

ITEM 7

APPLICATION NO.	12/01269/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	14.06.2012
APPLICANT	Trustees Of Oliver Stone Trust 2003
SITE	Blackthorn House, Blackthorn Close, Braishfield, BRAISHFIELD
PROPOSAL	Change of use to a residential dwelling; construction of a garage and conservatory extension; installation of patio doors.
AMENDMENTS	Additional details received 01/10/2012
CASE OFFICER	Mr Mark Wyatt

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is referred to Planning Control Committee (PCC) because the Southern Area Planning Committee (SAPC) was minded to refuse planning permission contrary to Officer's recommendation and for reasons that Officers advised could not be properly substantiated and would likely result in an award for costs against the Council if the applicant should lodge an appeal.
- 1.2 A copy of the Officer's report and Update Sheet to the SAPC on 12 March 2013 are attached at **Appendix A** and **Appendix B** respectively.
- 1.3 Following the meeting of SAPC, on 14 March the Local Planning Authority (LPA) received a copy of an Appeal Form for this proposal submitted to the Planning Inspectorate (PINS) against the non-determination of the application.
- 1.4 The determining body for this proposal is, therefore, no longer the LPA but is now PINS. The Council is awaiting the 'start letter' from PINS which will set out the timetable for considering the proposal. It is noted that the Appellant has opted for the appeal to be considered via the written representation method.
- 1.5 Whilst PINS will now be the determining authority for the application, the PCC still need to express how the LPA would have determined the application in order to enable Officers to put a case to the Inspector. It is on this basis that the application is now to be considered. The PCC need to conclude whether the LPA would have permitted or refused the scheme and as such the recommendation of the Head of Planning and Building and the resolution from SAPC are still matters to address.

2.0 REPRESENTATIONS

2.1 1 email from the applicant's agent following the SAPC meeting but before the appeal was lodged:

- I will ask my client the question regarding the provision of an acoustic fence. However, if noise is generated from the village hall then my feeling is that it should be the responsibility of the users of the hall to mitigate their own noise and not look to third parties to fund attenuation measures.
- Although our client's instructions are to lease the property, as agents we would always seek views from all of our applicant enquiries as to whether the purchase of the freehold would be of interest. No such interest has ever been expressed.
- The constraint is essentially the same; it is the relatively remote rural location of the property that acts as a disincentive for either a sale or letting.
- Occupier enquiries are always stronger in urban locations, where there is good access to public transport and to the strategic road network – and hence more convenient for employers and employees.
- Similarly, whilst the property has been offered for lease as one unit, we have never discouraged enquiries from occupiers that have a smaller floor space requirement. None have ever been forthcoming.
- Finally, could I ask whether the committee members have been made aware of the announcement by the Secretary of State that permitted development rights are to be extended to allow for offices to be converted to residential dwellings without planning permission being required? The relevance of this is that when this change is implemented, the development proposed in this application will occur anyway – even the proposed garage and conservatory extension will be able to be constructed as by volume they only represent 14% of the existing building. Under this scenario your council would not receive the finance for off-site open space as currently contained within the draft Section 106 Agreement.

3.0 CONSULTATIONS

3.1 Further comments from Environment & Health since SAPC:

- The Blackthorn Close development appears to have co-existed alongside the village hall without major problem, at least to the best of my knowledge, for many years.
- It is not an ideal juxtaposition, but I have to take a view on the scale of any risks and the likelihood if I were to object of that being sustained at appeal.
- Whilst village halls do sometimes generate neighbour complaints, the vast majority do not generate noise complaints in my experience and so living close to a village hall is not inevitably a recipe for problems. Looking around, there are a great many village halls in southern Test Valley which are close or very close to houses.
- There are already houses close by. The s106 agreement that was implemented when Blackthorn House was built makes complete sense and I would have advocated the same approach again in the same situation.
- But if noise reduction were in fact implemented, in line with that agreement, that seems to further undermine the case for refusal on noise grounds.

- With regard to the suggestion for an acoustic fence, I doubt that the costs could be justified as being proportionate to the benefit. For one thing acoustic fences tend to protect gardens and ground floor living accommodation only, unless monstrously high. Secondly, most music problems tend to centre on low frequency ‘bass beat’. Timber barriers are not very effective at stopping low frequency noise.
- Finally, I would mention that, although it is not a defence in nuisance law terms that the complainant moved to the noise, a legitimate factor for us to consider in deciding whether a nuisance exists is the ‘character of the area’ and what might therefore reasonably be expected by someone living next to a village hall.
- On the basis of my understanding of the situation, I don’t rate the chances of defending an appeal on noise grounds highly.

