CASE OFFICER'S REPORT

Application Reference: PL/2023/07980
Site Address: The Gig House, Oxford Street, Malmesbury, SN16 9AX
Date of Site Visit: 4th January 2024
Publicity Expired: 22nd December 2023
Target Date: 11th January 2024

SITE DESCRIPTION:
The application site is a commercial building currently used as an office building located within a primarily residential area inside the settlement boundary of the Market town of Malmesbury, as defined by Wiltshire Core Strategy (WCS) core policies 1 (Settlement Strategy), 2 (Delivery Strategy) and 13 (Spatial Strategy for the Malmesbury Community Area). The site is also located within the designated Malmesbury Conservation Area and whilst the application site itself is not a Listed Building the vast majority of the surrounding properties are themselves Listed. The Gig House is, however, considered to be a Non-Designated Heritage Asset (NDHA).



PROPOSAL:
This is a full planning application seeking permission to convert the building from commercial office space, use class E of the use classes order 1987 (as amended), into three residential apartments. The externals of the building are detailed to remain as they are, other than maintenance resolutions with all other works being internal. Originally the supplied plans were found to be incorrect. Revised plans were supplied during the application process that corrected these errors but made no material changes to the proposals, however, for clarity a further period of public consultation was undertaken.

RELEVANT PLANNING HISTORY:
None considered to be relevant to this application

POLICIES:
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
National Design Guidance (Planning practice guidance for beautiful, enduring and successful places) 2019

Salisbury District Local Plan policies (Saved by Wiltshire Core Strategy):
S66 (Special Considerations Affecting Planning Functions)
S72 (General Duties of Planning Authorities)

The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021
Class MA in Part 3 of Schedule 2

Wiltshire Core Strategy:
CP1 (Settlement Strategy)
CP2 (Delivery Strategy)
CP13 (Spatial Strategy for the Malmesbury Community Area)
CP35 (Existing Employment Land)
CP57 (Ensuring High Quality Design & Space Shaping)
CP58 (Ensuring the Conservation of the Historic Environment)
CP60 (Sustainable Transport)
CP62 (Development Impacts on the Transport Network)
CP64 (Demand Management)

Supplementary Planning Documents:
Malmesbury Conservation Area Management Plan (2010)
Malmesbury Conservation Area Appraisal (2007)

REPRESENTATIONS:

Conservation – No Objection

- The NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It makes clear that any harm to a designated heritage asset requires clear and convincing justification.

  The proposal is limited to a change of use and some internal alterations with no external alterations to the appearance of the building. The change of use from office to residential will reflect the mixed and transitional character, activity and uses of the immediate area. It is considered the impact will be neutral on the architectural and historic interest of the building as a non-designated heritage asset, the Conservation Area Character and Appearance and setting of the neighbouring Listed Buildings.

Highways – No Objection

- Whilst the proposals do not meet the minimum parking standards for residential development, it is recognised that the existing use would have had a higher parking demand for the floor area detailed within the application, there are parking restrictions which would deter vehicles from obstructing the public highway in this location. There are a number of local parking facilities within Malmsbury which offer season tickets for vehicle parking, the closest being some 350m from the site accessed through the PROW to the south and via the Abbey. Given the existing use and demand for parking, I do not feel that I can uphold any refusal based on vehicle parking provision, therefore I would not wish to raise a highway objection to the proposals.

Fire Safety – Comment

- In the event the planning permission is granted for this development, the development would need to be designed and built to meet current Building Regulations requirements. The Authority raises the profile of these future requirements through this early opportunity and requests the comments made under B5 of Approved Document B, The Building Regulations 2010 be made available to the applicant/planning agent as appropriate.
- The assessment of this development proposal in respect of Building Control matters will be made during formal consultation, however, early recommendations are identified on the attached schedules and relate to the following areas:
    - Recommendations identified under B5 of Approved Document B relating to The Building Regulations 2010
    - Recommendations to improve safety and reduce property loss in the event of fire

Malmesbury Town Council – Object

- At the Malmesbury Town Council Planning and Environment meeting on 19th December 2023 the following comment was resolved;-

  Objection: We note residents concerns and comments. As a successful commercial property for many years, we would prefer it retained for business use. The conversion to 3 residential units with no allocated parking will result in additional vehicles which is a concern.

