

## NOTICE OF MEETING

# Planning Control Committee

Date: Tuesday, 30 April 2013  
Time: 17:30  
Venue: Crosfield Hall, Romsey  
Broadwater Road, Romsey, Hampshire

**For further information or enquiries please contact:**

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**Legal and Democratic Service**

Test Valley Borough Council,  
Beech Hurst, Weyhill Road,  
Andover, Hampshire,  
SP10 3AJ

[www.testvalley.gov.uk](http://www.testvalley.gov.uk)

The recommendations contained in the Agenda are made by the Officers and these recommendations may or may not be accepted by the Committee.

**PUBLIC PARTICIPATION SCHEME**

*If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.*

## Membership of Planning Control Committee

<b>MEMBER</b>		<b>WARD</b>
Councillor C Collier	Chairman	Abbey
Councillor I Hibberd	Vice Chairman	Romsey Extra
Councillor G Bailey		Blackwater
Councillor Z Brooks		Millway
Councillor P Bundy		Chilworth, Nursling & Rownhams
Councillor A Dowden		Valley Park
Councillor M Flood		Anna
Councillor M Hatley		Ampfield and Braishfield
Councillor A Hope		Over Wallop
Councillor P Hurst		Tadburn
Councillor N Long		St.Mary's
Councillor J Lovell		Winton
Councillor C Lynn		Winton
Councillor J Neal		Harewood
Councillor A Tupper		North Baddesley
Councillor A Ward		Kings Somborne, Michelmersh & Timsbury
Councillor J Whiteley		Alamein

## **Planning Control Committee**

Tuesday, 30 April 2013

### **AGENDA**

**The order of these items may change as a result of members  
of the public wishing to speak**

- 1 Apologies**
- 2 Public Participation**
- 3 Declarations of Interest**
- 4 Urgent Items**
- 5 Minutes of the meeting held on 9 April 2013**
- 6 Information Notes**
- 7 12/02406/FULLS - 05.11.2012 **9 - 26****

**(RECOMMENDATION OF SOUTHERN AREA  
PLANNING COMMITTEE: REFUSE)  
(RECOMMENDATION OF HEAD OF PLANNING AND  
BUILDING: PERMISSION)**

**SITE: Annexe, Garthwaite, Crawley Hill, WELLOW  
CASE OFFICER: Mr Mark Wyatt**

## ITEM 6

### **TEST VALLEY BOROUGH COUNCIL**

### **PLANNING CONTROL COMMITTEE**

### **INFORMATION NOTES**

#### **Availability of Background Papers**

Background papers may be inspected up to five working days before the date of the Committee meeting and for four years thereafter. Requests to inspect the background papers, most of which will be on the application file, should be made to the case officer named in the report or to the Development Manager. Although there is no legal provision for inspection of the application file before the report is placed on the agenda for the meeting, an earlier inspection may be agreed on application to the Head of Planning and Building.

#### **Reasons for Committee Considerations**

Applications are referred to the Planning Control Committee from the Northern or Southern Area Planning Committees where the Head of Planning and Building has advised that there is a possible conflict with policy, public interest or possible claim for costs against the Council.

The Planning Control Committee has the authority to determine those applications within policy or very exceptionally outwith policy and to recommend to the Cabinet and to the Overview and Scrutiny Committee revisions to policy resulting from its determination of applications.

Approximately 15% of all applications are determined by Committee. The others are determined by the Head of Planning and Building in accordance with the Council's Scheme of Delegation which is set out in the Council's Constitution.

#### **Public Speaking at the Meeting**

The Council has a public participation scheme, which invites members of the public, Parish Council representatives and applicants to address the Committee on applications. Full details of the scheme are available from Planning and Building Services or from the Committee Administrator at the Council Offices, Beech Hurst, Weyhill Road, Andover. Copies are usually sent to all those who have made representations. Anyone wishing to speak must book with the Committee Administrator within the stipulated time period otherwise they will not be allowed to address the Committee.

Speakers are limited to a total of three minutes per item for Councillors with prejudicial interests, three minutes for the Parish Council, three minutes for all

objectors, three minutes for all supporters and three minutes for the applicant/agent. Speakers may be asked questions by the Members of the Committee, but are not permitted to ask questions of others or to join in the debate. Speakers are not permitted to circulate or display plans, photographs, illustrations or textual material during the Committee meeting as any such material should be sent to the Members *and* officers in advance of the meeting to allow them time to consider the content.

### **Content of Officer's Report**

It should be noted that the Officer's report will endeavour to include a summary of the relevant site characteristics, site history, policy issues, consultations carried out with both internal and external consultees and the public and then seek to make a professional judgement as to whether permission should be granted. However, the officer's report will usually summarise many of the issues, particularly consultations received from consultees and the public, and anyone wishing to see the full response must ask to consult the application file.

### **Status of Officer's Recommendations and Committee's Decisions**

The recommendations contained in this report are made by the officers at the time the report was prepared. A different recommendation may be made at the meeting should circumstances change and the officer's recommendations may not be accepted by the Committee.

A binding decision is made only when the Members of the Committee have formally considered and voted upon a resolution in relation to each application and the decision notice has subsequently been issued by the Council.

### **Conditions and Reasons for Refusal**

Suggested reasons for refusal and any conditions are set out in full in the officer's recommendation.

