6 July 2023

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Dear Sir/Madam

APPLICATION UNDER SECTION 73 (S73) OF THE TOWN AND COUNTRY PLANNING ACT 1990 'APPLICATION TO VARY CONDITION 4 PREVIOUSLY ATTACHED' TO APPLICATION REF W/08/00931/FUL AT KEYSLEY FARM, MONKTON DEVERILL, WILTSHIRE'

ON BEHALF OF KEYSLEY STORE LIMITED

This Supporting Statement has been prepared by Savills Planning in support of an application under Section 73 (S73) of the Town and Country Planning Act 1990, by Keysley Store Limited to vary Condition 4 of permission number W/08/00931/FUL granted on 10 July 2008 restricting the use of Grain Stores 'A' and 'B'.

The description of development for that permission is:

'Expansion of commercial grain store.'

Condition 4 states:

'The B8 floorspace hereby permitted shall be used for agricultural storage purposes only, with any variation to the use to be approved in writing by the Local Planning authority in consultation with the Secretary of State for Transport.

REASON: To limit the impact of heavy goods vehicles on the A303.'

(See Appendix 1 for decision notice.)

This variation is sought to secure the economic viability of this rural business in the face of the factors such as the reduced demand and decline in the profitability of grain storage and processing in the face of rapidly rising energy prices, high inflation and fuel costs making the drying of grain and its transport increasingly costly. It would therefore help protect the future viability of the farm to diversify what can be stored in these units. Evidence is provided of the marketing exercise that has taken place which illustrates the lack of interest of the stores for agricultural storage.

This Statement provides a description of the Site and its context, the proposed alteration to the permission and aims to assist in the appreciation of the need for this change, as well as the consideration and weight that should be given to the relevant planning policies in the development plan.

The Statement should be read in conjunction with the submitted plans and other supporting documents, which comprise this application. Accordingly, the following information is enclosed:

- Supporting Statement (this document)

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

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- Site Location Plan (839/PL1)
- Transport Statement Stores A & B June 2023 (028.0082/ABTS/1)
- Appendix 1 – Planning Permission to W/08/00931/FUL
- Appendix 3 – CONFIDENTIAL - Marketing Enquiries – to follow via email.

Background

Keysley Limited owns and operates an arable farm at Keysley Farm in West Wiltshire. In addition to growing various crops, the farm supplements its income through the operation of a grain storage and processing business – Keysley Store Limited. Historically, the farm has operated some form of grain processing on the Site for over 30 years.

To support the growth and development of this business, the applicant has previously obtained several permissions for the erection, replacement and redevelopment of the grain stores present on the Site. The farm complex now contains 4 grain stores which are now referred to as units 'A', 'B', 'C' and 'D'. Please see plan 2 in **Appendix 4** for an illustration of their identification.

Factors such as current market conditions, reduced demand for agricultural storage space as well as increased energy costs has had a detrimental impact on the ability of the farm to generate a viable income from the stores. As a result, the applicant sought to let units 'C' and 'D' to other businesses requiring agricultural storage to accord with the planning condition, through a commercial agent.

The marketing process began in August 2022, marketing the unit for agricultural storage for more than 6 months. The marketing process has included displaying a noticeboard on the verge of the A303, publishing a brochure online as well as other forms of publicity. A copy of the marketing brochure can be seen in **Appendix 2** and a photo of the board displayed adjacent to the A303 can be seen below. This marketing exercise attracted no response from a potential agricultural occupant although 8 enquires were received from local businesses interested in using the space for storage purposes. Unfortunately, the agricultural use restriction was the reason that these enquiries could not be progressed in many cases. The details of these enquiries are shown in **Appendix 3**.

Figure 1: A Photo showing the Marketing Board Placed on the A303



Consequently, a S73 Application (PL/2023/01370) was submitted to Wiltshire Council pertaining to the original permission of units 'C' and 'D' (W/13/00804/FUL). This was to vary a condition to remove the restriction for the storage buildings to be used for only for grain/seed storage. This was approved on 18 May 2023. Following this approval, these units have now been let out to an occupier which demonstrates how this variation has been positive for the viability of Keysley Farm.

As a result of the factors outlined above and to maintain viability of the remaining units, the applicant is now seeking to vary the permission through which units 'A' and 'B' were granted permission (ref. W/08/00931/FUL). The permission contains Condition 4 detailed earlier which states:

'The B8 floorspace hereby permitted shall be used for agricultural storage purposes only, with any variation to the use to be approved in writing by the Local Planning authority in consultation with the Secretary of State for Transport.'

The varied condition requested would read:

'*The floorspace hereby permitted shall be used for B8 purposes only, with any variation to the use to be approved in writing by the LPA.'*

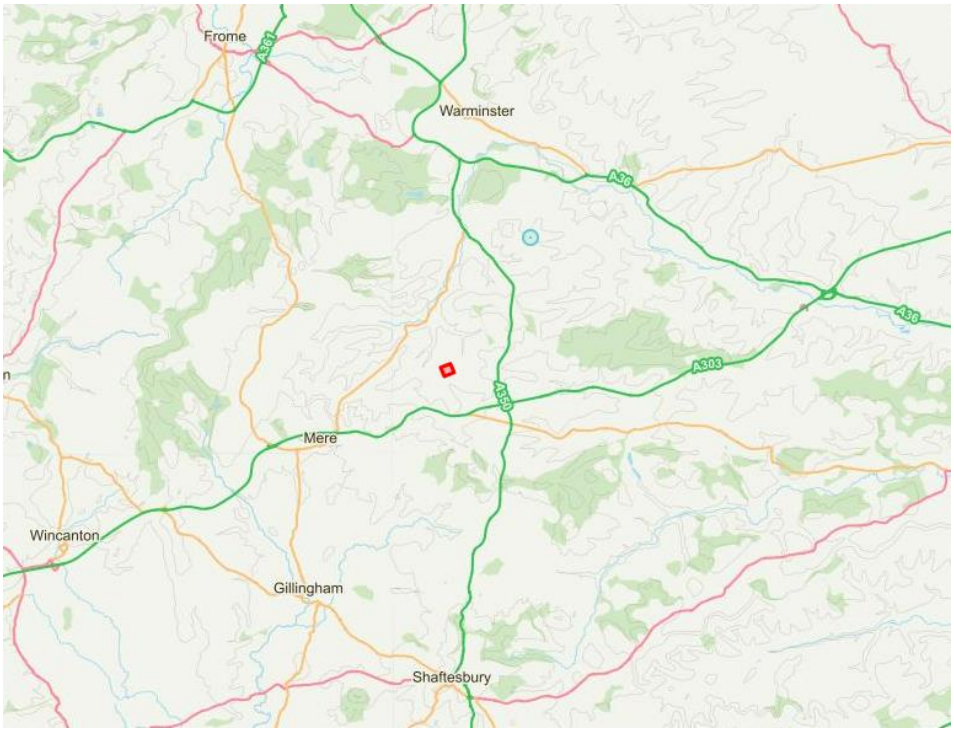
Site and Surroundings

Keysley Farm is situated on the Keysley Down, located near the village of Monkton Deverill, South of Warminster in Wiltshire. The Farm is located directly north of the A303, a major Trunk road, which runs from Basingstoke in the East to Honiton in Devon in the West. It also offers connections to other important national and local routes including the A34, A350, A36, M3 and M5. The nearest city to the Site is Salisbury, located c.25km East, with Bath located c.32km North West. The Farm's main access and egress is off the A303. This has been improved of recent times to allow two vehicles to pass near the junction. Good visibility along the A303 has also been provided either side of the access.

Keysley Farm comprises 307ha of arable land, featuring a range of largely modern buildings surrounding a square central farm yard. The application Site is part of this holding, primarily interested with the central yard of the farm, to the north which sits 4 grain stores. The Stores primarily of interest are units 'A' and 'B'. These stores are of a substantial construction, and each comprise approximately 2,600 sqm of floor space. These structures are constructed out of concrete panels and steel. Keysley Farmhouse, a grade II listed building is located to the South of the Stores.

The Site's general location is also indicated by a red square on the Site Context Plan (Figure 2) below and a layout of the Site is shown in Figure 3.

Figure 2: Site Context Plan



Source: Dorset Explorer

Site Planning History

Grain storage and processing is a long established use at Keysley Farm which has evolved and developed over the years. Plans 1 and 2 in **Appendix 4** clarify the change of labelling of buildings and the layout which has occurred. Plan 1 is the proposed floor plan approved annotated version of the approved location plan for approved as part of permission W/11/03272/FUL whilst Plan 2 is an indicative aerial image of the Site with the new labelling system annotated on.

There are several permissions relevant to the evolution of use and operation of the Site for grain storage and processing, as outlined below:

- Application 97/00345/EUD
  - Certificate of Lawfulness for *'Class B8 storage use'* at the farm. This was granted on the 23rd of April 1997. It is our understanding that this building was used for a variety of storage including the processing of grain, establishing the long standing presence of B8 storage on the Site.
- Application W/98/01810/FUL
  - Permission for an *'Agricultural storage building'*. This was approved on the 22nd of March 1999.
- Application W/01/00545/FUL
  - *'Extend existing agricultural buildings to provide ancillary plant and machinery building and re-siting grain drier'.* This was granted permission on the 5th of June 2001.
- **Application W/08/00931/FUL (this is the application of interest for this application)**
  - ***'Expansion of commercial grain store'* was granted full planning permission on 15th of July 2008. This permission relates to unit's 'A' and 'B' as shown on Plan 2 or as Stores**

‘B’ and ‘C’ on Plan 1, which were created by extending and redeveloping the existing units on the Site which had lawful permission for B8 use.

- Application W/11/03272/FUL
  - ‘Erection of a replacement agricultural workshop and storage building following the demolition of an existing outbuilding’. This application replaced Store X, a small agricultural storage building as shown on Plan 1 (**Appendix 4**), with an office and smaller storage building. These buildings remain in use and support the functioning of the grain storage business on the Site.
- Application W/13/00804/FUL
  - *‘The demolition of Store A and replacement with a new store with solar photovoltaic (PV) panels on two roof planes. Extensive landscaping and bund.’* This permission relates to units C and D on Plan 2.
- Application PL/2023/01370
  - S73 Application to Variation of condition application to remove the restriction for the storage buildings to be used for only for grain/seed storage. This was approved on 18 May 2023.

Proposed Changes

As outlined above, the applicant wishes to remove the agricultural storage restriction placed upon units A and B in order to utilise them for any purposes within Use Class B8 ‘Storage’.

In order to achieve this, a variation of condition 4 is requested in accordance with Section 73 of the Town and Country Planning Act 1990. This section grants LPA the power to vary or remove planning conditions after the grant of permission. National Planning Practice Guidance (NPPG) states that S73 applications may consider-

> *‘any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved’.*

The proposed change would comprise the following wording below. The words to be removed are shown with a strike-through and the words to be added are shown in red text.

‘The ~~B8~~ floorspace hereby permitted shall be used for ~~agricultural storage~~ B8 purposes only, with any variation to the use to be approved in writing by the Local Planning authority ~~in consultation with the Secretary of State for Transport~~.’

The principle of being able to make changes to the approved permission under this application type, so long as there was no fundamental change to the as approved development was reiterated in high court case [2023] EWHC 176.[1]

In relation to the determination of an application made under Section 73 paragraph 2 of The Town and Country Planning Act 1990 states that:

‘(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

> *(a)if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*
> *(b)if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.’*

[1] [2023] EWHC 176. Available here

Furthermore, the National Planning Practice Guidance (NPPG) states in respect of S73 applications, there is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

It should also be noted that a S73 application (PL/2023/01370) of the same nature as is now proposed was submitted to Wiltshire Council to amend a condition on the permission on the neighbouring stores different permission in order to remove the restriction of units C and D to agriculture grain/seed storage. This was approved by Wiltshire Council on 18 May 2023.

There would be no physical changes to the storage building.

Policy Context

Local

The Site is situated south of Monkton Deverill in west Wiltshire. The Site is located in the Wiltshire Council administrative area and was formerly in the West Wiltshire District Council Area. As such, planning application W/08/00931/FUL was considered under the West Wiltshire District Plan (adopted 2004).

As stated on the original planning permission, the reasoning for Condition 4 was to limit the impacts of heavy goods vehicles on the A303.

Since the grant of planning permission, Wiltshire Council has adopted the Wiltshire Core Strategy (WCS) in 2015, which is the most up to date relevant development plan document. The following policies of the WCS are therefore material to this S73 application:

- Core Policy 62: Development Impacts on the Transport Network

  'Developments should provide appropriate mitigating measures to offset any adverse impacts on the transport network at both the construction and operational stages. Proposals for new development should not be accessed directly from the national primary route network outside built-up areas, unless an over-riding need can be demonstrated.'