4.0 **PLANNING CONSIDERATIONS**

- 4.1 The key considerations for the PCC are to consider the reasons for refusal from SAPC and weigh these reasons against the considerations of the Officers report.
- 4.2 Reason for refusal one sets out the fact that the site is, for the purposes of planning policy in the Countryside. The SAPC resolved to refuse the application on the basis of policy SET03 and that there was no justification or overriding need for the provision of a new dwelling in the countryside.
- 4.3 Secondly the SAPC were concerned at the extent of the marketing undertaken by the applicant to find a tenant or purchaser for the building. As such there was a consequential concern that the proposal would result in the loss of an employment generating use in the village
- 4.4 The final reason for refusal from the SAPC was with reference to the relationship of the proposed residential use with the village hall and the fact that the events and functions held at the village hall would give rise to potential future disturbance to the occupant of this dwelling.

Development in the Countryside (SET03)

- 4.5 Policy SET03 seeks to restrict development in the Countryside unless it has been demonstrated that there is an overriding need for development such as being essential to agriculture or if it is a type appropriate for a countryside location as set out in a number of policies listed under criterion b) of policy SET03. There is no relevant policy listed under part b) of policy SET03 that applies to this application so the SAPC resolved that criterion a) applies which seeks “an overriding need for it to be located in the countryside”.
- 4.6 Members were advised that whilst this is the case policy SET03 cannot be seen in isolation. It must be considered with the other saved policies of the Local Plan. One such policy is ESN15 as identified in paragraph 8.3 of Appendix A.

- 4.7 The second part of ESN15 states that:
“On existing employment sites (Case Officer emphasis added), allocated employment sites, or sites with planning permission for employment use, which have not been fully developed, development for an alternative use will not be permitted unless the land is no longer required to meet economic development needs”.
- 4.8 Part two of ESN15 clearly applies to the application site irrelevant of the site being in the countryside or a settlement. It is noted that policy ESN15 is not listed as an exception policy under criterion b) of policy SET03, however policy ESN15 is a saved policy of the Local Plan and equally applies to the application site. It follows, therefore, that the application be tested against the requirements of ESN15. To rely solely on policy SET03 would ignore the other relevant parts of the development plan that could equally apply to the application site and as such to ignore the other policies of the plan and only identify policy SET03 is considered to be an unreasonable way to approach making the decision. Such an approach could leave the LPA vulnerable to an award of costs in favour of the appellants at the upcoming appeal.

Loss of employment

- 4.9 There was debate by the SAPC and reference made by the public speakers that Blackthorn House was secured as part of the redevelopment of the Braishfield Garage site to ensure some employment provision was retained.
- 4.10 Members of the SAPC were concerned at the adequacy of the marketing evidence provided within the application and in turn concluded that the proposal did not accord with the requirements of policy ESN15.
- 4.11 The site, according to the application, has been marketed for rent at a price of £22,000 per annum since early 2010. This value has been considered by the Estates and Economic Development Service and the advice to the LPA is that this rental figure is reasonable and comparable to other rural offices as illustrated in paragraph 8.9 of Appendix A.
- 4.12 The SAPC however had two concerns with the marketing. The first issue was that the building had only been marketed for rent and not for sale. This may have put off potential purchasers from viewing or even enquiring about the site. Secondly Members had concern at the building being advertised for rent as a whole. It was suggested that the building is too big for one end user but if it were to be marketed to let as a series of smaller ‘start up’ units then this may be more successful in attracting potential occupants. Smaller business units would, in turn, ensure the retention of economic development uses in the village on a site that specifically included this building in order to retain some employment generating uses on the former garage site.
- 4.13 As can be seen above in 2.1 the applicant’s agent has confirmed that the applicant has always been open to a possible purchase of the building and the subdivision of the building to smaller units. No such interest has ever been expressed to the marketing agent.

- 4.14 The applicant's agent submits that it is the relatively remote rural location of the property that acts as a disincentive for either a sale or letting.
- 4.15 Given the consideration of the marketing by the Estates and Economic Development Service; given the lack of specialist consultee advice in support of the SAPC conclusions, the resolution from the area committee could be considered by an Inspector as unreasonable behaviour and the Council would be at risk of an award of costs against it should such a reason be included in the decision.

