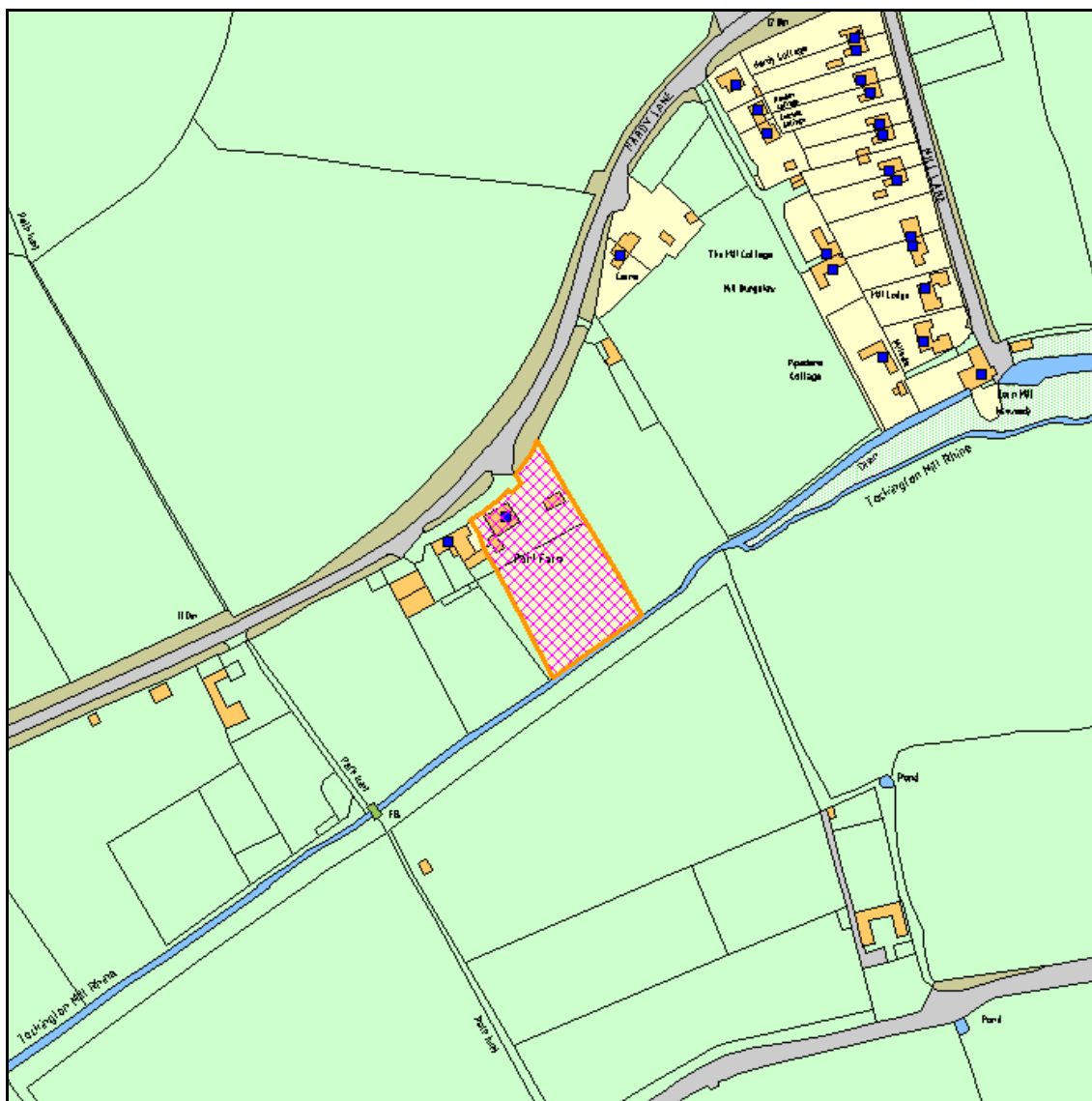
Parish: Olveston Parish
Council

Map Ref: 360327 186152

Ward: Severn

Application Category: Householder

Target Date: 8th April 2016



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PT16/0580/F

REASON FOR REPORTING TO CIRCULATED SCHEDULE

A comment made by the Parish Council was contrary to the findings of the following report. Under the current scheme of delegation the decision is required to be put forward via circulated schedule.

1. THE PROPOSAL

- 1.1 This application seeks planning permission for the erection of a single storey conservatory to the rear of Port Farm, Hardy Lane, Tockington.
- 1.2 The subject property is a period vernacular cottage constructed with rubble elevations and an unevenly pitched gable roof. The property has been subject to a number of alterations and additions including single storey side extensions, altered historic outbuildings and recently was subject to the erection of a significant quadruple garage and stable building.
- 1.3 The proposed conservatory will be situated to the rear of the property adjoining the converted outbuildings and rear elevation of the host dwelling.
- 1.4 The application site is situated within the Bristol/Bath Green Belt, within the open countryside and is outside of any defined settlement boundaries. A number of applications have been submitted in the past, 2 of which have been refused (one of which upheld at appeal) due to the impact on the green belt and landscape. These are discussed in further detail below.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework (2012)
National Planning Policy Guidance
- 2.2 Development Plans
South Gloucestershire Local Plan Core Strategy (Adopted) December 2013
CS1 High Quality Design
CS5 Location of Development
CS8 Improving Accessibility
CS9 Managing the Environment and Heritage
CS34 Rural Areas
CS35 Severnside