Letters – Eight letters of representation were received over the 2 public consultation periods, three of which were in response to the 2nd consultation period. The issues raised are as follows;

- Boundary dispute
- Insufficient Parking
- Excessive housing in Malmesbury
- Future alterations/extensions
- Drainage
- Biodiversity and Geological Conservation
- Request Conditions Preventing Future Alterations
- Noise issues relating to both construction and post-construction
- Fire Safety
- Party Wall Issues
- Lack of Windows
- Ventilation

ISSUES:
The main considerations which are material to the determination of this application are listed below:

- Principle
- Character & Design
- Neighbouring Amenities
- Highways
- Drainage
- Other Matters

PLANNING ASSESSMENT:

Principle:
Class MA of the amended General PermittedDevelopment Order allows for development consisting of the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order, subject to a number of limitations and exclusions as well as a requirement for a determination of whether prior approval is required in respect of the impacts and risks, namely transport impacts, contamination risks, flooding risks, impacts of noise from commercial premises on the intended occupiers of the development; the character or sustainability of the conservation area; the provision of adequate natural light in all habitable rooms; the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; the impact on the local provision of the type of services lost where it involves the loss of a registered nursery or health centre maintained under section 2 or 3 of the National Health Service Act; and the fire safety impacts on the intended occupants of the building.

In this case, however, a full planning application has been submitted.
The site is located within a mixed residential area within the market town of Malmesbury. Core Policies 1 and 2 of the WCS set out a settlement and a delivery strategy for the county and confirm that within a market town, the principle of development is considered acceptable.

Core Policy 35 states that Wiltshire's Principal Employment Areas (as listed in the Area Strategies) should be retained for employment purposes within use classes B1, B2 and B8 to safeguard their contribution to the Wiltshire economy and the role and function of individual towns. It will also be important to retain existing employment uses outside the Principal Employment Areas to maintain diversity and choice of sites for employers and allow for local business expansion. However, it is important to acknowledge that some older employment areas may no longer be fit for purpose or that their role has changed. The overall employment land target includes an allowance for the replacement of some sites. Therefore, in some circumstances, it may be appropriate to allow for the redevelopment (in whole or part) of existing employment sites for an alternative use, particularly where the site is not required to remain in its current use to support the local economy in the area.

Character & Design:
Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting. In addition, Section 72 of the Act states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In having 'special regard' (in relation to listed buildings) and/or in paying 'special attention' (in relation to conservation areas) the NPPF states that regard must be had as to whether the proposal will cause 'substantial harm', 'less than substantial harm' or no harm to the asset. Section 16 of the act relates to the granting of Listed Building Consent specifically stating that the local planning authority may grant or refuse an application for listed building consent and, if they grant consent, may grant it subject to conditions. In considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses and any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested in it.

Core Policy 57 states that new development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. Residential extensions/alterations such as this are acceptable in principle subject to there being no adverse impacts. Core Policy 58 aims to ensure that Wiltshire's heritage assets such as the conservation area are protected and enhanced in order that they continue to make an important contribution to Wiltshire's environment and quality of life. It also, however, confirms that the designation of a Conservation Area or listed building does not necessarily preclude the possibility of new development and the Council is committed to working pragmatically with owners to find positive solutions which will allow adaptation of such buildings to reflect modern living aspirations.

Good design helps to provide a sense of place, creates or reinforces local distinctiveness, and promotes community cohesiveness and social wellbeing; The layout and design of new developments must also be based on a thorough understanding of the site itself and its wider context, and seek to maximise the benefits of the site's characteristics. This will require careful consideration of the site layout. No two sites share the same landscapes, contours, relationship with surrounding buildings, street pattern and features. The proximity of poor quality or indistinct development is not a justification for standard or poor design solutions. New development should integrate into its surroundings whilst seeking to enhance the overall character of the locality; A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings.

In this instance, it is noted and considered that the proposals require no alterations to the external built form of the site. Consequently, it is considered and confirmed by the conservation officer that the proposals would have a neutral effect on the vicinity. Therefore, the proposals have been considered with both special regard for the setting of nearby listed buildings and with special attention being paid to preserving or enhancing the character of the conservation area, as such, it is felt that the proposals cause no harm to the setting of designated heritage assets and will preserve the character of the conservation area. Similarly, it is also considered that the proposals would be acceptable to maintain the character of the application site and would cause no harm to the street scene.

Neighbouring Amenities:
WCS policy CP57 (Ensuring High Quality Design & Space Shaping) requires that development should ensure the impact on the amenities of existing occupants/neighbours is acceptable and ensuring that appropriate levels of amenity are achievable within the development itself. The NPPF includes that planning should "*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"*. Residential amenity is affected by significant changes to the environment including privacy, outlook, daylight and sunlight, and living areas within private gardens and this, therefore, needs to be carefully considered accordingly.