Noise

- 4.16 Members of SAPC and the public speakers were quite certain that during the planning of the former garage site, Blackthorn House was sited in this position specifically to ensure that the commercial use was closest to the village hall with the expectation that when functions occur in the village hall, typically on a Saturday night for example, the office building would be unoccupied and the risk of noise complaints from this building would not be high. Members offered that the siting of the office building was planned so as to act as a buffer to any noise from the hall and to protect the other residential properties in Blackthorn Close.
- 4.17 There is concern, therefore, at the introduction of a new residential use so close to the village hall. Members of the SAPC expressed concern at the possible disturbance to the amenity of the future occupants from the village hall activities.
- 4.18 It was suggested that one means of addressing the noise issue is through noise mitigation measures. The public speaker suggested an acoustic fence to the application site for example. Members were advised that when the former garage site was re-developed noise mitigation works to the village hall were secured in the s106 agreement and undertaken by the developer. Such works included *"...replacement of existing windows, sound insulation to the roof, a method of acoustic mechanical ventilation to a room or rooms, the fitting of self closing door(s) and a lobby to a room or rooms, and the installation of a noise limiting device set at an agreed level to be used in association with any sound amplification equipment that may be used in the village hall"*.
- 4.19 The Council's Environment & Health Officer (EHO) has also advised that the case for objecting on noise grounds is weakened substantially because there are already homes very close to the same village hall and the change of use of this office block brings dwellings only marginally closer. In other words, the village hall has to be careful to avoid causing unreasonable noise disturbance in any case and so, if a planning permission were granted in this case, the EHO considers it unlikely to make a large difference to the situation. For this reason, there is no objection to the proposal on amenity grounds.
- 4.20 The SAPC were advised by Officers that the substance of a reason for refusal on the basis of what 'might' happen in the future in terms of noise was wholly unreasonable. In any event any noise nuisance would be dealt with under the appropriate legislation.

- 4.21 The public speaker indicated that the village hall association had received complaints from the nearest neighbours but these complaints had been dealt with between the parties. Without evidence of the complaints it is not possible to understand what the noise issue is, it is not quantified and therefore it is unclear if any further noise mitigation measures over and above those secured in the previous s106 agreement are needed or how they would be calculated.
- 4.22 Given the lack of specialist consultee advice in support of the SAPC conclusions, the resolution from the area committee on the basis of ‘potential’ future disturbance could be considered by an Inspector as unreasonable behaviour and the Council would be at risk of an award of costs against it should such a reason be included in the decision.

Other matters

- 4.23 It was not included in the resolution from SAPC, but it is appropriate to recommend one further reason for refusal to the PCC should they resolve that the application would have been refused. This reason refers to the lack of a completed s106 agreement.
- 4.24 The recommendation in Appendix A sought to delegate the application back to the Head of Planning & Building Service for the completion of an agreement which would secure contributions towards children’s play equipment. At the time of drafting this report the agreement is still not complete. The appeal form submitted by the Appellant indicates that an s106 agreement will be provided for the Inspector. However, in the absence of an agreement/undertaking at the time the committee takes its decision on how the appeal should be fought the development would provide an unmitigated impact from the development placing an unacceptable burden on the local recreational infrastructure to the detriment of the local amenity. Notwithstanding the Officers recommendation for permission, in the event of a stance of refusal the suggested additional reason for refusal, therefore, would be as follows:
- 4.25 ***In the absence of a legal agreement to secure financial contributions towards off-site public open space, the proposed development would exacerbate deficiencies in the provision or quality of recreational open space. The development would therefore be contrary to saved Policy ESN 22 of the Test Valley Borough Local Plan 2006, the Supplementary Planning Document "Infrastructure - Developer Contributions" and paragraph 73 of the National Planning Policy Framework.***

5.0 CONCLUSION

The proposal needs to be assessed against policy ESN15 of the local plan and it would be inappropriate to assess the proposal against policy SET03 in isolation. The proposal is considered to be submitted with adequate marketing to demonstrate that the building is no longer needed to meet economic development needs. A reason for refusal on the basis of a possible future noise impact would be difficult to defend in the appeal. As such, in conjunction with the attached reports in Appendices A and B, the development is considered acceptable.

6.0 RECOMMENDATION OF SOUTHERN AREA PLANNING COMMITTEE

Since an appeal against non determination has been made, then the Local Planning Authority would have **REFUSED** the application for the following reasons:

- 1. The proposed use of the building would result in new residential development in a countryside location for which there is no overriding need demonstrated. The proposal is therefore in conflict with policy SET03 (Development in the Countryside) of the Test Valley Borough Local Plan (June 2006).**
- 2. Inadequate information has been submitted to demonstrate the full marketing of the building for alternative uses: the subdivision of the building to provide smaller business units has been specifically omitted from that marketing therefore its continued need for its employment purposes has not been adequately explored to justify its loss to a residential use. The proposal will result in the loss of an employment generating use at the site in the village such that it fails to demonstrate that the land is no longer required for economic development purposes. The proposal is therefore in conflict with policy ESN15 (Retention of Employment Land) of the Test Valley Borough Local Plan (June 2006).**
- 3. The juxtaposition of the proposed residential use to the adjacent village hall will give rise to potential disturbance to future occupiers of the new dwelling to the detriment of the quiet amenities reasonably expected for that proposed dwelling. In the absence of any noise mitigation measures secured by this application the proposal fails to address the requirements of policy AME 01 (Privacy and Private Open Space) and AME04 (Noise and Vibration) of the Test Valley Local Plan (June 2006).**