South Gloucestershire Local Plan (adopted) January 2008 (Saved Policies)
T12 Transportation
H4 Development within Existing Residential Curtilages
L1 Landscape

- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist (Adopted) August 2007
Residential Parking Standards (Adopted) December 2013
Development in the Green Belt SPD (Adopted) June 2007

3. RELEVANT PLANNING HISTORY

- 3.1 PT13/4348/F – Approval – 16/01/2014 – Demolition of existing outbuilding and erection of detached building to form garage, workshop/store and stables.
- 3.2 PT13/0752/F – Refusal – 09/07/2013 – Erection of replacement detached outbuilding to facilitate stable and garage – Refused due to inappropriate development in the greenbelt and the negative impact the proposal would have on the surrounding landscape.
- 3.3 PT12/2267/F – Refusal – 02/10/2012 – Demolition of existing outbuilding and erection of single storey residential annexe with glazed link extension to main dwelling - Refused due to inappropriate development in the greenbelt and the negative impact the proposal would have on the surrounding landscape.
- 3.4 PT06/0830/F – Approval – 10/05/2006 – Erection of replacement single storey side extension to provide additional living accommodation.

4. CONSULTATION RESPONSES

- 4.1 Olveston Parish Council
Objection – overdevelopment in the greenbelt and outside the development boundary.
- 4.2 Other Consultees
None Received

Other Representations

- 4.3 Local Residents
None Received

5. ANALYSIS OF PROPOSAL

- 5.1 Principle of Development
Saved Policy H4 of the South Gloucestershire Local Plan is supportive in principle of proposals for alterations and extensions to existing dwellings within their residential curtilage, provided that the design is acceptable and in accordance with Policy CS1 of the Core Strategy (Adopted) December 2013, and that there is no unacceptable impact on residential and visual amenity nor the retention of safe and adequate parking provision or a negative effect on transportation. Development within the Green Belt would be considered acceptable subject to assessment to elucidate whether they would constitute a disproportionate addition. The NPPF allows for limited extensions to buildings within the Green Belt providing that they do not result in disproportionate additions over and above the size of the original dwelling. The development is subject to the consideration below.

5.2 Greenbelt

The application site is situated within the Bristol/Bath Green Belt. The NPPF allows for limited extensions to buildings within the Green Belt providing that they do not result in disproportionate additions over and above the size of the original dwelling. The South Gloucestershire Development within the Green Belt SPD states that any additions resulting in a volume increase of between 30%-50% will be subject to careful consideration and assessment. Any proposed development over and above 50% of the volume of the original dwelling would be considered in excess of any reasonable definition of 'limited extension'. Whether the addition is considered disproportionate or not depends on the individual circumstances and what type of addition is proposed.

- 5.3 It is noted that a large single storey outbuilding was given permission in 2014. It was found that the structure would be considered a proportionate addition as the proposal resulted in the demolition of an existing smaller structure, offsetting a proportion of the increase. Added to the assessment was the fact that the building provided facilities for outdoor recreational purposes which is considered an appropriate use in open countryside. The total cumulative increase in volume for the proposal is approximately 30% cumulatively. The proposal is considered to be a proportionate addition and is situated in a relatively discreet location; consequently the proposal is viewed as an appropriate addition and in line with the Development in the Greenbelt SPD and the NPPF. There is no objection with regard to greenbelt policy.

5.4 Design

The proposed conservatory though more modern in appearance would not be considered to detract from the character of the property. The addition is set to the rear of the dwelling and against existing converted outbuildings whilst remaining subservient to the original dwellinghouse. The materials chosen do not match the existing building, however as a conservatory the materials put forward are not considered unusual or likely to detract from the overall character of the dwelling and would be considered acceptable. Overall the design is acceptable in terms of policy CS1 of the Core Strategy (Adopted) December 2013.

5.5 Residential Amenity

The property does not share boundaries with any other residential curtilages. As a result the proposal would not cause negative impact to the residential amenity of any other dwellings.

5.6 Transport

The extension does not increase the number of bedrooms, nor does it remove existing parking provision. There is no objection to the proposal with regard of the Local Authority's transport policy or the Residential Parking Standards SPD. Given the proposal will not include additional bedrooms, it will not require any additional parking space nor will it have a negative impact on highway safety or the retention of an acceptable level of parking provision, meaning the proposal is in accordance with saved policy T12 of the Local Plan (2006). The

council has no objection to the proposal in relation to highway safety or parking provision.

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 and the South Gloucestershire Local Plan Core Strategy (adopted) December 2013 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 attached to the decision notice.