Due to the lack of physical alteration to the building and the significantly reduced footfall the conversion of the site would create it is considered that the proposals would cause no harm to the enjoyment of nearby amenity spaces available to the occupiers of adjacent dwellings. It is noted that comments have been raised regarding concerns that the building could be altered in the future. As the proposals are to create an apartment block there are no permitted development rights associated with these concerns so any future alterations affecting the externals of the building in this way would require a planning application in their own right.

Comments have been raised concerning noise disturbances both during construction and post-construction. Nuisance noise from future occupants is controlled by civil legislation and is not considered to be a planning matter. The works to convert the premises are considered to have the potential to cause a level of disturbance, however, this disturbance would be for a relatively short time and, given the internal nature of the works, would be no different to the current occupiers remodelling the site within its current use which would not require planning permission.

Highways:
The provision of car parking associated with well-designed new residential development will be determined in accordance with an approach which takes account of:

- dwelling size
- the appropriate mix of parking types (e.g. unallocated, on-street, visitor etc).

A set of minimum parking standards for residential development (based on allocated parking) has been developed to provide a basis for this approach. In determining the appropriate mix of parking types, the presumption will be that unallocated communal parking will be included in the majority of new residential developments.
Reduced residential parking requirements will be considered in the following circumstances:

- where there are significant urban design or heritage issues
- where parking demand is likely to be low
- where any parking overspill can be controlled.

While the provision of required parking spaces should always be well integrated within the wider design approach to a residential development, it is acknowledged that the requirement to achieve minimum standards could have an adverse impact where there are significant design or heritage issues (e.g. in terms of the ability to safeguard and conserve the scale, character, setting, distinctiveness, functionality and/or cultural value of a development or local area).

In this instance, it is considered that alterations to the structure to incorporate parking would be detrimental to the setting of the nearby listed buildings. It is also considered that the change to residential use from commercial will lead to a reduction in the number of vehicles using/accessing the building. The site is located within the settlement boundary of a market town and is, therefore, considered to be a sustainable location. The inclusion of secure cycle parking is welcome and aids in the sustainability of the development in line with the climate emergency and the promotion of active travel. Taking these factors into account it is considered that whilst the proposals fall short of the minimum standards it would not be appropriate or defensible to refuse planning permission on these grounds and as such Highways have raised no objection.

Drainage:
The site is located within Malmesbury and is connected to mains drainage, despite an incorrectly completed section of the application form, it has been confirmed that the site will be connected to mains drainage.

Other Matters:
Other matters raised via the public consultation include issues covered by alternative legislation not part of the planning process and are, therefore, not relevant to the planning assessment. These are;

- Boundary dispute
- Fire Safety
- Ventilation

Any informative can be added to any potential permission reminding the applicants of their obligations under the Party Wall Act.

Regarding issues of Biodiversity and Geological Conservation, the application makes no alterations to the externals of the property and as such, it is considered that no loss or harm to biodiversity takes place. The WCS requires that no net loss takes place, therefore, the proposals accord with policy at this time.

CONCLUSION:
The proposal would be of an acceptable overall scale and would result in limited implications for the character of the existing property, conservation area, heritage asset or street scene. Similarly, due to its location and scale, it is considered that the proposal would be unlikely to have a significant impact on the amenities enjoyed by occupiers of adjacent dwellings.

The proposal would, therefore, accord with the aims and objectives of the Wiltshire Core Strategy and other Government guidance and is recommended that planning permission be granted for the proposal.

RECOMMENDATION:
Approve subject to the following conditions

1. **WA1** 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. **WM13** The development hereby permitted shall be carried out in accordance with the following approved plans:

   Application Form & Certificate Received 18th September 2023
   Plans Ref:
   Location Plan Received Received 18th September 2023
   Revised Proposed Elevations DWG: LPC 5020 SKD1 003 A Received 1st December 2023
   Revised Proposed Floorplans DWG: LPC 5020 SKD1 001 C Received 1st December 2023
   Revised Proposed Roofplan DWG: LPC 5020 SKD1 002 A Received 1st December 2023

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

3. The development hereby permitted shall not be brought into occupied until the cycle storage and bin storage facilities shown on the approved plans have been provided and made available for use. These facilities shall thereafter be maintained in accordance with the approved details for the life of the development.

   REASON: To ensure the provision of satisfactory facilities for the occupants of the premises.

Informatives:

1. 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

2. 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.

3. The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy.