CASE OFFICER'S REPORT

Application Reference:	PL/2023/07666
Application Type:	Householder planning permission
Site Inspection:	
Consultation ends:	06 November 2023
Case officer:	Samantha Stockley

Site Address:	Town Forge, High Street, Malmesbury, SN16 9AT
Proposal:	Construction of a new detached garage in the current parking area and the installation of No. 15 Photovoltaic solar panels
Recommendation:	Approve with Conditions

SITE DESCRIPTION

The site comprises a residential property located within the settlement boundary of Malmesbury. It is within the town's conservation area and sits close to numerous grade II listed buildings, as well as the grade II* listed 92 High Street. The site occupies a prominent position on the southern side of Malmesbury when entering the town across the River Avon.

The site itself constitutes a two-storey detached dwelling accessed via an established driveway onto the High Street between 72 and 74 High Street, which rises upwards towards the east. This places the property on elevated land relative to neighbouring properties to the south. External materials and finishes for the existing dwelling comprise brick exterior walls, timber-framed fenestration and plain rooftiles.

Boundary treatments include hedges/fences to neighbouring gardens to the east; a retaining wall to the north, which rises to support the gardens of those properties further up High Street; and a retaining wall to the south. The retaining wall to the south forms the rear boundary of those properties fronting High Street and is circa 4.5m in height with a circa 1.8m high fence on top of it. A pathway leads down the side of the dwelling to a rear garden area. The driveway leads to a large are of open hard standing to the front of the property.

Two shipping containers that appear to be unlawful currently occupy part of the hardstanding to the west of the dwelling.

Regarding the site surroundings, the site is largely encased by development to the west, south and east. As referenced to above, it is pertinent to note that properties to the south sit at a lower position in relation to the site. As a result of this, the site occupies a prominent position on the southern side of Malmesbury when entering the town across the River Avon.

Regarding physical constraints, it is noted that the site is surrounded by Listed Heritage Assets. Those assets adjacent to the site boundary include:
• Former town wall attached to east corner of number 72 (north, Grade II);
• 70 and 72, High Street (west, Grade II);
• 74, High Street (west, Grade II);

• 76 and 78, High Street (south, Grade II);
• 80 and 82, High Street (south, Grade II);
• 84, High Street (south, Grade II);
• 92, High Street (south, Grade II*);
• 94, High Street (south, Grade II); and
• 96, 98 and 100, High Street (south, Grade II).

It is noted that the site itself is not listed, however in terms of policy constraints, it is noted that the site is located within the Malmesbury Conservation Area.

RELEVANT PLANNING HISTORY

PL/2022/01243 - Erection of detached garage and domestic workshop (resubmission)- Refuse 15/08/2022 for the following reason:

Refusal reason 1: Through siting the proposal atop on existing retaining wall in close proximity to neighbouring properties in combination with the scale, bulk and mass of the proposed structure, the proposals are considered to result in harm to the residential amenities of the occupiers of neighbouring dwellings as a result of an unacceptable overbearing and loss of light. The application proposals are not supported by sufficiently detailed and robust information to demonstrate that the impact to daylighting would be acceptable. As a result, the proposal would conflict with the provisions of Section (vii) of Core Policy 57 of the Wiltshire Core Strategy (2015) and Paragraph 130(f) of the National Planning Policy Framework (2021).

21/00372/FUL - Erection of detached garage, with domestic workshop space – Refuse 03/12/2021 for the following reasons:

Refusal reason 1: Through siting the proposal atop an existing retaining wall, the proposal would be of detriment to the amenities of the occupiers of neighbouring dwellings as a result of an unacceptable overbearing impact and loss of
daylight. As a result, the proposal would conflict with the provisions of Section vii of Core Policy 57 of the Wiltshire Core Strategy (2015) and Paragraph 130 (f) of the National Planning Policy Framework (2021).