7.0 RECOMMENDATION OF THE HEAD OF PLANNING AND BUILDING SERVICE

Since an appeal against non determination has been made then the Local Planning Authority would have granted planning **PERMISSION**, subject to the completion of the legal agreement to secure contributions towards public open space and then subject to:

- 1. The development hereby permitted shall be begun within three years from the date of this permission.
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**
- 2. The materials to be used in the construction of all external surfaces of the development hereby permitted shall match in type, colour and texture those used in the existing building.
Reason: To ensure a satisfactory visual relationship of the new development with the existing in accordance with Test Valley Borough Local Plan 2006 policy DES07.**

- 3. No development shall take place until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. All site work to be undertaken strictly in accordance with the requirements, specifications and timing detailed within the method statement. Specifically the method statement must:**
- 1. Provide a schedule of trees to be retained within 15m of the proposed building, the schedule to include the required root protection areas as set out in British Standard 5837:2012.**
 - 2. Provide a specification for such tree protective barriers, either in accordance with the above standard or as otherwise agreed in writing with the Local Planning Authority.**
 - 3. Confirm timing of erection and dismantling of such tree protective barriers, which must in any case be erected prior to commencement of any site clearance or ground works, and be retained and maintained for the full duration of works until onset of final landscape work or as otherwise agreed in writing with the Local Planning Authority.**
 - 4. Provide a plan at 1:200 or better, detailing the location of such tree protective barriers, including annotation that such fencing shall remain in this position for the full duration of works or unless by prior written agreement with the Local Planning Authority.**
 - 5. Require a sign to be hung on such tree protective barriers, repeated as necessary, which clearly states 'Tree Root Protection Area, do not enter, do not move this barrier, or such other similar wording as may be agreed in writing with the Local Planning Authority.**
 - 6. Provide a plan demonstrating that all trenching, excavation, soakaways, pipe and cable runs required by the development can be installed wholly outside the tree protection zones.**
 - 7. Demonstrate that all proposed structures can be built without the construction process impacting upon the retained trees or required tree protection zones.**
 - 8. Demonstrate that all site works, mixing areas, storage compounds, site buildings and associated contractor parking areas remain wholly outside any tree protection zones and at a suitable separation to prevent damage to retained trees.**
 - 9. Provide details of any specific precautions to be adopted where scaffolding may be required to be erected within the required minimum distances in line with chapter 6 of British Standard 5837:2012.**
 - 10. Provide a schedule of any tree surgery works proposed, including confirmation of phasing of such work.**

Reason: To prevent the loss during development of trees and natural features (Local Plan Policy DES 08) and to ensure so far as is practical that development progresses in accordance with current best practice.

- 4. The development shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles to enable them to enter and leave the site in a forward gear in accordance with the approved plan and this space shall thereafter be reserved for such purposes at all times.**

Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA09, TRA02.

Notes to applicant:

- 1. The following guidance and policies in the Development Plans are relevant to this decision: National Planning Policy Framework 2012; Test Valley Borough Local Plan 2006 - Policies; AME01 (privacy and private open space), AME02 (daylight and sunlight), AME04 (noise and vibration), DES02 (settlement character), DES05 (layout and siting), DES06 (scale, height and massing), DES07 (appearance, details and materials), DES08 (Trees), ESN15 (retention of employment land), ESN22 (public recreational open space provision), TRA02 (Parking Standards), TRA04 (financial contributions to transport infrastructure), TRA05 (safe access), TRA09 (Impact on the highway network), ENV15 (Conservation Areas).**
 - 2. Please ensure that all development/works complies with the approved plans. Any changes must be advised and agreed in writing with the Local Planning Authority before they are carried out. This may require the submission of a new planning application. Failure to do so may result in enforcement action/prosecution.**
 - 3. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**
 - 4. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
 - 5. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.**
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APPENDIX A

Officer's Report to Southern Area Planning Committee – 12 March 2013

APPLICATION NO.	12/01269/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	14.06.2012
APPLICANT	Trustees Of Oliver Stone Trust 2003
SITE	Blackthorn House, Blackthorn Close, Braishfield, BRAISHFIELD
PROPOSAL	Change of use to a residential dwelling; construction of a garage and conservatory extension; installation of patio doors.
AMENDMENTS	Additional details received 01/10/2012
CASE OFFICER	Mr Mark Wyatt

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is presented to the Southern Area Planning Committee at the request of the Local Ward Member.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is a modern two storey office building within the designated countryside of Braishfield. Although in the countryside, the site is surrounded by the recent housing development of Blackthorn Close to the north and west, the village hall to the east and the village hall car park to the south.
- 2.2 The site is accessed off the main village road and is served by a private drive to the south of number 9 Blackthorn Close. To the front of the building is an area currently laid to tarmac with marked parking bays for the current office use. To the rear is a small garden area laid to lawn with trees (both on site and off site) along the eastern boundary. Land falls to the Village Hall with the hall on lower ground.

3.0 PROPOSAL

- 3.1 The application seeks full planning permission for the conversion of the commercial building to a residential use. The proposal also seeks to construct a new detached double garage to the front of the property and a conservatory on the rear elevation.

4.0 HISTORY

- 4.1 None relevant.

5.0 CONSULTATIONS

Planning Policy and Transport Service:

5.1 Planning Policy Considerations:

- Comment:
 - SET03 in the countryside. Open Space contributions required if considered favourably.

5.2 Arboricultural Considerations:

- No objection subject to condition.

5.3 Highway Considerations:

- No objection subject to condition.

Housing and Health Service:

5.4 Environmental Protection Considerations

- No objection.

Estates and Economic Development Service:

5.5 Estates Considerations:

- Comment:
 - The values sought in the marketing seem reasonable.

6.0 REPRESENTATIONS Expired 29.10.2012

6.1 Parish Council: Objection:

- The permission for Blackthorn Close required some employment activity to be retained. TVBC insisted on there being some employment.
- Whilst the owner has had difficulty letting the building this is true of all office developments in the current economic situation. This in itself is not enough to justify removing a place of employment in the village.
- The Parish Council wonders why the owner has only sought to let the building as a whole rather than as smaller offices. Are they being offered at an appropriate rent?
- The offices were deliberately sited to provide a noise buffer between the houses and the village hall. There is strong objection to being so close to the village hall. The existing permission deemed it unacceptable to have residential accommodation this close to the hall which is an entertainment venue.
- However, it is essential, should permission be granted, that a sound attenuation fence be constructed adjacent to the village hall and car park.
- The s106 works to the village hall for noise attenuation were for the current layout of dwellings and office block. If residential is allowed then a very substantial contribution will be required to reflect this. This may cover the cost of moving the lobby/entrance hall.

6.2 Romsey and District Society: Comment:

- The change of use is fully accepted but we suggest better use of the building and its car park would be two flats.

6.3 6 Letters from 5, 7, 9 Blackthorn Close, Ampfield Cottage, Elm Grove Farm, Braishfield Village Association: Objection:

- No objection to the change of use, but strong objections to the garage. This will be above the height of the wall into my south facing garden and spoil the view from my conservatory.
- My garden is small from house to back wall and to place a structure against this wall will 'close down' the space even further.
- Negative effect on the value of my property
- Some hall events have music and don't conclude till midnight after which people leave and will cause some noise.
- The hall entrance is at the back of the proposed house and within, say 20m, even closer with the conservatory. It is also close to the car park.
- We need income from event for the village hall so object on behalf of the Braishfield Hall Committee.
- Loss of employment opportunities in the village.
- The marketing only seems to cover rental. People may want to buy. The marketing board has not been up for the suggested two years.
- Additional car parking may be available in the village hall car park.
- There is clearly a market for the site given the interest shown in the submission. Perhaps it should be offered on more favourable terms.
- Presume the Oak trees will be removed to build the conservatory.
- Wish access to be maintained as per the deeds to number 9.
- There will be more driving in and out with a residential scheme than a office.
- A family living here will have more of an impact upon foul sewage and utilities than an office used by a few people 5 days per week.
- The proposed landscaping is hardly going to enhance the conservation area.

7.0 POLICY

7.1 Government Guidance: National Planning Policy Framework.

Test Valley Borough Local Plan: AME01 (privacy and private open space), AME02 (daylight and sunlight), AME04 (noise and vibration), DES02 (settlement character), DES05 (layout and siting), DES06 (scale, height and massing), DES07 (appearance, details and materials), DES08 (Trees), ESN15 (retention of employment land), ESN22 (public recreational open space provision), TRA02 (Parking Standards), TRA04 (financial contributions to transport infrastructure), TRA05 (safe access), TRA09 (Impact on the highway network), ENV (Development in Conservation Areas).

Supplementary Planning Documents: Village Design Statement – Braishfield, Infrastructure and Developer Contributions SPD.

8.0 PLANNING CONSIDERATIONS

8.1 The main planning considerations are:

- The principle for development
- Impact of the garage
- Relationship with the village hall
- Trees
- Highways

- Conservation area
- Other matters.

The principle for development

- 8.2 The application site is for the purpose of planning policy, within the countryside. The principle planning policy of the TVBLP therefore is policy SET03. Planning policy SET03 seeks to restrict development in the Countryside unless it has been demonstrated that there is an overriding need for development such as being essential to agriculture or if it is a type appropriate for a countryside location as set out in the various policies listed under criterion b) of policy SET03. There are no policies listed under criterion b) of policy SET03 that apply specifically to this proposal.
- 8.3 In light of the requirements of policy SET03 there is, at first look, a need to consider the application in terms of an “overriding need”, consistent with the requirements of policy SET03 criterion a). However, there is also a requirement to consider other policies of the Local Plan such as ESN15.
- 8.4 Planning policy ESN15 is comprised of two parts. The first part of the policy refers to “*on existing employment sites within settlements...*”. It is clear from paragraph 8.2 above that the site is not within a settlement but is within the countryside. As such the first part of ESN15 does not apply to this proposal.
- 8.5 The second part of ESN15 states that:
“On existing employment sites (Case Officer emphasis added), allocated employment sites, or sites with planning permission for employment use, which have not been fully developed, development for an alternative use will not be permitted unless the land is no longer required to meet economic development needs”.
- 8.6 Part two of ESN15 clearly applies to the application site irrelevant of the site being in the countryside or a settlement. It is noted that policy ESN15 is not listed as an exception policy under criterion b) of policy SET03, however policy ESN15 is a saved policy of the Local Plan and equally applies to the application site. It follows, therefore, that the application be tested against the requirements of ESN15.
- 8.7 It is the applicant’s submission that the site has been marketed for rent at a rate commensurate with the local rural office property market and that there has been no commitment made from any interested parties. The application therefore suggests that there is no demand for the site. This is countered by third parties who suggest that the site has not been, marketed competitively and that it has not been offered for sale, only rent.
- 8.8 Given the uncertain economic times the rental market with likely discounted rates and short term rental terms would have been the more likely way of securing an occupant for the building.

8.9 The application submits that the site has been advertised with a rental price of £22k p.a for 1,853sq.ft. In terms of this being a reasonable asking price for the building comparables were found as follows:

- Rural offices in Ashfield, Romsey - 1,201 sq.ft at £20k pa
- Rural offices, Nursling Street, Nursling - 1,556 sq.ft at £19,450pa

The Estates and Economic Development Service has advised the Local Planning Authority that the marketed rate is therefore reflective of the market and a reasonable approach to attracting tenants.

8.10 Third parties have expressed concern that the proposal will reduce the employment opportunities in the village and that the office is there as a result of the need to retain some employment provision in the former garage redevelopment. These points are noted but as per the consideration above, the saved policies of the local plan allow for a change to occur if there is the required justification. Additionally Government Advice in the NPPF sets out that “...applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities” (Para 22).

8.11 It is considered that given the time the site has been marketed for rent and with the rental price being a fair reflection of the rental market that the site is unlikely to attract a user that would mean that the building continued to meet economic needs. The marketing information is considered acceptable and in turn the proposal is deemed to be in accordance with the second test of policy ESN15.

Impact of the garage

8.12 The proposed garage will be sited in the north west corner of the site at the end of the rear gardens to numbers 5 and 8 Blackthorn Close. According to the submitted site plan the garden of number 8 is 7.8m deep. The garden of number 5 is approximately 9.2m from the rear of the house (at its closest) although the dwelling also has a conservatory on the rear elevation.

8.13 The boundary wall to the dwellings is approximately 1.8m tall. The garage will have an eaves height of 2.3m with a finished height of 4.5m. Whilst the garage will be seen over and beyond the rear boundary walls the proposed roof is almost pyramidal in shape, although there is a very short ridge line. As such, whilst visible above the garden walls, the proposed roof will be both pitching up away from the boundary and diminishing in its size to its ridge height as a result of the hipped roof design. With this ever diminishing roof at the end of the garden depths already described, the proposal is not considered to be significantly overbearing to the amenity of the neighbouring properties or enclose the space to an unacceptable level. The matter of the garage interrupting a view or affecting property values are not matters material to the consideration of this application.

Relationship with the village hall

8.14 Third parties have expressed concern at the impact of the proposal on the village hall and that the office use was planned in this location to act as a noise buffer to the Blackthorn Close residents.

- 8.15 Whilst the position of the building is noted, it is also noted that number 4 Blackthorn Close is particularly close to the village hall. The application has been considered by the Environmental Protection team and it is recorded that there have been no noise complaints made by the occupants of number 4. As such, it is considered, on balance that the use of the site for residential purposes is not considered to present a noise constraint to the proposal nor the village hall. The suggestions by the Parish Council that noise attenuating fencing be constructed, seems unjustified in light of the E&H comments. The building itself is to remain and will continue to provide a buffer between the existing dwellings in Blackthorn Close and the village hall.

Trees

- 8.16 There is one Apple and tight group of four young Oaks in the rear garden, to the north east corner. There is a mature Oak off site to the east which overhangs the site. All trees are protected by virtue of standing within the conservation area. The proposal plans do not indicate any proposed tree works.
- 8.17 The Tree Officer expressed initial concern at the impact of the proposed conservatory on these trees but also the impact the trees would have on said conservatory and the resultant usable garden area which could have led to a future pressure to fell the trees.
- 8.18 The applicant has since submitted a tree survey which indicates that the offsite Oak would not be affected by the proposed conservatory extension. The same tree survey also acknowledges that the garden will be subjected to a “...fair amount of tree debris”. However it continues that having to clean up leaves or wash a conservatory roof “...has never been sufficient grounds to allow damaging or pruning works to a tree with significant public amenity value”.
- 8.19 This tree report has persuaded the Tree Officer that the objection be removed from the application. Reservations remain with regard to the juxtaposition of the trees and garden, however the submitted tree survey will form part of the Council’s case to retain the trees should any future application be made to prune or fell the trees.

Highways

- 8.20 Third parties have suggested that the residential use 24 hours a day seven days a week will actually increase the number of vehicle movements from the site from the permitted office use. The Highways advice is that the number of multimodal trips generated by the exiting B1a office will exceed the number of trips generated by the proposed residential use and as such the proposal will not increase the number of vehicle movements. It is on this basis that a contribution towards financial infrastructure is not sought.

Impact upon the Conservation Area

- 8.21 The application site is within the village conservation area. It is a modern building which was part of a modern development as described above in paragraph 2.1. The sites of the proposed operational development (the garage and the conservatory) are not clearly visible from the public realm.

Even if they were these types of feature would not, given their location and scale, cause harm to the character of the conservation area. It is considered that the character of the conservation area would be preserved.

Other matters

8.22 There is a requirement, whenever there is a net gain in dwellings, for consideration to be given to the need for contributions towards public open space provision as per policy ESN22. The Community Infrastructure Levy (CIL) Regulations 2010 came into effect on the 6 April 2010. From that date, Regulation 122(2) provides that a planning obligation can only constitute a reason for granting consent if the obligation is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

All applications finally determined after the 6 April must clearly demonstrate that any planning obligation that is used to justify the grant of consent must meet the three tests. The same tests are repeated in paragraph 204 of the NPPF.

8.23 The addition of a new dwelling into the borough is likely to increase the pressure on existing recreational open space provision. Mitigation of this impact through a planning obligation(s) is therefore “*necessary to make the proposal acceptable in planning terms*”. On the basis of the adopted SPD and saved policy the contributions and identified schemes upon which to spend the contributions are “*fairly and reasonably related in scale and kind*” to the proposed development. Through the proximity of the proposed schemes to the site the requirement for the planning obligations is therefore considered to be “*directly related to the proposal*” and provided within the village. The principle for the planning obligations is considered to meet the tests in the CIL Regulations.

8.24 The enhancement of existing open space provision is considered acceptable and in accordance with ESN22 and the NPPF. In this case the proposed development is considered to be acceptable in terms of a planning obligation securing a contribution towards off site open space in lieu of on site provision.

8.25 The Test Valley Open Space Audit details that there is a deficit of informal recreation and childrens’ play space within the parish. The obligations will contribute towards the enhancement of provision at the Recreation Ground.

8.26 An Instruction for the preparation of a legal agreement has been arranged. Subject to the completion of an agreement to secure the required contributions the proposal will provide mitigation of its impact on the local recreational infrastructure.

9.0 **CONCLUSION**

9.1 The proposal is considered to demonstrate that the building is no longer needed for economic development purposes. The scheme is not considered to have a significant impact upon the amenity of the neighbouring properties nor the operations of the adjacent village hall. The scheme will preserve the character of the conservation area and ensure the retention of important trees. As such the proposal is recommended for permission.

10.0 RECOMMENDATION

Delegate to Head of Planning & Building Service for the completion of a legal agreement to secure financial contributions towards:

- **Public open space, then**

PERMISSION subject to:

1. **The development hereby permitted shall be begun within three years from the date of this permission.**
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. **The materials to be used in the construction of all external surfaces of the development hereby permitted shall match in type, colour and texture those used in the existing building.**
Reason: To ensure a satisfactory visual relationship of the new development with the existing in accordance with Test Valley Borough Local Plan 2006 policy DES07.
3. **No development shall take place until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. All site work to be undertaken strictly in accordance with the requirements, specifications and timing detailed within the method statement. Specifically the method statement must:**
 1. **Provide a schedule of trees to be retained within 15m of the proposed building, the schedule to include the required root protection areas as set out in British Standard 5837:2012.**
 2. **Provide a specification for such tree protective barriers, either in accordance with the above standard or as otherwise agreed in writing with the Local Planning Authority.**
 3. **Confirm timing of erection and dismantling of such tree protective barriers, which must in any case be erected prior to commencement of any site clearance or ground works, and be retained and maintained for the full duration of works until onset of final landscape work or as otherwise agreed in writing with the Local Planning Authority.**
 4. **Provide a plan at 1:200 or better, detailing the location of such tree protective barriers, including annotation that such fencing shall remain in this position for the full duration of works or unless by prior written agreement with the Local Planning Authority.**
 5. **Require a sign to be hung on such tree protective barriers, repeated as necessary, which clearly states 'Tree Root Protection Area, do not enter, do not move this barrier, or such other similar wording as may be agreed in writing with the Local Planning Authority.**
 6. **Provide a plan demonstrating that all trenching, excavation, soakaways, pipe and cable runs required by the development can be installed wholly outside the tree protection zones.**

7. Demonstrate that all proposed structures can be built without the construction process impacting upon the retained trees or required tree protection zones.
8. Demonstrate that all site works, mixing areas, storage compounds, site buildings and associated contractor parking areas remain wholly outside any tree protection zones and at a suitable separation to prevent damage to retained trees.
9. Provide details of any specific precautions to be adopted where scaffolding may be required to be erected within the required minimum distances in line with chapter 6 of British Standard 5837:2012.
10. Provide a schedule of any tree surgery works proposed, including confirmation of phasing of such work.

Reason: To prevent the loss during development of trees and natural features (Local Plan Policy DES 08) and to ensure so far as is practical that development progresses in accordance with current best practice.

4. The development shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles to enable them to enter and leave the site in a forward gear in accordance with the approved plan and this space shall thereafter be reserved for such purposes at all times.

Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05, TRA09, TRA02.

Notes to applicant:

1. The following guidance and policies in the Development Plans are relevant to this decision: National Planning Policy Framework 2012; Test Valley Borough Local Plan 2006 - Policies; AME01 (privacy and private open space), AME02 (daylight and sunlight), AME04 (noise and vibration), DES02 (settlement character), DES05 (layout and siting), DES06 (scale, height and massing), DES07 (appearance, details and materials), DES08 (Trees), ESN15 (retention of employment land), ESN22 (public recreational open space provision), TRA02 (Parking Standards), TRA04 (financial contributions to transport infrastructure), TRA05 (safe access), TRA09 (Impact on the highway network), ENV15 (Conservation Areas).
2. Please ensure that all development/works complies with the approved plans. Any changes must be advised and agreed in writing with the Local Planning Authority before they are carried out. This may require the submission of a new planning application. Failure to do so may result in enforcement action/prosecution.
3. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

- 4. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
 - 5. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.**
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APPENDIX B

Update Report to Southern Area Planning Committee – 12 March 2013

APPLICATION NO.	12/01269/FULLS
SITE	Blackthorn House, Blackthorn Close, Braishfield, BRAISHFIELD
COMMITTEE DATE	12 March 2013
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1.0 **PLANNING POLICY**

1.1 Draft Test Valley Borough Revised Local Plan

On the 22 February 2013 the Council agreed to publish for public consultation the draft Revised Local Plan. Public consultation will take place between the 8 March and 26 April 2013. At present the document, and its content, represents a direction a travel for the Council but as it has not been the subject of public consultation it should be afforded limited weight. It is not considered that the draft Plan would have any significant bearing on the determination of this application.

2.0 **CONSULTATIONS**

2.1 Planning Policy Comment:

No schemes have been identified in the locality in relation to informal recreation areas (in line with ESN22, the NPPF and the Council's adopted Infrastructure and Developer Contributions SPD); therefore no contributions would be sought for this type of open space at this time.

3.0 **HISTORY**

3.1 Whilst the main agenda report indicates there is no relevant history – in terms of the conversion of the office building to a dwelling – the following two proposals are considered appropriate to bring to the Committee's attention:

3.2 TVS.01214/13 - Demolition of existing garage, workshop and dwelling and erection of nine dwellings and detached office block with new access and associated works – Permission 24/06/2002.

3.3 TVS.10148 - Change of Use to B1 and D1 uses (Offices and consulting rooms for medical purposes) – Permission 05/12/2003.

4.0 **PLANNING CONSIDERATIONS**

4.1 Paragraph 8.25 of the main agenda refers to contributions being sought for both informal recreation and childrens play space. In light of the Policy comments above, a contribution is only sought for childrens play equipment.