Officers or the Committee may add further reasons for refusal or conditions during the Committee meeting and Members may choose to refuse an application recommended for permission by the Officers or to permit an application recommended for refusal. In all cases, clear reasons will be given, by whoever is promoting the new condition or reason for refusal, to explain why the change is being made.

### **Decisions Subject to Completion of a Planning Obligation**

For some applications, a resolution is passed to grant planning permission subject to the completion of an appropriate planning obligation (often referred to as a Section 106 agreement). The obligation can restrict development or the use of the land, require operations or activities to be carried out, require the land to be used in a specified way or require payments to be made to the authority.

New developments will usually be required to contribute towards the infrastructure required to serve a site and to cater for additional demand created by any new

development and its future occupants. Typically, such requirements include contributions to community facilities, village halls, parks and play areas, playing fields and improvements to roads, footpaths, cycleways and public transport.

Upon completion of the obligation, the Head of Planning and Building is delegated to grant permission subject to the listed conditions. However, it should be noted that the obligation usually has to be completed sufficiently in advance of the planning application determination date to allow the application to be issued. If this does not happen, the application may be refused for not resolving the issues required within the timescale set to deal with the application.

### **Deferred Applications**

Applications may not be decided at the meeting for a number of reasons as follows:

- \* The applicant may choose to withdraw the application. No further action would be taken on that proposal and the file is closed.
- \* Officers may recommend deferral because the information requested or amended plans have not been provided or there has been insufficient time for consultation on amendments.
- \* The Committee may resolve to seek additional information or amendments.
- \* The Committee may resolve to visit the site to assess the effect of the proposal on matters that are not clear from the plans or from the report. These site visits are not public meetings.

### **Visual Display of Plans and Photographs**

Plans are included in the officers' reports in order to identify the site and its surroundings. The location plan will normally be the most up-to-date available from Ordnance Survey and to scale. The other plans are not a complete copy of the application plans and may not be to scale, particularly when they have been reduced from large size paper plans. If further information is needed or these plans are unclear please refer to the submitted application in the reception areas in Beech Hurst, Andover or Duttons Road, Romsey. Plans displayed at the meeting to assist the Members may include material additional to the written reports.

Photographs are used to illustrate particular points on most of the items and the officers usually take these. Photographs submitted in advance by applicants or objectors may be used at the discretion of the officers.

### **Human Rights**

"The European Convention on Human Rights" ("ECHR") was brought into English Law, via the Human Rights Act 1998 ("HRA"), as from October 2000.

The HRA introduces an obligation on the Council to act consistently with the ECHR.

There are 2 Convention Rights likely to be most relevant to Planning Decisions:

- \* Article 1 of the 1st Protocol - The Right to the Enjoyment of Property.
- \* Article 8 - Right for Respect for Home, Privacy and Family Life.

It is important to note that these types of right are not unlimited - although in accordance with the EU concept of "proportionality", any interference with these rights must be sanctioned by Law (e.g. by the Town & Country Planning Acts) and must go no further than necessary.

Essentially, private interests must be weighed against the wider public interest and against competing private interests. Such a balancing exercise is already implicit in the decision-making processes of the Committee. However, members must specifically bear Human Rights issues in mind when reaching decisions on all planning applications and enforcement action.

### **Natural Environment and Rural Communities Act 2006 (NERC)**

The Council has a duty under the Natural Environment and Rural Communities Act 2006 as follows: *"every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity"*.

It is considered that this duty has been properly addressed within the process leading up to the formulation of the policies in the Local Plan and Core Strategy and the adoption of the former. Further regard is had in relation to specific planning applications through completion of the biodiversity checklists for validation, scoping and/or submission of Environmental Statements and any statutory consultations with relevant conservation bodies on biodiversity aspects of the proposals.

Provided any recommendations arising from these processes are conditioned as part of any grant of planning permission (or included in reasons for refusal of any planning application) then the duty to ensure that biodiversity interest has been conserved, as far as practically possible, will be considered to have been met.

### **Other Legislation**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination of applications be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the Borough comprises the saved Policies of the Test Valley Borough Local Plan 2006 and the South East Plan 2009. Material considerations are defined by Case Law and includes, amongst other things, draft Development Plan Documents (DPD), Supplementary Planning Document (SPD) and other relevant guidance including Development Briefs, Government advice, amenity considerations, crime and community safety, traffic generation and safety.

On the 27 March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF does not change the statutory status of the development plan as a starting point for decision making. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework sets out that where the development plan is absent, silent or relevant policies are out of date permission should be granted unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- Specific policies in the Framework indicate development should be restricted.

However, account can also be taken of policies in emerging development plans, which are going through the statutory procedure towards adoption. Annex 1 of the NPPF sets out that greater weight can be attached to such policies depending upon:

- The stage of plan preparation of the emerging plan;
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.

The National Planning Policy Framework states that 'In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.'



## ITEM 7

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<b>APPLICATION NO.</b>	12/02406/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	05.11.2012
<b>APPLICANT</b>	Mr D Ricci
<b>SITE</b>	Annexe, Garthwaite, Crawley Hill, <b>WELLOW</b>
<b>PROPOSAL</b>	Change of use of holiday accommodation unit to form a separate dwelling unit
<b>AMENDMENTS</b>	
<b>CASE OFFICER</b>	Mr Mark Wyatt

Background paper (Local Government Act 1972 Section 100D)

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### 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 a claim 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 2 April 2013 are attached at **Appendix A** and **Appendix B** respectively.