Contact Officer: Hanni Osman
Tel. No. 01454 863787

CONDITIONS

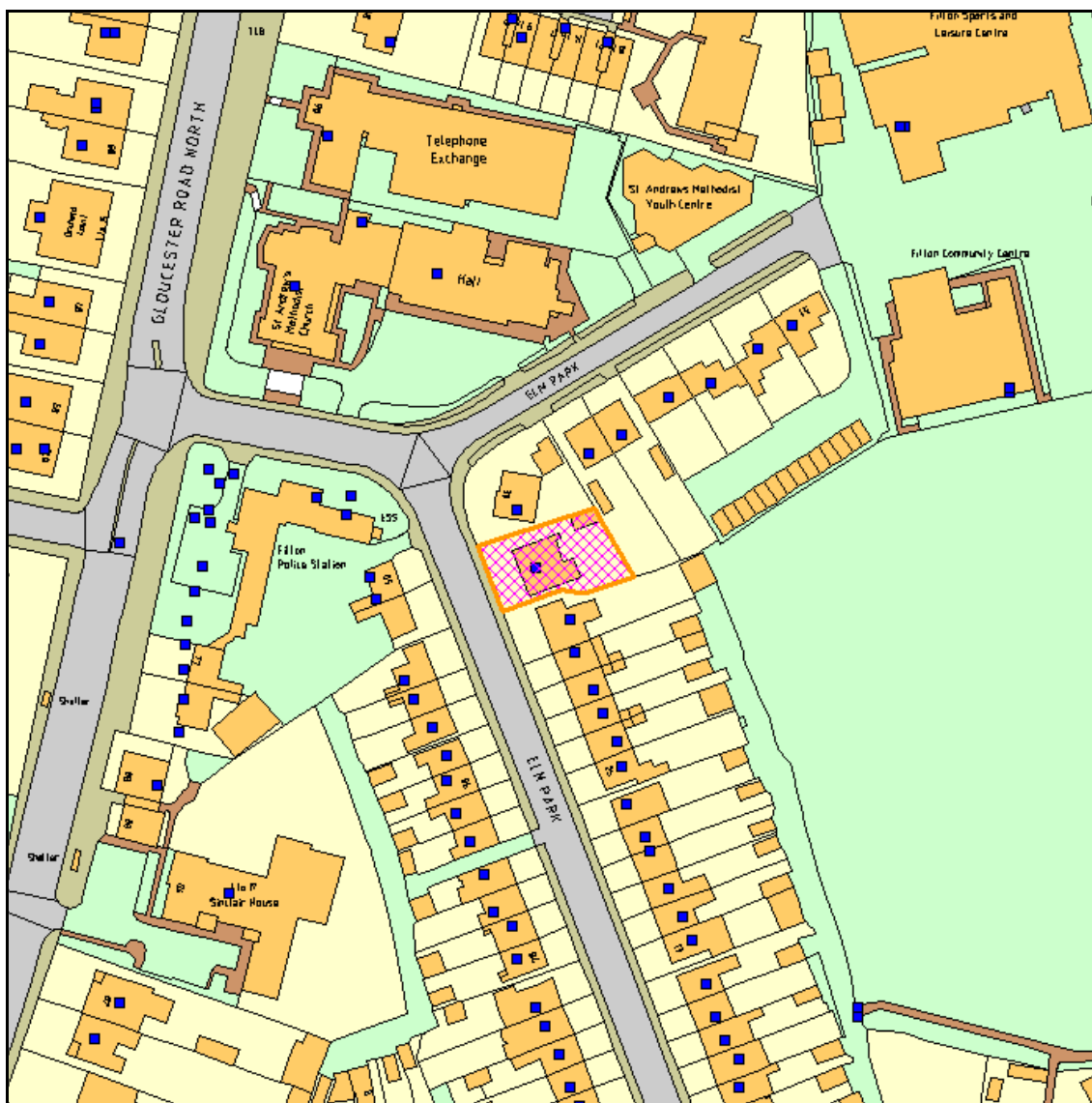
- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason

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

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.:	PT16/0652/F	Applicant:	Mr John Osborne
Site:	37 Elm Park Filton Bristol South Gloucestershire BS34 7PR	Date Reg:	16th February 2016
Proposal:	Demolition of existing garage. Erection of single storey annexe ancillary to main dwelling house.	Parish:	Filton Town Council
Map Ref:	360140 178699	Ward:	Filton
Application Category:	Householder	Target Date:	11th April 2016



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REASON FOR REPORTING TO CIRCULATED SCHEDULE

The application is referred to the Circulated Schedule as representations have been received which is contrary to the Officer's recommendation.

1. THE PROPOSAL

- 1.1 The applicant seeks planning permission for the demolition of an existing detached garage and the erection of a single storey residential annexe ancillary to the main dwelling.
- 1.2 The application relates to a detached dwelling situated within an established residential area of Filton.

2. POLICY CONTEXT

- 2.1 National Guidance
National Planning Policy Framework March 2012

- 2.2 Development Plans

South Gloucestershire Local Plan Core Strategy (Adopted December 2013)

CS1 High Quality Design
CS4a Sustainable Development
CS5 Location of Development
CS8 Improving Accessibility
CS9 Environmental Resources and Built Heritage

South Gloucestershire Local Plan (Adopted) January 2006 – Saved Policies

H4 Development within Existing Residential Curtilages, Including Extensions and New Dwellings
T12 Transportation Development Control

- 2.3 Supplementary Planning Guidance
South Gloucestershire Design Checklist (Adopted) 2007
South Gloucestershire SPD: Residential Parking Standards (Adopted) 2013

3. RELEVANT PLANNING HISTORY

- 3.1 P91/1280 Refused 11/04/1991
Change of use of part of premises from residential to use in connection with taxi business
- 3.2 P86/2024 Refused 13/08/1986
Change of use of premises from residential to use as six bedsitters in connection with proposed use of property as private residential home for the elderly.

