CASE OFFICER'S REPORT

Application Reference:	PL/2024/00117
Application Type:	Lawful development: Proposed use
Site Inspection:	
Consultation ends:	04 January 2024
Case officer:	Hilary Baldwin

Site Address:	6 ORCHARD COURT, ARCHES LANE, MALMESBURY, SN16 0ED
Proposal:	Use of ancillary Warden's Accommodation as Sheltered Residential Accommodation
Recommendation:	Approve

The Proposal

The proposal represents a claim for a lawful development certificate to consider if the evidence provided demonstrates that the Wardens House on the site can be used as a sheltered residential unit.

There would be no physical or external changes to the unit.

Site Description

Orchard Court is a purpose-built residential development providing sheltered accommodation comprising a mix of apartments, houses and single storey properties which was constructed circa 1984. All within the same ownership, the 48 units include one unit at No 6 Orchard Court which was identified on the original plans as a Warden House.

Located to the south of Malmesbury and to the west of the A429, the site is accessed from that main road and although there are other properties in that location, the site is relatively autonomous with the roadway known as Orchard Court only providing access to the the sheltered accommodation properties. .

No 6 Orchard Court, is located in the south-western corner and comprises a two-storey unit with an open frontage onto the access road and a small, private rear garden.

Planning History

• N/80/1074/OL - Outline application – residential development

• N/83/0048/D - Matters reserved in permission N.80.1074.OL – Flats and Bungalows for elderly persons and Warden's House

• N/83/1330/D - Reserved Matters – details of materials and landscaping (47 No dwellings and Wardens House)

Policy Considerations

The Town and Country Planning Act 1990, (as amended) Section 55

Consultations

No consultation made due to the nature of the application

Assessment

The determination of the application depends on whether what is proposed constitutes a material change of use constituting “development” for the purposes of Section 55 of the Town and Country Planning Act 1990 (as amended). This can be either building operations or a material change of use. Building operations exclude internal alterations which no not materially affect the external appearance of the building.

Firstly, there are no restrictions or conditions appended to the original plans and permissions granted in the 1980’s and to which the buildings were constructed. These permissions granted consent for a total of 48 units, including a warden’s house. In addition, there are no Legal Agreements or conditions in place for the site for restrictions to occupancy or type of tenure.

The applicants supporting statement states;

'The Planning Use Class of the Orchard Court development would be considered use Class C2-Residential, the Warden’s Flat would also be Class C2 Residential, and would be considered ancillary to the wider C2 Residential use of the Orchard Court site.'

In respect of the change of use, by virtue of Section 55 (2)(f) of the Town and Country Planning Act 1990, the use of a building within the same Use Class does not constitute development. There is no increase in residential units within No 6 Orchard Crescent which would be retained as a two-storey property and there would be no change to its external appearance.

Conclusion

In summary, it is considered that the proposal does not represent a material change of use constituting development and there are no restrictive conditions or legal agreement appended to the original permissions. As such the Lawful Development Certificate should be issued.