### 2.0 PLANNING CONSIDERATIONS

- 2.1 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.
- 2.2 The reason for refusal 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 and to allow a residential use in the building would also result in the loss of a tourism unit.
- 2.3 There was much debate at SAPC on the current lawful use of the building and whether or not the permission for a tourism use had actually been implemented or not. This, it was established in the committee debate, was fundamental as to how the current proposal should be considered. This report, as well as addressing the policy requirements above will also set out the position with regards to the planning history for the site.

#### **Planning History**

- 2.4 Paragraph 4.8 of Appendix A summarises the key planning permission for this proposal now before the Local Planning Authority. 09/02160/FULLS granted permission for the change of use of existing residential annexe building to a

holiday accommodation unit. This permission was subject to conditions.

The first condition was the standard three years condition for the commencement of the development permitted. As such the applicant had three years from Christmas Eve in 2009 to implement the permission, which would then remain valid until Christmas Eve in 2012 had it not otherwise been implemented.

- 2.5 Whilst the description of the proposal was for the change from an annexe to tourism, the permission also included a restriction on the occupancy of the building as follows:

***The tourist accommodation hereby approved shall not be occupied as a person's sole or main place of residence and shall be occupied for holiday purposes only, or ancillary to the residential use of the dwelling known as 'Garthwaite'.***

***Reason: To ensure the occupation of the property for tourist accommodation only in order to contribute to the local economy in accordance with Test Valley Borough Local Plan policy ESN28 and to prevent the use of the building as a residential dwelling in the countryside which is considered to be contrary to Test Valley Borough Local Plan policies SET03 and SET09.***

- 2.6 The condition provided flexibility to the applicant that the building could be used for tourism purposes "or" as an annexe to the property of Garthwaite. It is quite clear from this occupancy condition that either use occurring in the building would have implemented the permission if done so prior to 24/12/2012 and satisfy the requirements of the 3 year condition.
- 2.7 Officer records indicate that the building in question was occupied by the Applicant's elderly relative from February 2009 to March 2010. The Applicant's agent has also indicated to Officers since the SAPC meeting that the property of Garthwaite was sold, and the severance of the two buildings occurred, in February 2012.
- 2.8 The history for the building details, therefore that the building was already being used as an annexe, quite lawfully, prior to the planning permission 09/01260/FULLS being granted. The continued occupation of the building by the elderly relative of the applicant after the decision had been issued for permission 09/01260/FULLS results in the occupancy condition being satisfied and the permission is therefore considered to have been implemented.
- 2.9 The building used to be within part of the garden area of Garthwaite however the two buildings are clearly separate and the building on the application site is now severed from Garthwaite. The part of the condition that enables the building to be used as an annexe therefore, can no longer apply as the building is no longer ancillary to Garthwaite. The part of the condition that does still apply, therefore, is that of the tourism use.

- 2.10 It is also worth referring back to the case law quoted in paragraph 8.3 of Appendix A. The courts have held that self-contained holiday accommodation falls within the same use class (Class C3) as ‘dwellinghouses’ and are therefore ‘residential’, albeit with a restriction imposed upon how the space can be occupied. It is therefore apparent that the Local Planning Authority has effectively authorised a C3 use (dwelling) for this building, but in this case subject to an existing occupancy condition for tourism or an annexe.

**Development in the Countryside (policy SET03)**

- 2.11 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 polices listed under criterion b) of policy SET03.
- 2.12 The SAPC debate explored the provision of policy ESN28 “Tourist Accommodation in the Countryside”. Policy ESN28 is one such policy listed as an exception to policy SET03 under criterion b). The SAPC expressed concern at the loss of a tourism facility in the Borough and on the fringe of the New Forest National Park.
- 2.13 Policy ESN28 provides for the provision of small scale tourist accommodation. The policy does not however also seek its retention, only the provision. As such the SAPC conclusion that the proposal would result in the loss of a tourist facility is factually correct, but there is no policy support for this loss despite the SAPC reason for refusal. To rely on policy ESN28 to defend the loss of tourist accommodation could be seen by a Planning Inspector as unreasonable behaviour and leave the Local Planning Authority vulnerable to an award of costs in favour of the applicant should an appeal be lodged.
- 2.14 It is noted that in the emerging Local Plan there is now a policy basis for the retention of tourist accommodation. However at present the document, and its content, represents a direction a travel for the Council but as it has not been the subject of a completed public consultation it should be afforded limited weight. This is consistent with the advice in the National Planning Policy Framework (NPPF), paragraph 216.
- 2.15 As a consequence of policy ESN28 not being applicable to the proposal, there is no relevant policy listed under part b) of policy SET03 that applies to this application so criterion a) applies which seeks “an overriding need for it to be located in the countryside”.
- 2.16 Figure 3.1 of the Local Plan, as part of the supporting text to policy SET03, sets out some examples of when development “may” (Case Officer emphasis) be acceptable in the countryside. The emphasis on the word “may” suggests that the list is not exhaustive. In this case there is a building on the site of residential form and proportion. There has been no interest in the site for the permitted tourism use. It is clear from the detail in Appendix A to this report that the site has been marketed for tourism without success.

The marketing has been undertaken and provided in support of the application to help demonstrate the lack of demand for the tourism use despite there being no policy requirement for such marketing to be carried out. The site is on a lower level to the main Crawley Hill road and public views are extremely limited. As such, on balance, and considering the need in the NPPF to re-use redundant and disused buildings positively the use of the building as a dwelling is considered to be acceptable under the provisions of policy SET03.