In addition to this policy, the table below sets out the West Wiltshire District Plan policies which are relevant to the variation of condition 4, the original application as well as the WCS policy which has replaced them and the impact of the proposed change.

West Wiltshire District Plan 2004 Policy	Replacement Wiltshire Core Strategy Policy	Impact of proposed changes
C1 Countryside Protection	CP50 (biodiversity and geodiversity)	Not relevant to the current application as there will be no physical change to the as built Site.
C1 Countryside Protection	CP51 (landscape)	Not relevant to the current application as there will be no physical change to the as built Site.
C1 Countryside Protection	CP52 (green infrastructure)	Not relevant to the current application as there will be no physical change to the as built Site.
C1 Countryside Protection	CP2 (Delivery Strategy)	Not relevant to the current application.

C1 Countryside Protection	CP34 (additional employment land)	The change of use would offer two new premises in the local are for employment.
C1 Countryside Protection	CP48 (Supporting rural life)	The proposed development will prevent a rural employment Site from falling into dis use and could offer new employment and rural economic growth opportunities.
C2 Areas of Outstanding Natural Beauty	N/A- deemed to repeat national policy within the NPPF[2]	The proposed development will have no visual impact on the AONB as no built development is proposed.
C34 Renewable Energy	CP42 (Standalone Renewable Energy Installations).	Not relevant to current proposal as no changes to rooftop PV panels proposed.
C38 Nuisance	CP57 (Ensuring high quality design and place shaping)	The proposed development should be considered acceptable and in accordance with Policy CP57 as it proposes no new built development and will have no significant impact local area through trip generation (see transport assessment).
R11 Footpaths and Rights of Way	-	Not relevant to the current application as there will be no physical change to the as built Site.
E7 Farm Diversification	CP48 (Supporting Rural Life)	The proposed development will prevent a rural employment Site from falling into disuse and could offer new employment and rural economic growth opportunities.

National

The most recent National Planning Policy Framework (NPPF) published in 2021 is a significant material consideration in the determination of planning applications. The guidance relevant to this S73 application is explored below.

Chapter 9 of the NPPF provides guidance on the consideration of development proposals in relation to promoting a sustainable transport system. Paragraph 110 requires *'safe and suitable access to be achieved for all users'* as well as *'any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

Paragraph 111 also states that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'* Guidance in paragraphs 112 and 113 also requires developments to, *inter alia*:

- *Give priority to pedestrians and cyclists;*
- *Address needs of those with limited mobility;*
- *Create safe and secure places;*
- *Allow for efficient delivery of good vehicles and emergency service access; and*
- *Be accompanied by a transport statement/assessment*

[2] Wiltshire Core Strategy 2015- Appendix D. Available Here

Planning Considerations

Principle of Development

The principle of the proposed development should be considered acceptable, as it remains broadly the same as the approved scheme. The approved scheme sought to provide additional storage space to support the viability of the farming operations at Keysley Farm. The proposed development therefore can be considered as part of a farm diversification scheme. Indeed, the original application was considered in accordance with Policy E7 Farm diversification of the WWDP.

This policy set out the following criteria:

> *A The primary use of the holding remains agricultural, and the new use does not detract from the agricultural operation;*
> *B They do not create significant highway, flood risk or environmental problems;*
> *C The scale, design, siting, materials of any buildings, their use and type of operation maintain or enhance, and are compatible with, the rural character of the area and do not harm acknowledge nature conservation interests;*
> *D The proposals are compatible with neighbouring land uses and are not detrimental to residential amenities'*

The proposed change is in keeping with these criteria, seeking to support the viability of the farm and prevent the downturn in demand for grain storage and processing from leaving two substantial units vacant and or under-used.

Furthermore, the profitability of grain storage and processing has taken a serious decline with rapidly rising energy prices, high inflation and fuel costs making the drying of grain and its transport increasingly costly. It would therefore help protect the future viability of the farm to diversify what can be stored in these units. This also has the added benefit of boosting the local rural economy by offering relatively inexpensive storage space to local businesses to support their growth an expansion. This in-turn could help boost local job growth and availability and help ensure the vitality of the local economy.

The economic benefits for the farm and wider community are therefore clear and come at little to no cost to the wider transport network. Indeed, there would be no significant change in traffic generation (see below section and supporting Transport Assessment (June 2023)) and no visual harm or adverse effects to nature conservation due to the lack of changes to the physical built footprint of the development and minor change in use. The proposed changes therefore remain in keeping with Policy E7 and will help boost the local economy.

Further, by remaining in keeping with the fundamentals of the permission, indeed the Use Class is proposed to remain as B8 'Distribution as storage' with the removal of an agricultural storage restriction the only change, the application remains within the remit of what might be approved under a S73 application.

On 18 May 2023 a S73 application (PL/2023/01370) of the same nature relating to the neighbouring units was approved by Wiltshire Council for the below reason, thereby further reinforcing the principle of development for this application.

'In accordance with paragraph 38 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.'

In summary, this application remains fundamentally the same as the original, with the wider use of storage space to support the economic vitality of the farming operations driving the need for the operation with the use class of the building remaining the same, albeit with the agricultural storage restriction removed. The

application, therefore, remains in accordance with planning policy and can be determined under S73 of the Town and Country Planning Act 1990.

Transport

As there is a lack of physical changes proposed to the Site, the potential primary change, as a result of the development, could be the type and frequency of trip movements generated. During the course of the original application, the rationale given for the imposition of the restriction of the use of the stores to B8 'agricultural storage purposes only' rather than unrestricted B8 'Storage and Distribution' is evident through the Condition 4 reasoning which states '*to limit the impact of heavy goods vehicles on the A303*.'

Paul Basham Associates undertook a Transport Assessment (June 2023) to ascertain whether there would be any impacts of removing the restriction of storage to agricultural stores.

Their conclusions found the following:

> *'5.2 The site is well located in relation to the local and strategic highway network. Parking has considered against WC's standards and ample space is provided to meet the standards set out in the Wiltshire Local Transport Plan Car Parking Strategy 2011- 2026.*
>
> *5.3 Access to the site would remain unchanged from that already in operation, with the primary access onto the A303. This access does not have any impediments to visibility and is already of sufficient dimensions and construction to accommodate the movements of large HGVs.*
>
> *5.4 The proposed change of use to the site is anticipated to generate an additional 3 vehicle trips in the AM peak period, no new vehicle trips in the PM peak period and 26 vehicle trips across a 12-hour period. The change of use of the development would therefore have a negligible impact on the operation of the local network.*
>
> *5.5 This Transport Statement has demonstrated that the proposed development would have a negligible impact on the operation and safety of the local road network, and is directly comparable to the adjacent Stores C & D which were subject to a successful planning application for the same non-agricultural use ties earlier this year. We would therefore encourage WC to look favourably on this application in relation to highways.'*

It was concluded that that proposal should therefore be considered acceptable, as there would be a negligible impact on the local highway network. Additionally, it was concluded that when the cumulative impact of all four stores (A-D) being unrestricted B8 use is considered, this remains an acceptable and very modest impact in traffic terms.

Other Considerations

In addition to the above, the lack of significant additional traffic generated as a result of the proposal combined with lack of physical development proposed, mean the likelihood of any biodiversity impact, amenity loss or harm to the local character of the area is highly unlikely. The proposal should therefore be considered to be in accordance with local planning policy.

Conclusion

To conclude, this S73 application proposes the variation of Condition 4 to remove the restriction for the use of stores A and B solely for agricultural storage under Class B8. The proposals do not include any physical alterations to the as built development.

Keysley Limited recognise farming and agriculture in the UK is changing. A rational response to changing economic circumstances is for the farm to continue to diversify its business activities to secure its future and

enhance its income from sources other than conventional farming production. Diversification offers considerable scope for improving the economic viability of Keysley Farm. The rationale of this application is therefore to secure the economic viability of this rural business in the face of a lack of interest of the stores for agricultural storage. This has been demonstrated by the considerable marketing exercise undertaken for units C and D which highlighted the lack of interest of the stores by potential occupiers as a result of the restriction for agricultural storage.

As outlined within this Statement, the proposal would help to protect the future viability of Keysley Farm to diversify what can be stored in these units. This also has the added benefit of boosting the local rural economy by offering relatively inexpensive storage space to local businesses to support their growth an expansion, thereby helping to secure the future of this long-standing rural business.

In the absence of harm, notably in relation to traffic, as concluded by the Transport Assessment, we request that this application is approved without undue delay.

I trust that you have all the necessary information to determine this application, although if you need anything further, please feel free to contact myself or my colleague Stephan Vargas-Pritchard.

Yours faithfully

Cliff Lane
Savills Planning

Appendix 1: Decision Notice

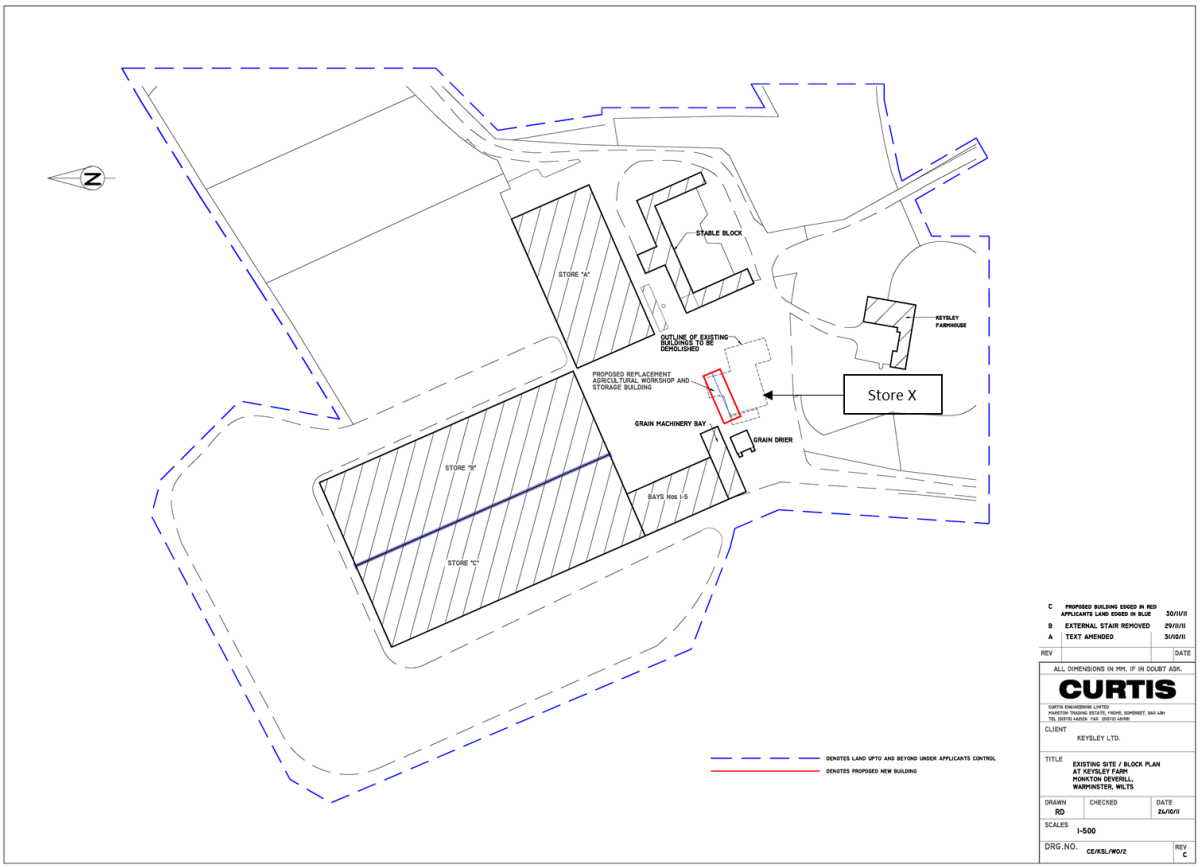
Appendix 2: Marketing Board



Appendix 3: CONFIDENTIAL – Marketing Enquiries Table

Appendix 4: Annotated Indicative Plans

Plan 1: The Grain Stores. Units titled as ‘C’ (left) and ‘B’ (right) within this plan are now known as ‘A’ and ‘B’ respectively



Plan 2: Indicative Aerial Image of the Site with the new labelling system