Refusal reason 2: Inadequate Information is submitted to assess the impact of development on the structural integrity of the retaining wall at the site and adjacent to adjoining properties and demonstrate that the proposal would not be of
detriment to land stability and the structural integrity of the retaining wall on the southern site boundary. The proposals thereby present risk to the safety of neighbouring residents, potential harm to their residential amenity and the character appearance and visual amenity of the locality. The proposals thereby conflict with Sections i & vii of Core Policy 57 of the Wiltshire Core Strategy (2015); and paragraphs 92 & 130(f) of the National Planning Policy Framework (2021)

17/07479/FUL - Conversion of existing Town Forge into 3 bedroom domestic dwelling, with addition of 3 glazed gables to roof, small porch to east, and garden room to west elevation. Approved with conditions 18th October 2017. It is noted that this permission has been implemented

N/13/01174/FUL - Conversion of Forge to Dwelling, Addition of Glazed Gables, Porch & Garden Room. Approved
with conditions 9th February 2014

PROPOSAL

The proposal seeks permission for the erection of a garage/workshop on the southern boundary of the site.

The building be an L shaped garage formed of two access points and would feature a gabled roof with a mono pitched enclosed lean to. The combined building would be circa 11m in length, comprising of two elements. The first being 5.2m x 5 m and the second circa 6 m in length with a width of 3.9m. The proposal would have a height to the ridgeline of 4.3 meters with the height to the lean-to style elevation eave of 2 m. The southwest elevation would feature a garage door; the northwest elevation would feature a door and windows and two large swing doors serving the garage; It is noted that there would be no windows on the southeast elevation.

Exterior materials would constitute oak timber frame with unstained ash feather-board infill panels and slate tiles and solar panels to the south pitch.

During the course of the application, an amended site location plan was submitted to show the correct the boundary for this application.

POLICIES

Though the development plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below:

Malmesbury Neighbourhood Plan (2015)
Policy 13: Preserve and/or Enhance the Town
Volume II Design Guide

Wiltshire Core Strategy (2015)
Core Policy 1: Settlement Strategy
Core Policy 2: Delivery Strategy
Core Policy 13: Spatial Strategy for the Malmesbury Community Area
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the Conservation of the Historic Environment
Core Policy 64: Demand Management

National Planning Policy Framework (September 2023)
Paragraphs 2, 8, 11, 12, 111, 130, 134, 189, 192, 195, 202 and 206
Section 2 Achieving Sustainable Development
Section 9 Promoting Sustainable Transport
Section 12 Achieving Well Designed Places
Section 16 Conserving and Enhancing the Historic Environment

Regard is also had to the provisions of The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) and the National Planning Practice Guidance

Malmesbury Conservation Area Management Plan Adopted 22 February 2010 as supplementary planning guidance
Malmesbury Conservation Area Appraisal April 2007

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:
"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Section 70(2) of the Town and Country Planning Act 1990 provides that:
In dealing with an application for planning permission, the authority shall have regard to:
• the provisions of the development plan, so far as material to the application,
• a post-examination draft neighbourhood development plan, so far as material to the application,
• any local finance considerations, so far as material to the application, and
• any other material considerations.

At the current time the statutory development plan in respect of this application consists of the Wiltshire Core Strategy (WCS) (Adopted January 2015); and the 'saved' policies of the North Wiltshire Local Plan (NWLP) 2011 (Adopted June 2006).

PLANNING ISSUES

Principle of development
Impact on the character and appearance of the area
Neighbouring amenity
Land Stability
Highways

CONSULTATIONS

Malmesbury Town Council: No objection to the revised proposal.