#### **Other Material Considerations**

- 2.17 Again reference is had to the case law on tourism and the similarities of a tourism use to a C3 use (see paragraph 2.10 above and paragraph 8.3 of Appendix A). It is also worthy to note that the planning condition on 09/02160/FULLS did not restrict the occupancy of the building by tourists to a certain length of stay. This particular restriction is of note when read alongside the definition of tourism in the Government's Good Practice Guide on Planning for Tourism.
- 2.18 *"Tourism is defined by the World Tourism Organisation (WTO) as comprising the activities of persons travelling to and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes. The WTO further explains that "Tourism" refers to all activities of visitors including both "tourists (overnight visitors)" and "same-day visitors". This definition has been adopted by the UK Government"* (paragraph 1.4).
- 2.19 Being mindful that self-contained holiday accommodation falls within the same use class (Class C3) as 'dwellinghouses' and that a tourist could stay in the building for the majority of a single year, the possible occupancy of the building by tourists would not be too dissimilar to a residential use in any event and this is a material consideration that, in the opinion of the Case Officer, weighs heavily in favour of the application when coupled with the extremely limited demonstrable harm created by the proposal.

#### **Other Matters**

- 2.20 Part of the debate at SAPC focused on what would happen in the future if a permission was issued for this proposal and whether there was the opportunity to restrict further development on the site. The Committee were advised that whilst there are policies in the Local Plan that facilitate the extension of and replacement of dwellings in the countryside that is not the proposal before the LPA. The proposal simply seeks permission for a material change of use of the building with no operational development included. Any future application would be dealt with and considered on its merits against the provisions of the development plan policies and any other material considerations.
- 2.21 The SAPC were also given advice from Officers that there were no powers to stop any future expansion proposals at the site and to withdraw permitted development rights by condition from the proposal would not stop development but would only require the submission of a planning application. The imposition of such controls by planning condition are considered unnecessary and unreasonable in accordance with the requirements of Circular 11/95 on planning

conditions.

**3.0 CONCLUSION**

3.1 The proposal is considered to demonstrate that there is no demand for the building for tourism purposes and as such the principle for the change of use is acceptable in accordance with policy SET03 and the advice in the NPPF.

3.2 The proposal will not result in an unacceptable development with regards to neighbouring amenity nor have an impact upon highway safety. Given the lack of demonstrable harm from the proposal and in conjunction with the attached reports in Appendices A and B, the development is considered acceptable.

**4.0 RECOMMENDATION OF SOUTHERN AREA PLANNING COMMITTEE  
REFUSE for the following reason:**

1. The proposed development would be contrary to the saved Policies SET03 and ESN28 of the Test Valley Borough Local Plan (2006). The proposal will result in the loss of a tourist facility and in turn result in the undesirable creation of a dwelling in the countryside for which there is no overriding need or justification, to the detriment of the countryside.

**5.0 RECOMMENDATION OF THE HEAD OF PLANNING AND BUILDING  
PERMISSION subject to notes:**

1. The following Government Guidance and policies in the Development Plan are relevant to this decision: National Planning Policy Framework and the Test Valley Borough Local Plan (June 2006) policies SET03 (Development in the Countryside); ESN28 (Tourist Accommodation in the Countryside); TRA01 (Travel Generating Development); TRA02 (Parking Standards); TRA09 (Impact on Highway Network); DES01 (Landscape Character); AME01 (Privacy & Private Open Space).
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. 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.

5. **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.**
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## **APPENDIX A**

### **Officer’s Report to Southern Area Planning Committee – 2 April 2013**

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<b>APPLICATION NO.</b>	12/02406/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	05.11.2012
<b>APPLICANT</b>	Mr D Ricci
<b>SITE</b>	Annexe, Garthwaite, Crawley Hill, <b>WELLOW</b>
<b>PROPOSAL</b>	Change of use of holiday accommodation unit to form a separate dwelling unit
<b>AMENDMENTS</b>	
<b>CASE OFFICER</b>	Mr Mark Wyatt

Background paper (Local Government Act 1972 Section 100D)

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#### **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 located off the northern side of Crawley Hill. The site is served by a long driveway between the properties of Garthwaite and Amberwood. The land falls to the north such that the building on the site is not readily visible from the public realm along Crawley Hill. The building in question is a timber clad, single storey building of domestic proportion. It sits with its associated off road parking to the front and a garden and patio area to the rear.

#### **3.0 PROPOSAL**

- 3.1 As described above. The application seeks full planning permission to use the building, described as the “Annexe”, as a dwellinghouse. There are no alterations proposed, it is simply a matter of the use of the building.

#### **4.0 HISTORY**

- 4.1 The building in question was first erected under the provisions of Article 3, Schedule 2, Part 1, Class E of the 1995 Town and County Planning (General Permitted Development) Order as a music room associated with Garthwaite. The building has subsequently been used as a residential annex to the main dwelling and more recently has the benefit of a planning permission for tourism accommodation. The building used to be within part of the garden area of Garthwaite however the two buildings are clearly separate and the building on the application site is now severed from Garthwaite. The planning history is as follows:

- 4.2 06/02355/FULLS -Erection of replacement dwelling with detached double garage repositioned access and erection of new entrance gates - Refused 16.11.2006.
- 4.3 06/03408/FULLS - Formation of new access, erection of fence and gates - Permission 19.01.2007.
- 4.4 06/03642/FULLS - Erection of replacement dwelling - Permission 07.03.2007.
- 4.5 06/03645/FULLS - Erection of replacement dwelling - Permission 07.03.2007.
- 4.6 07/03163/FULLS - Erection of replacement dwelling and retention of fence to front boundary (amended scheme to previous planning permission to include increase in ridge height) - Permission 04.01.2008.
- 4.7 08/02722/FULLS - Change of use of music room/granny annexe to independent dwelling - Refused 13/01/09 for the reasons:

- 01. The proposed development would be contrary to Policy SET03 of the Test Valley Borough Local Plan (2006). The proposal will result in the undesirable addition of a dwelling in the countryside for which there is no overriding need, to the detriment of the countryside.**
- 02. The proposed development is contrary to policy ESN22 of the Test Valley Borough Local Plan 2006 in that it fails to make provision for Public Open Space contributions to ensure that there is no deficiency in the current quality of the existing recreational open space.**
- 03. The proposed development is contrary to policy TRA04 of the Test Valley Borough Local Plan 2006 in that it fails to make provision for contributions towards non-car modes of transport to encourage a reduction in the generation of road traffic.**
- 04. The proposed development is contrary to policy TRA05 of the Test Valley Borough Local Plan. The proposal would result in increased turning traffic onto the A36 to the detriment of the safety and convenience of the highway.**

- 4.8 09/02160/FULLS - Change of use of existing residential annexe building to holiday accommodation unit – Permission 24.12.2009 subject to the following condition:

***The tourist accommodation hereby approved shall not be occupied as a person's sole or main place of residence and shall be occupied for holiday purposes only, or ancillary to the residential use of the dwelling known as 'Garthwaite'.***

***Reason: To ensure the occupation of the property for tourist accommodation only in order to contribute to the local economy in accordance with Test Valley Borough Local Plan policy ESN28 and to prevent the use of the building as a residential dwelling in the countryside which is considered to be contrary to Test Valley Borough Local Plan***



***policies SET03 and SET09.***

**5.0 CONSULTATIONS**

**Planning Policy & Transport Service:**

**5.1 Planning Policy Considerations:**

- **Objection:**
  - SET03 applies.
  - The submission relies on SET09. This is not relevant as the policy is for “non-residential buildings”. The use of the building for tourism is a kin to residential.
  - None of the other policies within SET03 are relevant.
  - The Borough has no policy seeking to retain tourism accommodation. It is noted that some marketing has been submitted in relation to marketing.
  - Paras 54 and 55 of the NPPF are a material consideration.
  - If considered favourably a s106 agreement is required for Open Space contributions.

**5.2 Highway Considerations:**

- **No objection in light of Highway Agency Advice:**
  - Subject to conditions and cycle way contributions.

**5.3 **Estates and Economic Development Considerations:****

**Marketing Considerations:**

- **No comment.**

**5.4 **Highways Agency:****

- **No objection.**

**5.5 **New Forest National Park Authority:****

- **Comment:**
  - Unlikely to have a significant impact upon the National Park given its previous use.
  - However Natural England may have concerns unless there is an assessment of the impact of the proposal upon the biodiversity of the area (protected species) and mitigation measures secured.

**6.0 **REPRESENTATIONS** Expired 19.12.2012**

**6.1 Parish Council: **Objection****

- This was originally tied to Garthwaite and should remain so.

**6.2 1 letter from 28 School Road, Wellow: **Objection:****

- There is history to this site. It was a workshop. It was permitted to replace this but the owners built a three bedroom bungalow. Planning permission was then granted for use as a piano room, then later as a dwelling attached to the main house and the last application was for a holiday let.
- It can be no surprise with this application.
- The granting of this would be a disaster for this section of Wellow Woodland. It will open the floodgates for applications throughout the wooded area.
- Granting this would mean that no other applications could be turned down due to the precedent that would have been set.
- This would also provide positive proof that the widely held belief that developers can get anything passed planning provided the right strategy is adopted.
- This would make a perfect case study at a developer conference.

## 7.0 **POLICY**

7.1 Government Guidance: National Planning Policy Framework (NPPF), Good Practice Guide on Planning for Tourism.

### 7.2 South East Plan

The South East Plan (except for policy NRM6) is to be revoked on 25 March 2013.

7.3 Test Valley Borough Local Plan (June 2006) (TVBLP): SET03 (Development in the Countryside); SET09 (Reuse of Buildings in the Countryside); ESN28 (Tourist Accommodation in the Countryside); TRA01 (Travel Generating Development); TRA02 (Parking Standards); TRA09 (Impact on Highway Network); DES01 (Landscape Character); AME01 (Privacy & Private Open Space), ESN22 (Public Recreational Open Space Provision).

### 7.4 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.

7.5 Supplementary Planning Documents: Village Design Statement – Wellow, Infrastructure and Developer Contributions.

## 8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- The Principle for development
- Material Considerations
- Highway Impact
- Amenity Impact
- Other matters.

### **The principle for development**

8.2 In addressing the acceptability of the application, the site is within the countryside as determined by the Test Valley Borough Local Plan 2006. The starting point is therefore one of restraint. This is unless it is demonstrated that there is an overriding need for the development in this location, 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. This position is consistent with that adopted by the Council in considering the previous dwelling application (see 4.7, reason 01, above). The key consideration with dealing with the “principle” is whether there are other policy considerations or if justification is now provided to demonstrate an overriding need.