4. CONSULTATION RESPONSES

4.1 Filton Parish Council

Would like to be reassured that there would be adequate parking.

4.2 Other Consultees

Sustainable Transport

The applicant seeks to demolish the existing garage in order to erect a single storey annexe ancillary to the main dwelling. 37 Elm Park has adequate off street parking to serve both the main dwelling and the proposed one bed annexe. As such there are no transportation objections subject to the following: The annexe shall remain part of main dwelling 37 Elm Park.

Other Representations

4.3 Local Residents

Two objection letters have been received by the Council and the points raised are summarised as follows:

- The proposed annexe would be a much larger, substantial structure, of approximately double the width and height of the existing garage, with a substantial pitched roof rising to a height of 4 metres at the ridgeline. The resulting development would be excessively large and visually overpowering in relation to the existing dwelling and its residential surroundings.
- Owing to the position of the proposed annexe abutting the rear boundaries of the site, the proposal would overshadow and severely impact the outlook from the adjoining rear gardens of 39 and 41 Elm Park.
- The proposed annexe would overshadow the bedroom and dining room in No 39.
- The bedroom window in the proposed annexe would overlook the bedroom and dining room in No 39.
- The proposed annexe would cause noise and disturbance associated with increased activity, including comings and goings at the proposed annexe, and a more intensive use of the small rear garden at the application site. We perceive this to be a particular problem in this case, owing to the small size of the plot and the close proximity of the proposed annexe to the adjoining private rear gardens. In short, the proposal would introduce an over-intensive degree of residential use and activity into what would otherwise be a quiet rear garden setting.
- The close proximity of the proposed annexe to the rear boundaries of the site would make it difficult to maintain the building without causing still further inconvenience and disturbance from adjoining occupier.
- Request a condition to ensure that the annexe is not occupied as a separate self-contained dwelling unit, but used only for purposes incidental and ancillary to the residential use of the existing dwellinghouse.

5. ANALYSIS OF PROPOSAL

5.1 Principle of Development

The proposal stands to be assessed against the above listed policies and all other material considerations. Of particular importance is the design of the proposal and its impact on the appearance of the host property and that of the area in general (CS1; CS5). Impact on residential amenity of both the application site and its closest neighbours must also be carefully assessed (saved H4) as must the impact the proposal would have on highway safety and on-street parking (T12; CS8; SPD: Residential Parking Standards).

- 5.2 The proposal is considered to accord with the principle of development and this is discussed in more detail below.

Residential Amenity

- 5.3 The application seeks permission for the erection of a detached annexe in the northeast corner of the rear garden of 37 Elm Park, Filton. The annexe would have a length of 6.6 metres at its widest point and 5.5 metres at its narrowest point, a width of 6.9 metres and a maximum height of 4.1 metres with a pitched roof. The existing detached garage would be demolished to facilitate the development.

- 5.4 The proposed annexe would be adjacent to the mutual boundaries of Nos 39 to the north and 41 Elm Park to the east. As existing, the rear gardens of the neighbouring sites are divided by the existing garage elevations and 2 metre high boundary walls. The plans indicated that the garage elevations and boundary walls will be retained. However, the annexe would be visible from both neighbouring properties above the boundary walls.

- 5.5 Although it is noted that the development would result in the addition of a new building adjacent to the mutual boundaries, it is not considered that it would appear significantly overbearing or oppressive on the occupiers of Nos 39 or 41 due to its eaves level of 2.3 reaching a maximum height of 5.1 metres at the ridge line. The roof plan would slope away from the mutual boundaries. Similarly, it is not considered that the building would prejudice the existing outlook from the rear windows of No 39, and due to its siting to the southeast of No 39 would not have a significant effect on light entering the garden of No 39. The northeast elevation of the building would be adjacent to the rear mutual boundary with No 41 Elm Park. As the proposal has a maximum height of 4.1 metres with a pitched roof, this is not considered to significantly alter the amount of sunlight entering the neighbouring garden of No 41.

- 5.6 It is noted that there is a concern that the proposal will result in additional noise. The site is currently part of a residential curtilage and this would not change should this application be permitted. It is not considered that the proposal would be materially different to the existing arrangement and as a result it is not considered that the proposal would result in undue levels of noise to the detriment of residential amenity.

- 5.7 In terms of privacy, the application identifies a window and a door to the southwest elevation facing the host dwelling and a window and French doors

facing into the garden area. It is considered that the boundary treatment around the whole site is adequate to ensure that the privacy of the occupiers of No 39 is not prejudiced and as such there are no concerns in this respect. In terms of private amenity space, although the annexe building would take up an amount of garden area, it is considered that sufficient space would remain to serve both the host dwelling and annexe building.

- 5.8 It is noted that during the construction phase of the development in an established residential area disruption can occur from building operations and moving vehicles within the site. Therefore, in order to reduce disruption to neighbouring occupiers a condition is attached in order to control the hours of working on site.

Design

- 5.9 The application proposes a detached single storey annexe building with a pitched roof. It is proposed to the northeast corner of the site. On demolition of the existing garage, the roof would be visible above the boundary walls from Nos 39 and 41 Elm Park. The application form indicates that the annexe would be finished in render and red concrete plain roof tiles to match the main dwelling.

- 5.10 The host dwelling consists of a hipped roof detached dwelling finished in render with a brick plinth and a vertical tiled bay to the front elevation. The locality is established residential in character consisting of terraces of similar dwellings which are evenly spaced.

- 5.11 Although the front elevation of the proposed annexe may be partially visible from the highway, it is set back 21.8 metres and as such would not be particularly prominent in the street scene. Although the building is wide, it is considered that its overall scale reflects its ancillary nature and would not overdevelop or over-intensify the existing site. The proposed materials are considered appropriate in the context of the site and the locality. Overall, it is considered that the building would respect the character of the site and the locality and as such is considered acceptable.

Highway Safety

- 5.12 The proposal would result in the loss of the existing garage and the addition of a one-bedroom annexe. The dwelling has a hardstanding area to the front and side for three cars. Provided the proposed annexe remains as intended and does not at any stage become a separate or independent dwelling, the existing parking provision is in accordance with the Council's minimum standards and as such raises no concerns in terms of highway safety. This will be secured through the use of a condition.

Other Matters

- 5.13 Matters relating to access and maintenance are civil matters which do not hold material weight in the planning decision.

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 and the South Gloucestershire Local Plan Core Strategy (Adopted) December 2013 set out above, and to all the relevant material considerations set out in the report.

7. **RECOMMENDATION**

- 7.1 That the proposal be **APPROVED** subject to the conditions written on the decision notice.

Contact Officer: Helen Braine
Tel. No. 01454 863133

CONDITIONS

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

Reason

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

2. The hours of working on site during the period of construction shall be restricted to 7:30 to 18:00 Monday to Friday and 8:00 to 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

To protect the amenities of the occupiers of nearby dwelling houses, and to accord with saved Policy H4 of the South Gloucestershire Local Plan (Adopted) January 2006; Policy CS9 of the South Gloucestershire Local Plan: Core Strategy (Adopted) 2013 and the provisions of the National Planning Policy Framework.

3. The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 37 Elm Park, Filton, Bristol, South Gloucestershire, BS34 7PR.

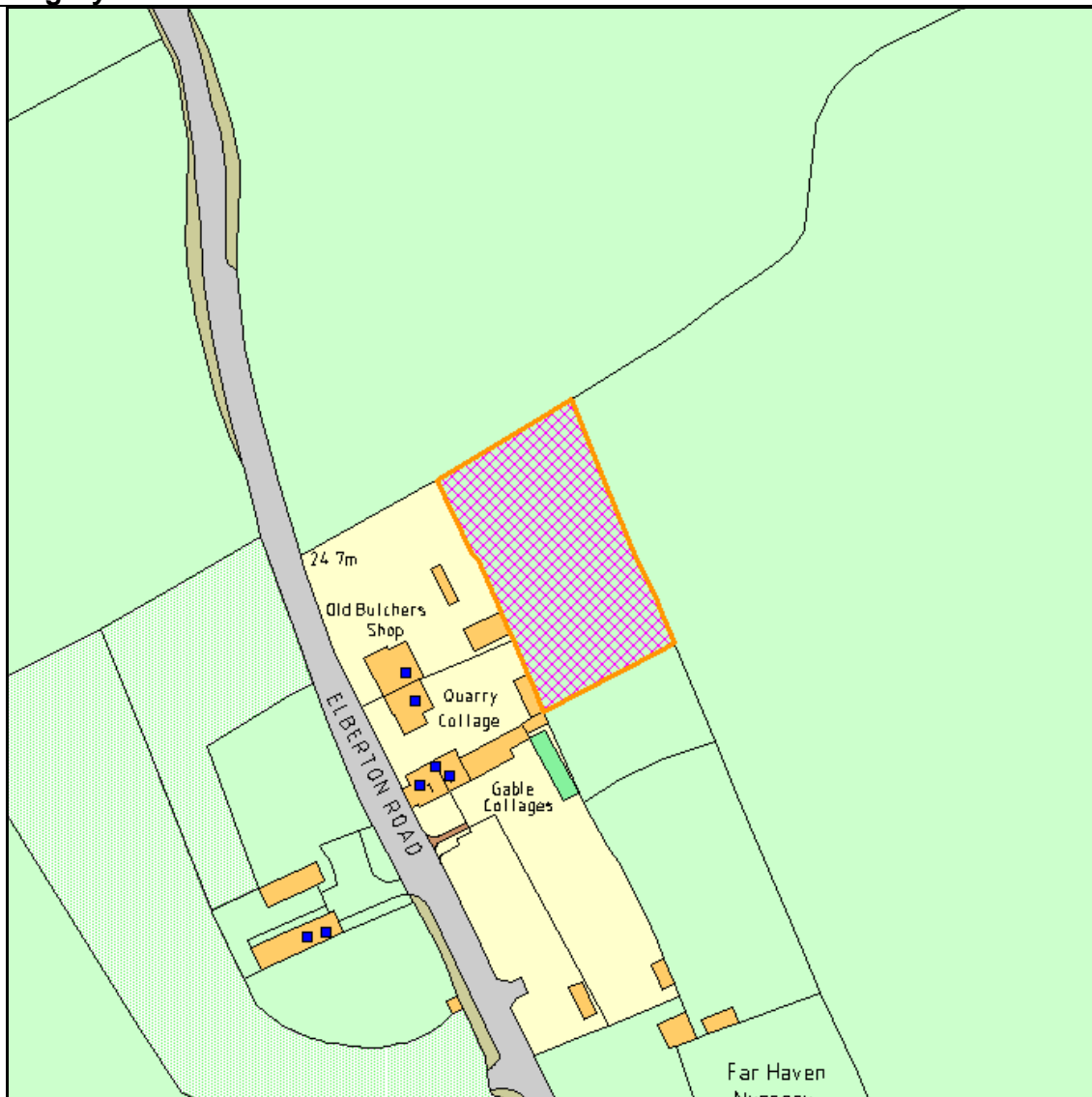
Reason

To protect the residential amenity of the neighbouring occupiers; to protect the character of the area and to accord with Policy CS1 of the South Gloucestershire

Local Plan: Core Strategy (Adopted) December 2013; and the National Planning Policy Framework.

CIRCULATED SCHEDULE NO. 13/16 – 01 APRIL 2016

App No.:	PT16/0791/CLE	Applicant:	Mr Ben Horton
Site:	Old Butchers Shop Elberton Road Olveston Bristol South Gloucestershire BS35 4AD	Date Reg:	24th February 2016
Proposal:	Application for a certificate of lawfulness for existing use of land as residential curtilage (Use Class C3).	Parish:	Aust Parish Council
Map Ref:	359947 188399	Ward:	Severn
Application Category:		Target Date:	18th April 2016



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100023410, 2008.

N.T.S.

PT16/0791/CLE

REASON FOR REPORTING TO CIRCULATED SCHEDULE

This application is for a certificate of lawfulness, and as such, under the current scheme of delegation, is to be determined under the Circulated Schedule procedure.

1. THE PROPOSAL

- 1.1 The application is for a certificate of lawfulness for the existing use of the land edged in red as residential (Use Class C3) from 1.6.03 for a continuous period of 10 years.
- 1.2 The application site consists of a plot of land situated to the north east of The Old Butcher' Shop, Olveston.

2. POLICY CONTEXT

2.1 National Guidance

- I. Town and Country Planning Act 1990
- II. Town and Country Planning (Development Management Procedure) Order 2015
- III. National Planning Practice Guidance 2014

3. RELEVANT PLANNING HISTORY

- 3.1 P91/2862 Erection of two storey side extension
Approved 22.4.92
- 3.2 P96/1493 Erection of attached double garage and
 entrance porch
Approved 7.5.96
- 3.3 PT03/1215/F Erection of first floor rear extension to form
 additional bedroom and en-suite facilities.
Refused 25.6.03
Reason:
The site is located within the Bristol/Bath Green Belt and the proposal does not fall within the limited categories of development normally considered appropriate within the Green Belt because the proposed extension would result in a disproportionate addition over and above the size of the original building. The applicant has not demonstrated that very special circumstances apply such that the normal presumption against development within the Green Belt should be overridden. The proposal is therefore contrary to the provisions of PPG2, and Policies GB1 and H4 of the South Gloucestershire Local Plan (Revised Deposit Draft).
- 3.4 PT04/0509/F Erection of first floor rear extension to form
 bedroom with en-suite facilities. (Resubmission of
 PT03/1215/F).
Approved at Committee 2.4.04

3.5 PRE15/0935

Alterations to the property to include:

1. Changes to the access onto the access onto the site from Elberton Road
2. Alterations to the garage to convert it into two floors of accommodation
3. Improvements to and conversion off a range of outbuildings to create work from home space
4. The lawful use as a garden of an area previously used as a meadow

Response given

26.8.15

4. SUMMARY OF EVIDENCE SUBMITTED IN SUPPORT OF APPLICATION

4.1 Statutory declaration from a Mr John Edward Ben Hortop of Old Butchers Shop, Elberton Road, Elberton, Bristol, BS35 4AD which states in summary:

- I have lived in the property known as Old Butchers Shop, Elberton Road, Elberton, Bristol, BS35 4AD as is registered at the Land Registry under Title No. AV211326 ('the Property') since 25.7.14
- I purchased the property from Mr Kenneth Barr McEwan and relied on the attached exhibit 'JEBH2' as to the usage of the land for the period 7.4.00 to 25.7.14
- From time we purchased the property we used on the part of it that is edged in green on the plan attached ('the Paddock') by us our family, friends, agents and servants as garden land continuously without objection or complaint from any person. Activities included :
 - 26.7.14 to January 2016
used on a continuous basis – climbing frame/slide and swings
continuously keep the grass closely mown
continuously practice golf (am a registered golf professional)
 - 26.8.14
Garden party to celebrate moving in
5.11.14 and 5.11.15
 - Fireworks and bonfire party with friends and family

4.2 Statutory declaration from a Mr Kenneth Barr McEwan of Old Butchers Shop, Elberton Road, Elberton Bristol BS35 4AD summarised as:

- I have lived at the property since the date of our purchase on 7.4.00 until the date hereof *[the document is dated 25.7.14]*
- From time we purchased the property until approximately 2003 we grazed sheep on part of it that is edged in green on the plan attached ('the Paddock') to help keep the grass manageable and thereafter until the date hereof it has been used by us, our family, friends, agents and servants as garden land, without objection or complaint from any person

5. SUMMARY OF CONTRARY EVIDENCE RECEIVED

5.1 No contrary evidence has been received from third parties, other than consultation responses from members of the public which are summarised in section 6 of this report.

5.2 The Council's own evidence consists of the following:

- Aerial photographs for the following years: 2005, 2006, 2008-2009, 2014-2015

6. CONSULTATION RESPONSES

6.1 Aust Parish Council

Councillors have no knowledge of the use of this paddock, and in particular whether it has been used as garden to the house in a way that would be a change of use from agricultural land. However, the council notes the statutory declarations filed in support of this application.

The uses set out by Mr Hortop in his declaration do not appear to be inconsistent with use as a paddock, and if they do, are occasional and probably within the 28 day exception rule.

As regards Mr McEwan's declaration, it appears from the letters from the objectors that the land has not altered from being paddock, and has not been used as garden.

Neither declaration claims that any cultivation or planting has happened and this council understands that it remains pasture grass, even if not used for grazing at present.

The council considers therefore that the planning authority should consider carefully and critically the evidence submitted by the applicant to see whether it supports the application.

Other Representations

6.2 Local Residents

Two letters of objection has been received from local residents:

- I object to the proposed change of the usage from paddock at Old Butchers Shop to gardens. As the occupant of the attached house Quarry Cottage, I value the pastoral aspect of the paddock from the rear of my house.
- For at least 100 years it has been used as agricultural land. The
- previous two owners have grazed a few sheep/donkeys/ goats during my occupancy of Quarry Cottage.
- My fear is that if it were changed to residential Curtilage, a future owner may find it easier to obtain permission to build on it, thus affecting my privacy
- The area in question is what I have known as the paddock behind my back garden.
- I would object to the land being changed as I feel that if it is kept as a paddock and not changed to residential curtilage then this would go some way to protecting my privacy by keeping the land as agricultural land and thus preventing any development
- I have always thought of this area as the field belonging to next door.

7. EVALUATION

- 7.1 The application is for a certificate of lawfulness for the existing use of the land as residential garden. The application therefore seeks to demonstrate that the land has been in residential use for a continuous period of at least 10 years prior to the date of the submission. It is purely an evidential test irrespective of planning merit. The only issues which are relevant to the determination of an application for a Certificate of Lawfulness are whether in this case the land has been in a consistent residential use for not less than ten years and whether or not the use is in contravention of any Enforcement Notice which is in force.
- 7.2 The guidance contained within the National Planning Practice Guidance 2014 states that if a local planning authority has no evidence itself, nor any 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. This is however with the provision that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
- 7.3 Assessment of Evidence
The applicant is seeking to prove that the land edged in red has been in residential use for a continuous period of not less than 10 years forming part of the residential curtilage of the Old Butcher's Shop. Two statutory declarations have been received in support of the proposal: one from the current owner, the applicant, and one from the previous owner. It is useful to assess the content of each.
- 7.4 The current owner makes three points, firstly the dates he purchased the house and land. Secondly he states that he *purchased the property from Mr Kenneth Barr McEwan and relied on the attached exhibit 'JEBH2' as the usage of the land for the period 7.4.00 to 25.7.14.*
- 7.5 Exhibit 'JEBH2' is a copy of the Land Registry document showing both the land to the side and rear the Old Butcher's Shop within a red line and the land in question under this application in a greenish line which is situated to the rear of the site behind the Old Butcher's Shop and the attached cottage, Quarry Cottage. The Land Registry only holds records of ownership and some idea of boundaries. As in this case, when land consists of a house/garden and a separate field/paddock the boundary between the two is shown on plans. The named document shows ownership of the land but is not an indicator of its use class. The ownership record in itself is insufficient to prove that a material change of use has occurred on the site. It is unfortunate if the owner for this reason has been under the impression that the field was part of the residential curtilage.
- 7.6 The third point is that since the time of purchase the land in question has been used by the applicant, family and friends *continuously and without objection or complaint from any person.* Activities have included it being *used daily on a continuous basis* with climbing frames/slides and swings as examples of its use

along with the grass being continuously mown and being used for golf practice. In addition specific social events have been cited such as a garden party and two bonfire parties.

- 7.7 On visiting the site a very small slide/swing were present in one corner of this quite large area of land. It was evident the grass had been managed. An area of walling that at one time separated the garden from this paddock/field area was piled behind the three small agricultural buildings. Three boundaries to the field remain strong and intact comprising trees and hedges of native species planting.
- 7.8 The change of use of the land must be firstly, identifiable and secondly, must have materially changed from its lawful designated use. The land presents itself as a field that may have had occasional recreational use. One signed declaration states that there has been continuous use by the current owner in the form of daily golf practice but even this can be queried. Golf can be weather dependent and during the winter months it questioned whether the field was used on a daily basis for the practicing of golf. No nets or other temporary golf paraphernalia were observed on the site to confirm this statement. Similarly, although the use of the play equipment has been given with the implication of its continuous use, the swing/slide is small and tucked up into one corner of the field at the furthest point away from the house. Officers have further been informed that it is unlikely the equipment is used on a daily basis as there are no children currently living at the property.
- 7.9 Aerial photographs taken in 2005 show a short gap in the boundary between the garden and this field, but are not clear enough to confirm or deny the presence of a gate in this gap. However, no domestic equipment can be seen in the field. It presents as a field, albeit one whereby the grass has been maintained to a certain degree. A similar picture is observed in the 2006 aerial photographs. The next photograph dated 2008/9 shows a large trampoline positioned close to the north east boundary of the field, close to the 'gap' in the wall and behind the rank of single storey agricultural buildings. The final photograph taken in 2014 shows the trampoline as having been removed. The wall in between the field and the garden has also been removed and as confirmed by the officer's site visit, a pile of stones, presumed to be the remains of the wall is located behind the group of single storey buildings.
- 7.10 The evidence as presented fails to show firstly that there has been a material change of use; the presence of a trampoline for some of the period under consideration here is insufficient to indicate a *material change of use*. Secondly, the limited number of social events on certain occasions does not indicate a significant and material change of use. The fact that the grass has been managed also does not indicate a material change of use – the field presents itself as being agricultural both in the photographs and on site. It is acknowledged that the photographs do not indicate the presence of the swing/slide but given this is a modest wooden structure positioned in the bottom southeast corner it is not surprising it cannot be identified in an aerial photograph. It may well be there, but again such a small element in such a large area of land cannot in any way demonstrate that there has been a material change of use of the land.

- 7.11 Moving onto the second statutory declaration provided by the previous occupant. It is stated that until 2003 sheep were grazed on the land to *keep the grass manageable*. This is quite vague but clearly shows that the field was in agricultural use at that time. From then on until those owners sold the property to the current occupants it is stated that the land was used by them and family and friends as garden land. No specific details have been given as to the type or extent of usage.
- 7.12 It is useful to include within this assessment the history of the lead-up to this application. It follows a pre-application enquiry which requested an opinion on a number of issues which included :
1. Changes to the access onto the access onto the site from Elberton Road
 2. Alterations to the garage to convert it into two floors of accommodation
 3. Improvements to and conversion off a range of outbuildings to create work from home space
 4. The lawful use as a garden of an area previously used as a meadow
- 7.13 For the sake of completeness in summary the response stated there was no objection in principle to the creation of an improved access. The removal of the front stone boundary was considered unfortunate but the reason given to improve the visibility splays was accepted. Having visited the site the existing access is quite wide and the road is a lane with limited traffic use and the necessity of such works is queried. Alterations to the garage as proposed were discouraged on the basis that being located in the Green Belt and given the previous planning history there has already been an approximate 70% increase over and above the volume of the original dwelling. An alternative suggestion utilising the existing footprint was put forward by Officers for future consideration. The re-use of buildings provided they are of permanent construction and substantial construction is considered appropriate development in the Green Belt but Officers queried the condition of the existing buildings.
- 7.14 Advice was also sought on the lawful use as a garden of an area *previously used as meadow* was also sought. Officers responded by stating that the onus would be on the applicant to prove their case. Subsequently, the case was referred to enforcement officers for investigation. Lengthy discussions ensued with the Enforcement Officer stating in a letter dated 6.10.15 (summarised):
- Statutory declaration by Mr Kenneth Barr McEwan dated 25th July 2014 does not provide sufficient evidence that the field has been used for ancillary residential purposes since 2003
 - It does not state exactly what the land has been used for since 2003; that it has been in continuous use during this time; the frequency of its use; whether any boundary features have been altered to facilitate its new use
 - Conclusion: the statutory declaration alone would not be sufficient to prove that the field has been used for ancillary residential use for in excess of 10 years

- Using the Council's aerial photographs since 2003 there appears to be only clear evidence of ancillary residential use in a photograph taken on 27th July 2008

7.15 The same statutory declaration from the previous owners has been used under this application. It has been shown that this declaration is insufficient to demonstrate that there has been a material change in use from agricultural to ancillary residential use and that this breach of planning control occurred without material breaks for a period in excess of 10 years. Similarly, the current owner has only lived in the property since 27.7.14 and even during this short period it is considered that the evidence falls short of definitively proving that the occasional use for social events, the mowing of the grass, the use for recreational purposes as stated is sufficient to show that there has been a material change in use of the field.

7.16 Overall and in conclusion to the above assessment it is considered that on the balance of probability the use of the land as residential has not been proven. This is because the evidence provided does not clearly or unambiguously demonstrate the use of the land as residential for a consistent period of at least ten years, and the Council's own evidence is contradictory making the applicant's version of the events less than probable. This application for a certificate of lawful development for an existing use is therefore refused on these grounds.

7.17 Other Matters

The letters of objection from the neighbours mention matters that cannot be taken into consideration under this type of application, namely, that it should remain a paddock so as not to impact on the privacy of these neighbours, affect their view or allow others to build on the land in future. No further comment can be made on these issues at this time.

8. CONCLUSION

8.1 Insufficient evidence has been submitted to precisely or unambiguously demonstrate that, on the balance of probability, the land has been in residential use for a consistent period of at least ten years.

7. RECOMMENDATION

7.1 That the Certificate of Lawfulness is **REFUSED**.

Contact Officer: Anne Joseph
Tel. No. 01454 863788

REASONS FOR REFUSAL

Insufficient evidence has been submitted to precisely, clearly or unambiguously demonstrate that, on the balance of probability, the land has been in residential use for a consistent period of at least ten years.