Conservation Officer: Advised no concerns raised. The property Town Forge has the appearance of a commercial building now a dwelling built in the mid-20th century, brick built slate gabled roof with rectangular plan orientated east /west and two storeys. The building is visible from glimpses

on High Street to its access lane between No. 72 and 74 High Street. The application relates to the hardstanding yard area to the west end of the building. The site is a terrace with a retaining wall to north and south and access to the High Street to the west. To the north the retaining wall includes a section of the former town wall about 30 m rebuilt in the 19th century and sits on medieval footings. This forms the east end of the boundary of the rear garden of No. 72 High Street. The south boundary of the site is a retaining wall to the rear gardens of No's 84 and 92 High Street that sit down at the base of the retaining wall of between 4.2 m at the western end and 3.3 m to the east end. The wall is battered at a shallow angle and has a structural concrete lintel at roughly half height where it changes from retaining the bedrock to retaining the upper fill material. The wall is in good condition.

Heritage assets:
No's 72, 74 and 84 High Street grade II
No. 92 High Street Grade II *
Town Wall section attached to east corner of No 72
Malmesbury Conservation Area

The application relates to a new garage building in timber frame and tile clad roof located to the yard to the front of the Town Forge Building adjoining the south boundary with dimension about 3.5 m by 10 m and to about 4 m to the ridge roof. The siting of the new garage a simple and functional building and in a terrace between steep retaining wall means that it will have a neutral impact on the setting of the neighbouring listed buildings and the listed Town Wall. It will similarly have no harmful impact on the character and appearance of the Conservation Area. Additionally In the Conservation Officer's view, the solar panel will make little difference in this location.

Archaeology: No objection, and have no further comment on the amended site plan.

Public Protection: Advice No significant concerns or issues here, but would suggest a condition restricting any construction activity to our standard hours (8am to 6pm Monday to Friday, 8am to 1pm Saturdays and no working permitted on Sundays or Bank Holidays) in order to protect local amenity.

REPRESENTATIONS

4 no. of public representations were received from neighbours or other third parties regarding the application in support of the application.

Principle of development

The application site is a detached dwelling located within the settlement boundary of Malmesbury, as established within WCS Core Policy 1 as a market town. Within the limits of market towns, Core Policy 2 states that there will be a presumption in favour of sustainable development. Considering that the application is within the built-up area in a residential neighbourhood, the extension of a residential dwelling is deemed to be acceptable in principle in this location.

Impact on the Character and Appearance of the Existing Dwelling & the Locality

Section iii of Core Policy 57 of the WCS states new development must respond positively to existing townscape in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines. The need for good design is reinforced by Section 12 of the NPPF. Additionally, Policy 13 of the MNP states that The Neighbourhood Plan Design Guide as set out in Volume II of this Plan should be taken into consideration in all developments to ensure a high quality of design that respects the specific character of Malmesbury Town and the surrounding area.

The proposed garage building would be subservient in terms of its scale and massing to the host dwelling. The design of the roof would provide a visual link to the host dwelling, in addition to the use of unstained cladding providing connections to the timber utilised in the framing of the host dwelling. On this basis, it is considered that the proposal would have an acceptable impact upon the character and appearance of the host dwelling.

In terms of the impact upon the character and appearance of the area, it is noted that the proposal unlike the previous proposals of 21/00372/FUL and PL/2022/01243 and would be largely secluded from public view due to its siting, design and scale, with the terraced properties located to the south of the site providing little opportunity for views into the site. Whilst glimpses of the roof line may be possible when entering Malmesbury from the south on the B4042, it is considered that the roofline would largely blend into the existing townscape.

The proposal unlike the previous refused applications includes the installation of photovoltaic panels to the southern elevation of the building numbering 15 1.8 x 1.2 m panels. While it is determined that the building roofline would blend in with the existing townscape the introduction of solar panels would draw attention to what could be deemed an inconspicuous roof making the building prominent in the skyline. However, as the site is surrounded by buildings, the pitch of the roof, it is considered that the proposal would not result in any significant visual harm to the skyline.

Accordingly, the impact upon the character and appearance of the locality is deemed to be acceptable.

Impact on the Historic Environment

The site is within the Malmesbury Conservation Area and adjoined by a significant number of listed heritage assets. The Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers for the designation, protection and enhancement of conservation areas and the preservation of listed buildings. The Act requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 16 and 66) as well as giving special attention to preserving or enhancing the character or appearance of the conservation area (s.72).