8.3 The supporting information relies on the scheme complying with policy SET09 (Reuse of buildings in the countryside). This policy notably, however, controls ‘non-residential’ buildings, and therefore does not apply in this circumstance with Courts having held in the cases of Moore v. The SOS and New Forest District Council (1998) and Bloomfield v Sos & Anor (1999) that self-contained holiday accommodation falls within the same use class (Class C3) as ‘dwellinghouses’ and are therefore ‘residential’, albeit with a restriction imposed upon how the space can be occupied. This differs from properties comprising hotels, hostels and guest houses which fall under Use Class C1. It is concluded that, contrary to the Applicant’s submission, that policy SET09 does not apply to this proposal.

8.4 Whilst there is no policy in the Local Plan that seeks to retain tourist accommodation some justification that the proposal is no longer viable, or that there is no demand for its permitted use could be considered acceptable in allowing an alternative use for a building as being compliant with policy SET03.

8.5 The supporting information with the application details that the annexe has been available to let from September 2009. It has been marketed on line with a zero response rate. The weekly tourism rates have been adjusted to reflect the peak and off peak seasons as follows:

- High Season - £485 per week (June – October)
- Low Season - £350 per week (November – May).

8.6 In terms of comparable buildings at the current time an internet search has provided the following other holiday lets in the area:

<b>Location:</b>	<b>High Season</b>	<b>Low Season</b>
Edge of Romsey	£710.00 (June 2013)	£447.00 (March 2013)
Landford	£501.00 (June 2013)	£356.80 (March 2013)
West Wellow	£479.00 (August 2013)	£366.30 (April 2013)

8.7 It is clear that the proposed high and low season rates are commensurate with other small rural tourism facilities in the area. The marketing information now provided and the lack of interest is considered to deal with and address the previous reason for refusal. As such, given the lack of interest in the property by tourist customers, the re-use of the building for a permanent residential use would be considered as acceptable and compliant with policy SET03.

**Material Considerations:**

8.8 The National Planning Policy Framework (NPPF) forms one such material planning consideration with paragraph 55 providing advice on sustainable development in rural areas.

8.9 Paragraph 55, indicates that “*Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as...*

- *the essential need for a rural worker to live permanently at or near their*

*place of work in the countryside; or...*

- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting”*

In this case while the development would result in a new dwelling in the countryside, the proposal would re-use a redundant building. Furthermore, with no external alterations proposed to the existing building, the development would also not result in a significant detrimental impact to the immediate setting. Given the extremely limited, if any, public views of the proposal, the proposal has a neutral impact upon the immediate setting and as such it is considered that the proposal is compliant with the spirit of paragraph 55 of the NPPF.

### **Highway Impact**

- 8.10 It is clear that when considering the previous proposal for a dwelling at this site (see 4.7 above) there was concern at the impact of the development on the A36 Salisbury Road and a highway reason for refusal was included in the decision.
- 8.11 In this case, the proposal initially attracted an objection from the Highway Officer. However the Highway Officer sought advice from the Highways Agency (a consultation not carried out previously) and the Agency have confirmed that the impact in terms of the A36 in terms of traffic movements will not be significant and that they raise no objection to the proposal. In turn there is now no objection to the proposal given the small difference in turning traffic between a tourist use and a residential use.

### **Amenity**

- 8.12 The garden to Garthwaite is now enclosed by a 1.8 close boarded fence. Given the change in levels and the single storey nature of the building the proposal is not considered to give rise to any unacceptable impact upon the amenity of Garthwaite.
- 8.13 The dwelling to the east of the site is Amberwood. The boundary to the access drive is a mostly a post and rail fence with hedge and planting along its length. The retained driveway does run along side this property and the rear garden, however given the similarities between the permitted and proposed uses, the proposal is not considered to result in any significant impact upon neighbouring amenity than that which may occur from the current permitted use.

### **Other matters**

- 8.14 The National Park Authority has suggested that Natural England may have concern at the impact of the proposal upon protected species. The application only proposes a change to the use of the building and does not propose any operational development. As such it is not considered that there will be any impact upon protected species.
- 8.15 The application submits that the site has been severed from Garthwaite. As such only the second part of the condition (see 4.8 above) relating to tourism can apply to the site. Minimal weight can therefore be afforded to the Parish Council concern.

- 8.16 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 and highway infrastructure. 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.

- 8.17 The addition of a new dwelling into the borough is likely to increase the pressure on existing highway infrastructure and recreational open space provision. Mitigation of these impacts through a planning obligation(s) is therefore *“necessary to make the proposal acceptable in planning terms”*. On the basis of the adopted SPD’s and the County Council contributions 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 parish. The principle for the planning obligations is considered to meet the tests in the CIL Regulations.
- 8.18 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.
- 8.19 The Test Valley Open Space Audit details that there is a deficit of informal recreation and childrens play equipment. The obligation for will contribute towards the enhancement of provision at the Recreation Ground on Lower Common Road.
- 8.20 The proposed development is a travel generating development, which would result in an additional demand on the existing transport network. Policy TRA01 of the Borough Local Plan requires that travel generating development provides measures to mitigate or compensate for the impact of the development, policy TRA04 allows for this mitigation to be provided by financial contribution. The requirement for such contributions is discussed within the adopted Developer Contribution SPD. In this case the Highway Officer, in raising no objection, has sought a contribution towards the local cycle network.

## 9.0 CONCLUSION

- 9.1 The proposal is considered to demonstrate that there is no demand for the building for tourism purposes and as such the principle for the change of use is acceptable in accordance with policy SET03 and the advice in the NPPF. This matter is considered to address the previous reason for refusal.

- 9.2 The proposal will not result in an unacceptable development with regards to neighbouring amenity nor have an impact upon highway safety. Given the lack of demonstrable harm from the proposal, the application is recommended for permission subject to the completion of the required legal agreement.

#### 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,**
- **Highways infrastructure, then**

**PERMISSION subject to:**

**Notes to applicant:**

1. **The following Government Guidance and policies in the Development Plan are relevant to this decision: National Planning Policy Framework and the Test Valley Borough Local Plan (June 2006) policies SET03 (Development in the Countryside); SET09 (Reuse of Buildings in the Countryside); ESN28 (Tourist Accommodation in the Countryside); TRA01 (Travel Generating Development); TRA02 (Parking Standards); TRA09 (Impact on Highway Network); DES01 (Landscape Character); AME01 (Privacy & Private Open Space).**
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. **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.**
5. **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.**



**APPENDIX B**

**Update Report to Southern Area Planning Committee – 2 April 2013**

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<b>APPLICATION NO.</b>	12/02406/FULLS
<b>SITE</b>	Annexe, Garthwaite, Crawley Hill, WELLOW
<b>COMMITTEE DATE</b>	2 April 2013
<b>ITEM NO.</b>	7
<b>PAGE NO.</b>	10 - 20

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**1.0 AMENDMENTS**

- 1.1 The required Section 106 agreement was completed on 26 March 2013. The recommendation is amended accordingly to reflect this.

**2.0 AMENDED RECOMMENDATION**

**PERMISSION subject to conditions and notes as per the agenda.**





Siteplan 1:2500



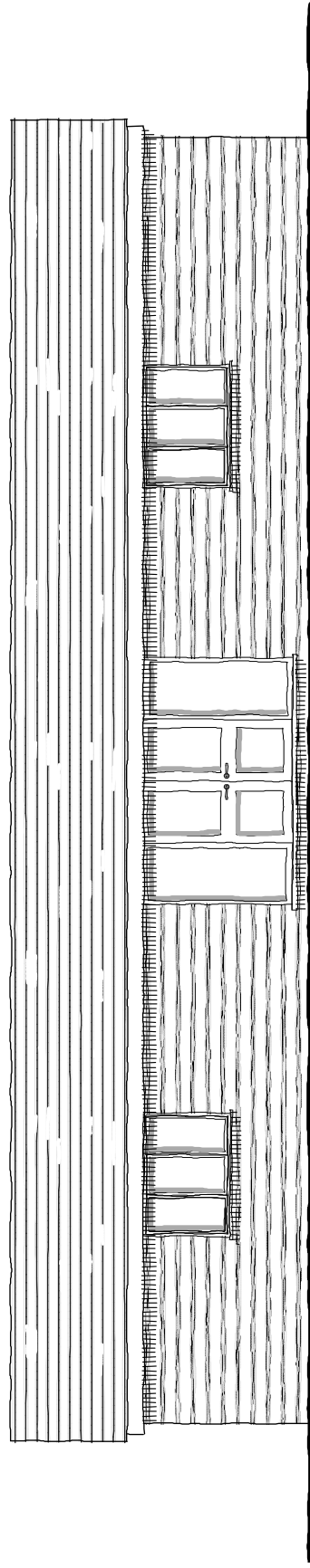
**TEST VALLEY**  
BOROUGH COUNCIL

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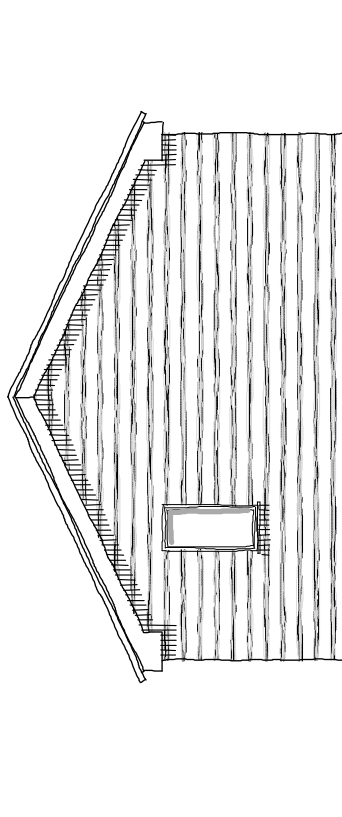
12/02406/FULLS