Paragraph 195 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by the proposal (including any development affecting the setting of a heritage asset). Paragraphs 201 and 202 require local

authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset.

Core Policy 57 requires, amongst other things, that new development must be sympathetic to and conserve historic buildings. Core Policy 58 requires that development should protect, conserve and where possible enhance the historic environment.

The Malmesbury Conservation Area Appraisal (2007) states that the character of the town is 'derived primarily from its unique and dramatic location'. It states that the medieval walls, topography and rivers have created a compact urban form, and in turn an 'intactness' which is identified as an important component of the town. The significance of the conservation area is therefore likely to arise from its aesthetic (fortuitous) value and historical (illustrative) value and given its designation it is significant in these terms.

The Council Conservation Officer has been consulted. The application relates to a new garage building in timber frame and tile clad roof located to the yard to the front of the Town Forge Building adjoining the south boundary. The siting of the new garage, a simple and functional building and in a terrace between steep retaining wall means that it would have a neutral impact on the setting of the neighbouring listed buildings and the listed Town Wall. It would similarly have no harmful impact on the character and appearance of the Conservation Area. Additionally, the solar panels would make little difference in this location. Accordingly, the impact upon heritage assets of the locality is deemed to be acceptable.

Neighbouring amenity

Section vii of Core Policy 57 of the WCS refers to the need to protect the amenities of existing occupants and to make sure that appropriate levels of amenity are achievable within the development itself. Additionally, Paragraph 130(f) of the NPPF states that planning decisions should ensure that developments create places "...which promote health and well-being, with a high standard of amenity for existing and future users...". In this respect, it is noted that the proposal would be located towards the fenced of the existing retaining wall which serves as the rear boundary to the dwellings 76 – 92 High Street. The elevations submitted with the application indicate this retaining wall as being circa 4.3 m in height and the fence atop adding an additional circa 2m of height, creating an existing height of 6m. As noted within the Proposal section, the eaves height would be 1.8m to the southern elevation adjacent to the fence and the full ridge height 4.3m.

The rear elevations of the dwellings fronting the High Street are as little as circa 5m from the retaining wall (84 High Street) where the proposal would be positioned. The proposal would effectively result in the height of the retaining wall increasing to 6.3m at eaves and 8.3m at ridge however this would be set back from the fence line in contrast to the previous submitted applications.

Previous applications for erection of detached garage, with domestic workshop space application numbers 21/00372/FUL and PL/2022/0124 were of similar design, scale and mass as submitted and both refused due to the scale of the proposal roof height and position and the proposals would have been of detriment to the amenities of the occupiers of neighbouring dwellings because of an unacceptable overbearing impact and presumed loss of daylight.

In contrast the new proposed building ridge line would be situated 3.4m from the fence line with the pitch falling to the furthest eaves at 1.8m, which would be below the existing fence line and 2.6m eaves which would be located 1.7m from the fence line. The previous application sought the siting of the building to be abutted against the fence line.

The existing containers do not benefit from planning permission and as such their impact on the occupiers of neighbouring dwellings have not previously been assessed. It was determined that in previous applications submitted that the containers cause harm to the amenities of the occupiers of those dwellings to the south of the site by effectively increasing the height of the existing retaining wall and boundary fence, with the retaining wall and boundary fence atop being an undesirable arrangement in amenity terms as a starting point. This has led to an increased overbearing impact.

While the proposed building would be a more permanent structure and there is no perception that it will be removed at a future date, the eaves of the proposal would be circa 1.8 – 2.6m in height, and the roof would rise to circa 4.3m, with part of the building being set further back from the fence line than that of the previous refused proposals. The ridge line stepped away from the fence line by 3.4m reducing the visibility to the skyline.

It is acknowledged that there are no complaints on record from neighbouring parties regarding the containers to date, and three representations from neighbours have been submitted in support of the proposed development.

Overall, its is deemed that the current proposal would not lead to any further unacceptable level of overbearing impact to the amenities The proposal is not perceived to be detrimental to those occupiers' enjoyment of their modest private amenity spaces.

Accordingly, the proposal its determined to not be in conflict with the provisions of Section vii of Core Policy 57 of the WCS and Paragraph 130 (f) of the NPPF.

Land Stability

The NPPG is clear that the planning system has an important role in considering land stability by, but not limited to:

• Minimising the risk and effects of land stability on property, infrastructure and the public; and
• Helping ensure that development does not occur in unstable locations or without appropriate precautions.

The NPPG states that when dealing with land that may be unstable, the planning system works alongside a number of other regimes, including, but not limited to, Building Regulations, which seek to ensure that any development is structurally sound.

The site is located on a steep hill with a number of historic features including the Former Town Wall which retains land above the site, and the retaining wall to the south site boundary, which retains the site itself atop the gardens and rear elevations of those properties fronting the High Street.

The proposal is now supported by a structural report which provides an assessment of the retaining wall's capability for supporting the proposed works. The findings of the report are that the wall is in 'excellent' condition and 'performing well'. It is concluded that the proposal presents no threat to the integrity of the retaining wall and there are no structural or geotechnical reasons why the proposal should not be allowed.

Wiltshire Council Building Control reviewed the findings of the report when consulted for previously refused application PL/2022/0124 and deemed it reasonable to accept the judgement of the structural report's author on the matter.

Accordingly, on the basis of the advice provided by the Building Control Officer under the previous submitted application, the proposal is determined to be acceptable in this regard.

Highway Impacts

Paragraph 111 of the NPPF 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.

The impact to the highways network deemed to be acceptable, subject to an appropriate condition restricting the use of the garage/workshop to prevent its conversion to habitable accommodation in the interests of highway safety. Should the building be converted to habitable accommodation, this may result in the increase of the site's parking requirements, in addition to the potential loss of the proposed garage space, thereby increasing the demand on local on street parking to the potential detriment of highway safety. The condition is deemed reasonably necessary to allow for the assessment of any future application to convert the building to habitable accommodation and address any highways concerns at this stage.

The above arrangement accords with previous highways officers advice received on refused application 21/00372/FUL and PL/2022/0124. The highways arrangement has not changed since the previous application and as such the advice remains applicable. Accordingly, the proposal is considered to have an acceptable impact on highway safety subject to an appropriate condition restricting the building's conversion to habitable accommodation and related to surface water drainage.

CONCLUSION

It is concluded that the proposed development is acceptable in principle in accordance with WCS Core Policies 1, 2 and 13. The proposal is deemed to have an acceptable impact upon the character and appearance of the site and surrounding area in accordance with the provisions of WCS Policy 57 (iii, vi), MNP Policy 13 (including The Neighbourhood Design Guide) and NPPF Paragraphs 130 (a, b, c) and 134. The proposal is not deemed to cause harm to the setting and significance of the surrounding listed heritage assets and the wider Malmesbury Conservation Area and is in accordance with WCS Policies 57 (iv) and 58 and NPPF Paragraphs 189, 192, 195, 202 and 206.

Conditions: (6)

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 provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Assessment of Boundary retaining Wall- POY_0214_jw_001.1 received 8th September 2023
Location Plan - received 30th October 2023
Proposed Site Plan - POY_06 - received 14th December 2023
Revised proposed Elevations and Floor Plan - POY_04C - received 26th October 2023
Revised Solar Panel Elevation - POY_05A - received 26th October 2023

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

3 The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as specified on the approved plans and applications form.

REASON: In the interests of visual amenity and the character and appearance of the area.

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision, in the interests of highway safety.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

6 Construction activity in respect of the approved application will re restricted to our standard hours (8am to 6pm Monday to Friday, 8am to 1pm Saturdays and no working permitted on Sundays or Bank Holidays) REASON: In the interests of amenity and to protect the living conditions of nearby residents.

Informatives: (2)

7 Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

8 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.