TEST VALLEY BOROUGH COUNCIL LICENCE No. 100024295 2013

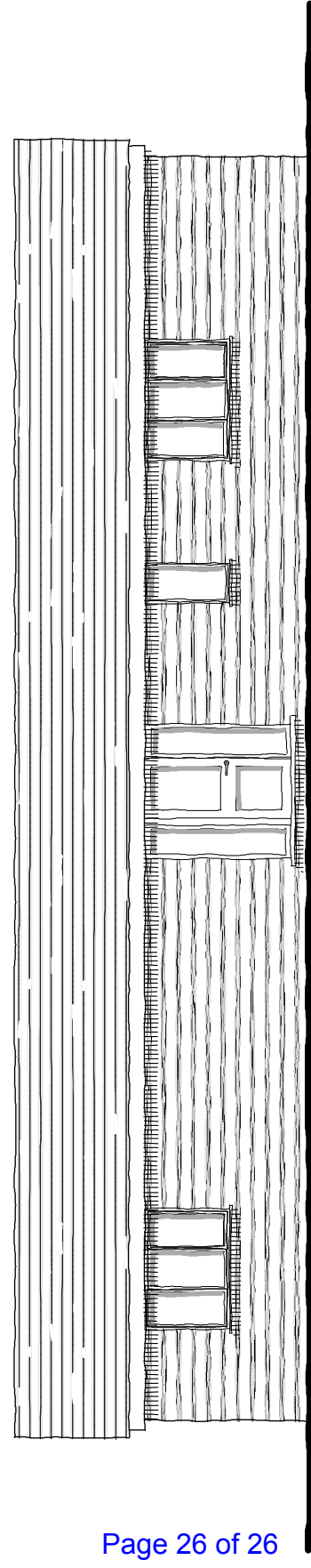
REV:	DATE:	AMENDMENTS:	DRAWN:	CHECKED:
#	Oct 09			



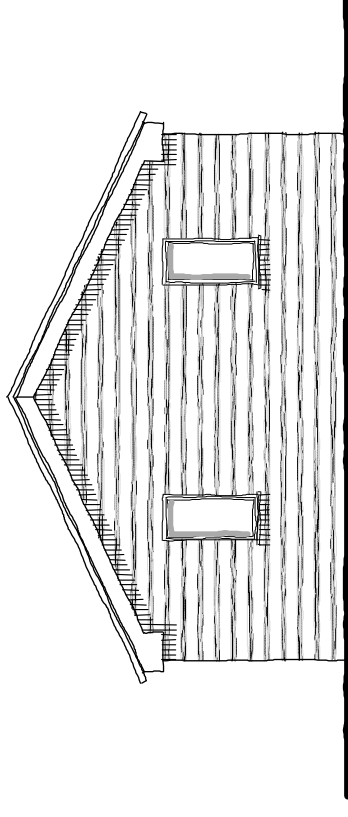
North Elevation



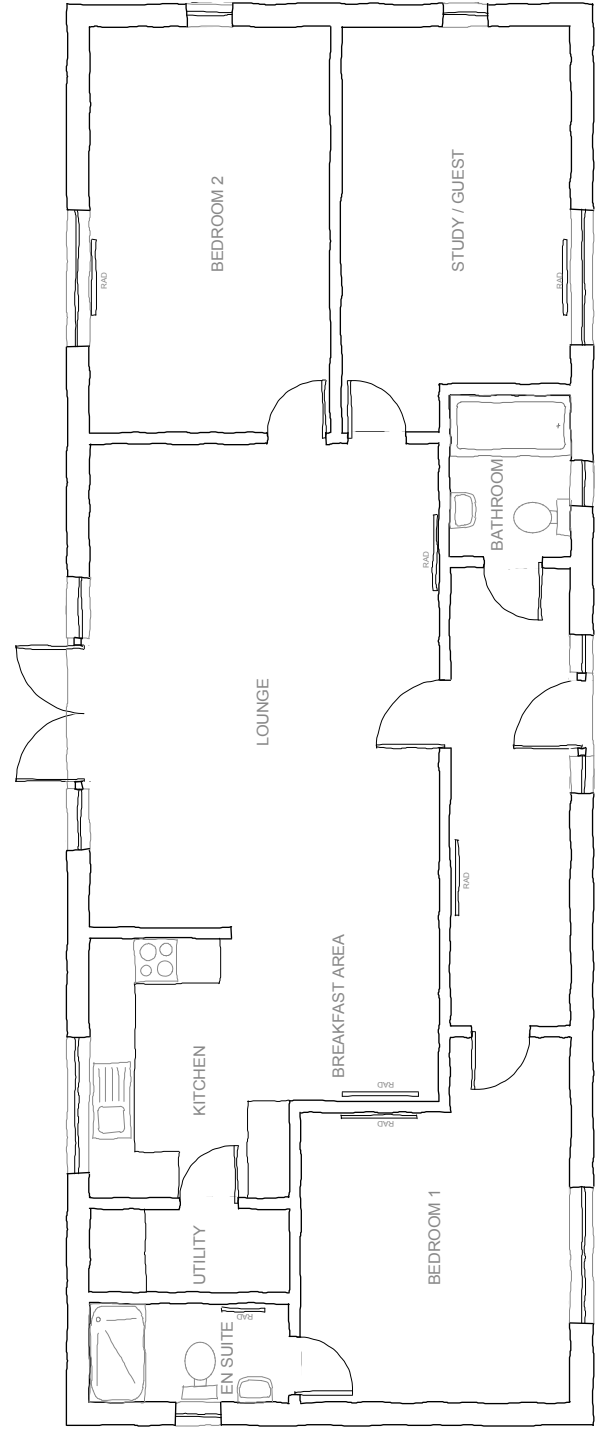
West Elevation



South Elevation



East Elevation



Floor Plan

**NB: NO CHANGES  
PROPOSED FROM  
EXISTING BUILDING**



CLIENT:  
**Gantrell Ltd**

PROJECT:  
**Garthwaite Annex**

DRAWING:  
**Existing & Proposed Plan & Elevations**

SCALE: **1:100 @ A3 DWG NO: 1288/P02**

DATE: **Oct 12** REV: #



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