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Item No 07:-

16/03807/FUL (CT.5231/B)

**Red Lion
Ampney St Peter
Cirencester
Gloucestershire
GL7 5SL**

Item No 07:-

**Change of use of public house (A4) to a single dwelling (C3(a)) at
Red Lion
Ampney St Peter**

Full Application 16/03807/FUL (CT.5231/B)	
Applicant:	Mary Fell
Agent:	n/a
Case Officer:	Christopher Fleming
Ward Member(s):	Councillor David Fowles
Committee Date:	12th April 2017
RECOMMENDATION:	PERMIT

Main Issues:

- (a) Loss of a Community Facility
- (b) Heritage Impact
- (c) Parking and Access
- (d) Residential Amenity

Reasons for Referral:

The application is brought before Planning Committee at the request of the Ward Member, Councillor Fowles, given the local concern regarding the protection of the future of the pub.

1. Site Description:

The application relates to the Red Lion Public House within the Parish of Ampney St Peter. The Red Lion is located approximately 70km from the centre of Ampney St Peter Village at the junction of London Road (A417) and unnamed lane that runs north-east to Ampney St Mary and Ashbrook. Located opposite this junction are three existing residential dwellings; Chantry Cottage (Grade II Listed), Vaults Hill Cottage and Red Lion Cottage.

The Red Lion is a coursed rubble stone building with natural stone slate roof. The building dates from approximately the 18th Century and is Grade II Listed. The building was extended to the rear in the 1970s (see planning history below) to provide additional living accommodation. The extension is constructed of reconstructed stone with a natural stone slate roof. Internally the 'trading area' comprises two rooms which together measure circa. 22m² with the rest of the building used as residential accommodation. The ladies/gents toilets are located within a range of outbuildings attached to the west of the main buildings, along with a garage/store. The building also has a cellar.

The application site is located outside of an adopted development boundary as defined on Proposals Maps to the adopted Cotswold District Local Plan 2001-2011. The application site is located outside of the Cotswolds Area of Outstanding Natural Beauty (AONB) but within the Ampney St Peter Conservation Area.

Vehicular access is located to the rear of the building via the unnamed lane. The parking area currently consists of an unmade parking area which is capable of accommodating approximately 10 cars. Beyond there is a garage and additional outbuildings currently used for storage in connection with the existing use. There is also parking at the front of the building for

approximately three cars. To the east is paddock land that forms part of the same land ownership but not this application.

There is a PROW that runs from the junction between Chantry Cottage and Vaults Hill Cottage to the west to Ampney St Peter and PROW that runs from the junction south.

It is understood that the building has been in continuous use as a public house since at least 1972 with only four licensees since 1851, which has contributed to its little changed interior.

2. Relevant Planning History:

CT.5231/A/1 Alterations to external appearance of Public House and erection of new porch (renewal). Permitted 19.12.1996.

CT.5231/A Alterations to external appearance of Public House and erection of new porch. Permitted 27.01.1992.

CT.5231 Extension to existing living accommodation and provision of new toilet facilities. Permitted 19.05.1976.

3. Planning Policies:

LPR15 Conservation Areas
 LPR19 Development outside Development Boundaries
 LPR25 Vitality & Viability of Settlements
 LPR32 Community Facilities
 LPR38 Accessibility to & within New Development
 LPR39 Parking Provision
 LPR46 Privacy & Gardens in Residential Development
 NPPF National Planning Policy Framework

4. Observations of Consultees:

Conservation Officer: No objection (comments incorporated into 'Officers Assessment' below)

5. View of Town/Parish Council:

No comments received at the time of writing.

6. Other Representations:

45 Letters of objection summarised below:

Loss of Community Asset
 Impact on Listed Building
 Marketing Exercise

4 letters of support

1 letter of general comment

7. Applicant's Supporting Information:

Location Plan
 General Location Plan
 Trading Area Plan
 Design and Access Statement

8. Officer's Assessment:

The application is for the change of use of the Red Lion Public House (an A4 use) to a dwelling (C3(a) use).

(a) Loss of a Community Facility

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan is therefore the starting point. In this case the development plan is the adopted Cotswold District Local Plan 2001 - 2011 (referred to herein as the 'Local Plan').

As shown on the Proposals Map to the Local Plan, the application site is located outside of an adopted development boundary. The correct development plan policy to apply in terms of principle is therefore Local Plan Policy 19 (Development Outside Development Boundaries). Local Plan Policy 19 is positively written in that it supports development appropriate to a rural area provided that the proposals relate well to existing development, meets the criteria set out in other relevant local plan policies and results in development that does not significantly compromise the principles of sustainable development. The only form of development that Local Plan Policy 19 specifically excludes is the erection of new build open market housing.

The National Planning Policy Framework (NPPF) seeks to support, amongst other things, a prosperous rural economy. Paragraph 7 states that there is a social as well as environmental and economic dimension to sustainable development, which is a key tenet of the planning system. Paragraph 28 states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should, inter alia, promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship. Paragraph 70 requires, among other things, that planning should seek the provision of community facilities, including pubs, and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs.

In line with the national policy context adopted Local Plan Policy 32 (Community Facilities) seeks the protection of community facilities, where there remains a recognised need. Local Plan Policy 32 states that 'Proposals for development which would result in the loss of existing community facilities where there remains a recognised need will not be permitted unless suitable replacement facilities are provided in an appropriate alternative location'.

The sub-text to Local Plan Policy 32 explains that 'The protection of existing facilities and safeguarding land for future community use is essential to enable the provision of services and facilities in local facilities'.

Local Plan Policy 25 (Vitality and Viability of Settlements) advises that, in order to ensure the vitality of settlements in the Cotswolds, proposals for the change of use of public houses should not be permitted, unless "a) it can be demonstrated that the existing use is not viable; or b) there are satisfactory alternative facilities available in the settlement".

Having regard to Local Plan Policy 32 and its explanatory text it is considered by officers that Local Plan Policy 32 is consistent with the NPPF and, as such, should be accorded full weight in the context of Paragraph 215 of the NPPF.

Emerging Local Plan policy (Policy INF2 - Social and Community Infrastructure - Cotswold District Local Plan 2011 -2031 Submission Draft Reg.19 June 2016) states that planning permission for development which results in the loss of local community facilities or services will be permitted provided:

- a) it is demonstrated that there is no local need for the facility or service and an appropriate, alternative community use to meet local requirements is not needed; or
- b) replacement facilities or services are provided in an appropriate alternative location having regard to the requirements of Policy INF2, Clause 1.

The sub text to Policy INF2 requires an application to demonstrate that the loss of a public house is supported by evidence that the facility has been actively marketed in its extant use for a period of at least 12 months.

Whilst the provisions of Policy 1NF2 are noted, the emerging Local Plan has not been examined and as such the policies contained within it can be accorded only limited weight at the current time since such policies could be subject to change or deletion.

Assets of Community Value

The Localism Act ("the Act") was enacted on 15 November 2011, and the Assets of Community Value provisions in Part 5 Chapter 3 were commenced for England at the same time as the Regulations made under those provisions came into force, both on 21 September 2012.

The provisions give local groups a right to nominate a building or other land for listing by the local authority as an asset of community value. It can be listed if a principal ("non-ancillary") use of the asset furthers (or has recently furthered) a community's social well-being or social interests and is likely to do so in the future.

During the application process the Council received a nomination for the Red Lion to be included on the Register of Assets of Community Value, which was listed on 14th December 2016. Subsequent to this the applicant requested a review of the listed, a decision on the outcome of this will not be provided until after this report has been finalised. A further update will be provided prior to the committee meeting on the 12th April setting out the result of the review and impact this would have on the planning application.

Notwithstanding the above the DCLG's Community Right to Bid Non-statutory Guidance on p6, para 2.20 sets out that it is planning policy that determines permitted uses for particular sites. However, the fact that the site is listed may affect planning decisions, it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.

Members should also note that if the application were to be permitted then upon implementation/enactment of the change of use the property would need to be withdrawn from the ACV list since residential properties are exempted from such a listing.

Weight to be accorded to Asset of Community Value Listing on Determination of Planning Permissions

The non-statutory guidance is clear that it is open to the Local Planning Authority to decide that listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.

It is suggested by officers that the grant of the ACV is material to the application in that it confirms that the property is indeed a community asset; cementing the need to apply Local Plan Policy 32

(Community Facilities) and take into account the guidance contained in the NPPF and, in particular, paragraphs 28 and 70 as referenced above.

In this context it is however, recognised that the ACV application process is intended only to create a pause within the disposal process to better enable local community groups to make a bid for the community asset in light of an owner's intention to sell. The provisions do not place any restriction on what an owner can do with their property and the provisions do not obligate the owner to sell the asset to any particular community group (so long as the appropriate time restrictions are observed).

To this end it is considered by officers to be unreasonable to refuse the application on the sole basis that the property has been listed as an ACV where the change of use is considered to comply with the provisions of Local Plan Policy 32. This approach appears to have been supported by an Inspector at a recent appeal at The Alexandra, Haringey, London (PINS Ref: APP/Y5420/W/14/3001921). The development proposed in this case was for the conversion of the Public House (with ancillary accommodation above) to provide 2 no. 3 bed single family dwellings. In respect of the pub's placement on the Council ACV register the Inspector advised that:

'The relevant ACV legislation sets out specific tests which are narrower than the planning considerations before me. The primary purpose of ACV listing is to afford the community an opportunity to purchase the property, not to prevent otherwise acceptable development. Accordingly, whilst I afford it some weight in this case it is not determinative.'

Subsequently allowing the appeal subject to conditions.

It is however, notable that the registration of a building as an ACV does restrict the potential for changes of use via the prior notification procedure in accordance with the General Permitted Development Order 2015. Such restrictions apply in respect of Class A (pubs to retail) or Class B (pubs to restaurant/cafe) contained within Schedule 2, Part 3 of the GPDO 2015 which cannot therefore be accorded any weight in the determination of applications relating to registered ACV's as a potential 'fallback' option. This is perhaps the most critical implication of ACV registration in planning terms.

Assessment of Proposals against adopted Local Plan Policies

There is no specific guidance contained in Local Plan with regard to the information that is required to justify need and viability.

The applicant sets out that the business is not profitable and has provided details of alternative facilities within the vicinity that can meet the service needs of the public house for the local community. Financial evidence has also been provided to demonstrate the viability of the business.

Details have been provided showing and listing the proximity of alternative establishments both neighbouring villages Ampney St Crucis and Poulton both have established pubs.

The pub as it stands only has a small trading area, whilst a number of objectors have suggested that alterations should be made to make the building more viable including alterations to facilitate the serving of food etc. This however, is likely to require significant alteration of the building that may not be consistent with the conservation of the designated heritage asset and Section 66(1). In any event, it is not for planning to make demands on occupiers and intervene in the market in the way suggested.

The accounts submitted show diminishing profits since 2008, until the pub closed in 2015. The accounts also show that owner was not taking a salary and there was no mortgage or rent paid for the pub.

A previously set out The Councils local plan Policy 25 advises that, in order to ensure the vitality of settlements in the Cotswolds, proposals for the change of use of public houses should not be permitted, unless "a) it can be demonstrated that the existing use is not viable; or b) there are satisfactory alternative facilities available in the settlement". In this case whilst the loss of the public house business is regrettable, on balance, given the Justification provided, the applicant has demonstrated that the business is not viable, in addition it is also clear from the information submitted that there are a number satisfactory alternative facilities available in the surrounding area for residents of the nearby settlements. The proposal is therefore considered to accord with Local plan polices 25 and 32 and the guidance contained within paragraph 70 of the NPPF.

(b) Heritage Impact

The Council Heritage and Design Officer has confirmed that there are no conservation objections to the proposed change of use, with some evidence that it is no longer viable as a business.

A use as a residential would be compatible with the listed building, although any internal or external alterations would require listed building consent. Paragraph 131 of the NPPF advises that "In determining planning applications, local planning authorities should take account of...the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation".

In some cases, the use of a building does form part of its character and significance. This is particularly the case with vitality arguments in village and town centres. Here, the public house has been closed for some time, and previous to that only operated for very limited hours. It is also very unusual in being just two small rooms, one the Public Bar (with two beer pumps, and fitted shelving and cupboards) and one a Games Room (with further benches and boarded wall linings), with a hatch for serving beer into the corridor. As it stands it would not operate as a standard commercially viable unit.

From a site visit the Conservation Officer confirmed that the nature of the building and its features of importance would not restrict residential use. There would of course have to be application(s) for any physical works to the building, but there is the scope here to provide sufficient living and amenity space, without compromising the listed building.

As regards those physical works there would have to be careful consideration of the impacts of the change of use. Certain important features would have to be retained, including key signage and the interiors of the two principal pub rooms and the linking entrance corridor. Here the significant joinery and other fixtures that would have to remain in situ, fully preserving the character and appearance of those rooms, as related to their historic use.

The Conservation Officer considers that there would only be some limited harm to character in no longer operating at all as a public house, with appreciation of the asset for wider visitors therefore lessened, which has to some extent already happened. This is a more intangible aspect of a building's character.

It is considered that this limited harm would be outweighed by the public benefit of securing a viable long term use for the building. On this basis, there should be some clear evidence that the building is indeed no longer viable as a pub. With this, it is judged that the proposed change of use would sufficiently preserve the listed building, largely sustaining its significance as a designated heritage asset, with any limited harm outweighed by the public benefit of securing a long term viable use that will also benefit the Conservation Area. The proposals would then meet the tests of Section 66(1) and Section 72(1) of the Planning (LBCA) Act 1990 and Section 12 of the NPPF.

(c) Parking and Access

It is considered by officers that the conversion of the building to an existing residential unit would result in a significantly reduced trip generation in comparison to the buildings current use as a

pub. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the proposals are severe. Given that the proposals are for the conversion away from a more intensive used then it is considered that the proposals will have no material impact in highway terms and would therefore accord with Local Plan Policy 38 and 39, in addition to the relevant provisions of the NPPF.

(d) Residential Amenity

Local Plan Policy 46 makes specific provisions for privacy and gardens in residential developments. The policy states that the design and layout of new residential development, including change of use, sub-divisions and extensions to existing dwellings, should provide adequate areas of open space around dwellings, so as to ensure reasonable privacy, daylight and adequate private outdoor living space. Section 7 (Good Design) of the NPPF is also relevant.

Officers are satisfied that there is adequate space around the property so as to provide meaningful residential garden area without compromising the ability for vehicles to park and turn within the application site. The proposals will amount to no harm to neighbouring residential amenity. As such, the proposals are considered to comply with Local Plan Policy 46 and the relevant provisions (Section 7) of the NPPF.

9. Conclusion:

Officers appreciate the comments and concerns raised by third parties and that the loss of a public house is regrettable. However, given the viability evidence submitted, the fact that they are other drinking establishments within close proximity to the application site, the contribution that the conversion will make to the Council's housing land supply (albeit modest) and the public benefit that can be attached to bringing a designated heritage asset/listed building back into an active viable use it is considered, that the proposals are acceptable on balance and cause no material harm overall.

The application is considered to accord with Local Plan Policies 15, 19, 25, 32, 38, 39 and 46 in addition to the relevant provisions of the NPPF and Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Since there are no other material considerations to indicate otherwise, it is recommended that planning permission is granted.

Recommendation: Permit, subject to conditions.

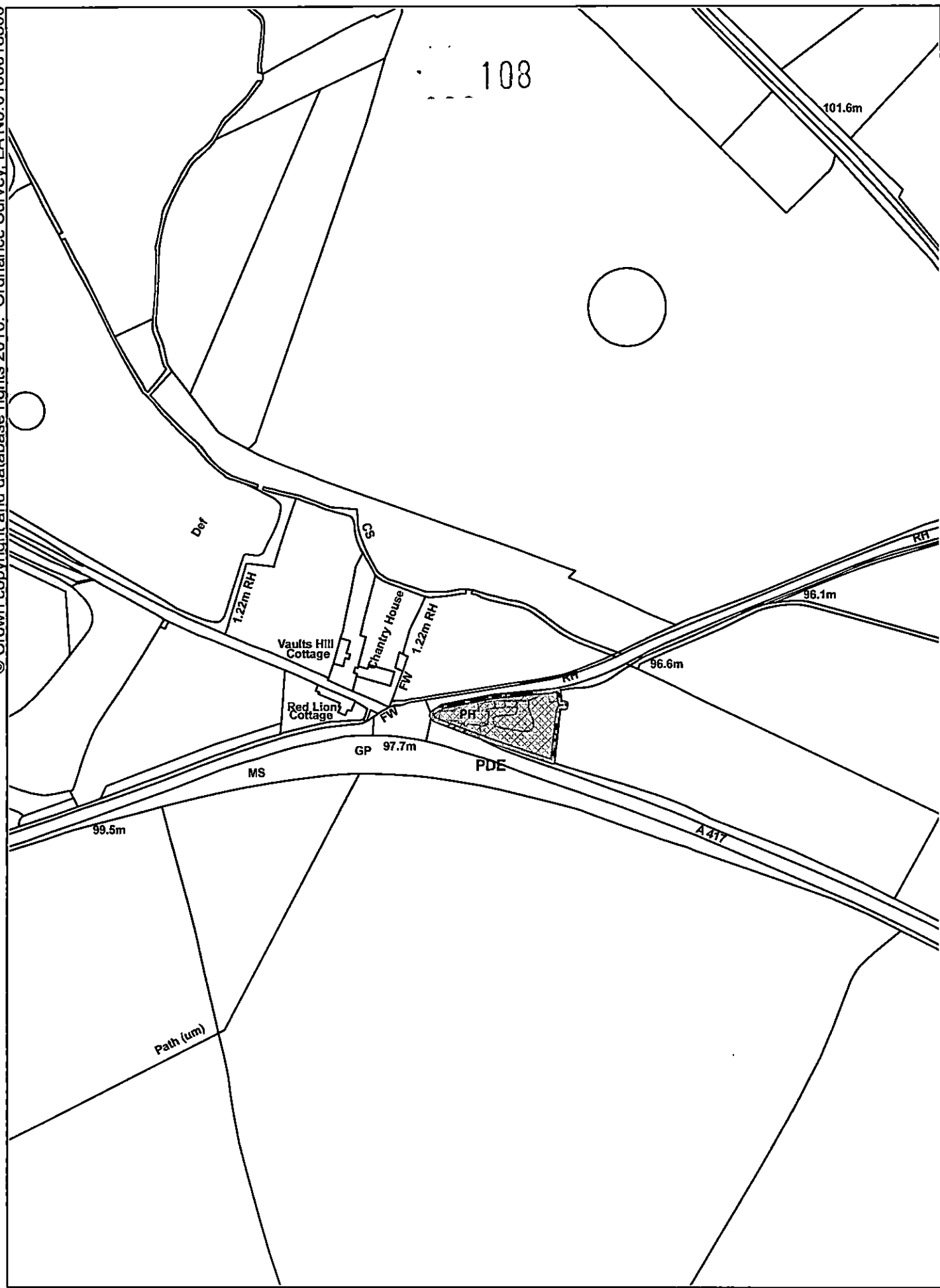
10. Proposed conditions:

The development shall be started by 3 years from the date of this decision notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

The development hereby approved shall be implemented in accordance with the following drawing number(s): Plan A, Plan B, and Plan C.

Reason: For purposes of clarity and for the avoidance of doubt, in accordance with paragraphs 203 and 206 of the National Planning Policy Framework.



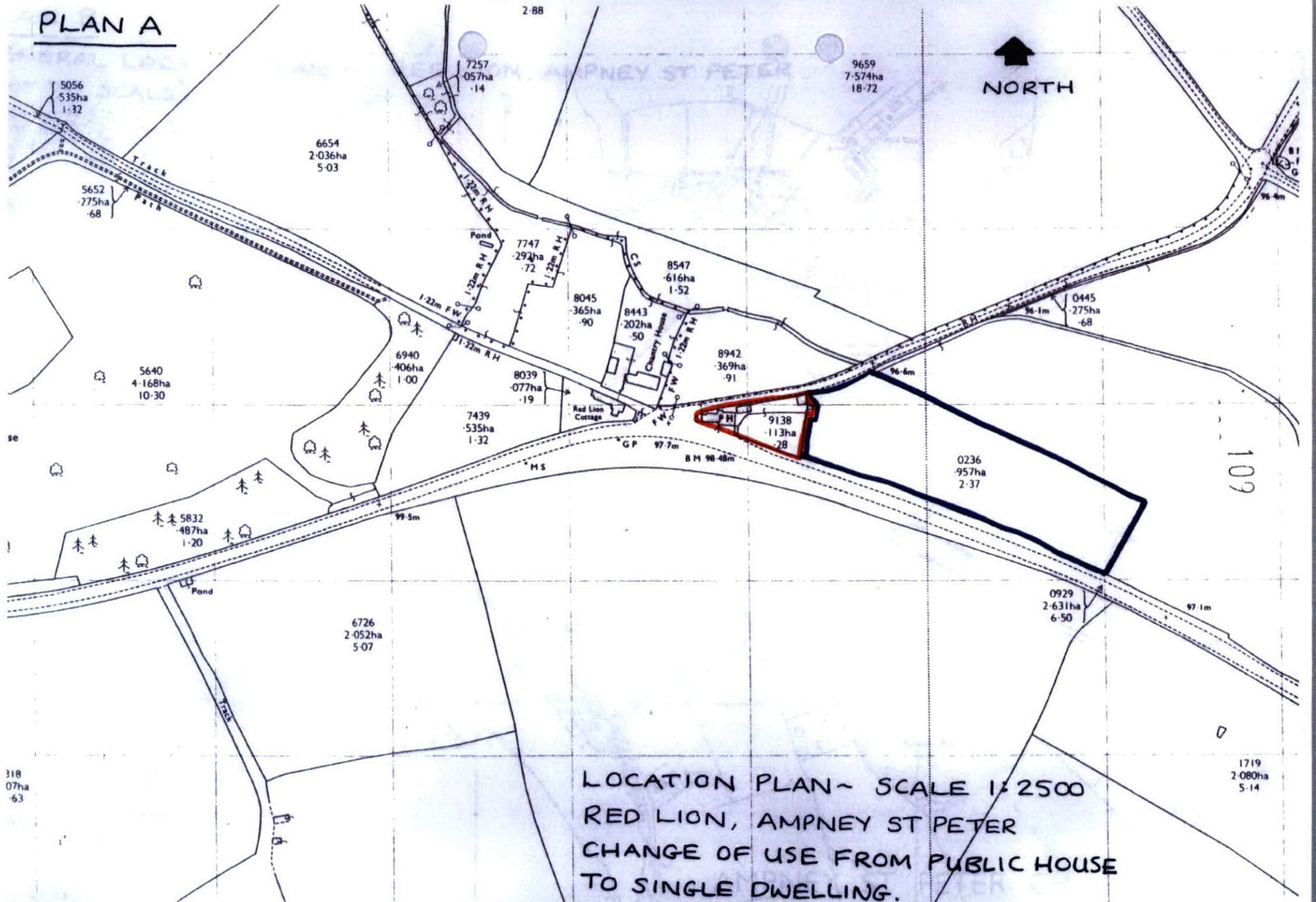
COTSWOLD
DISTRICT COUNCIL

Red Lion Ampney St Peter Glos
 Organisation: Cotswold District Council
 Department:
 Date: 30/03/2017

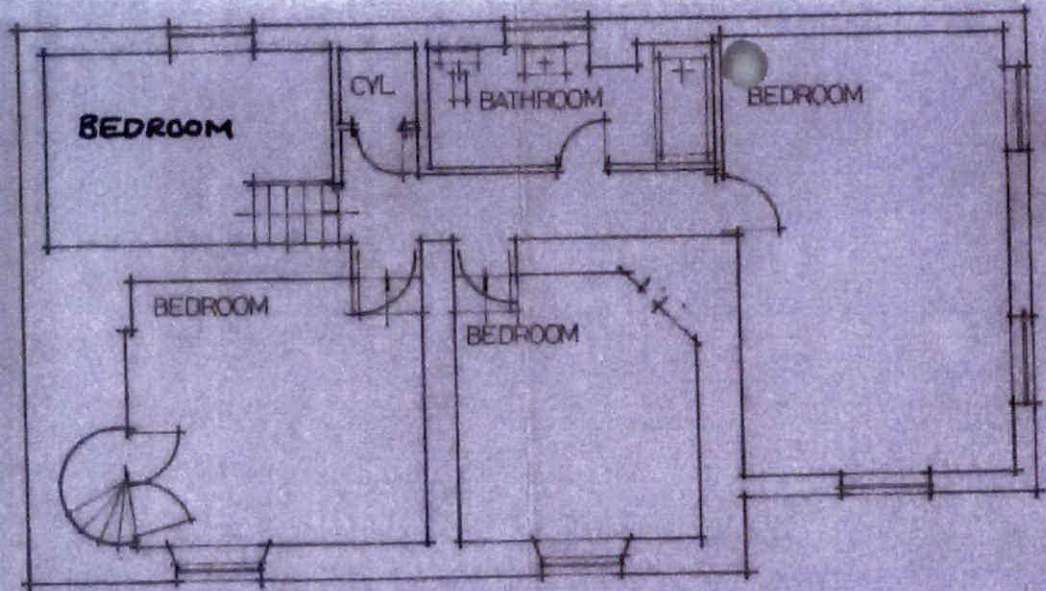
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PLAN A

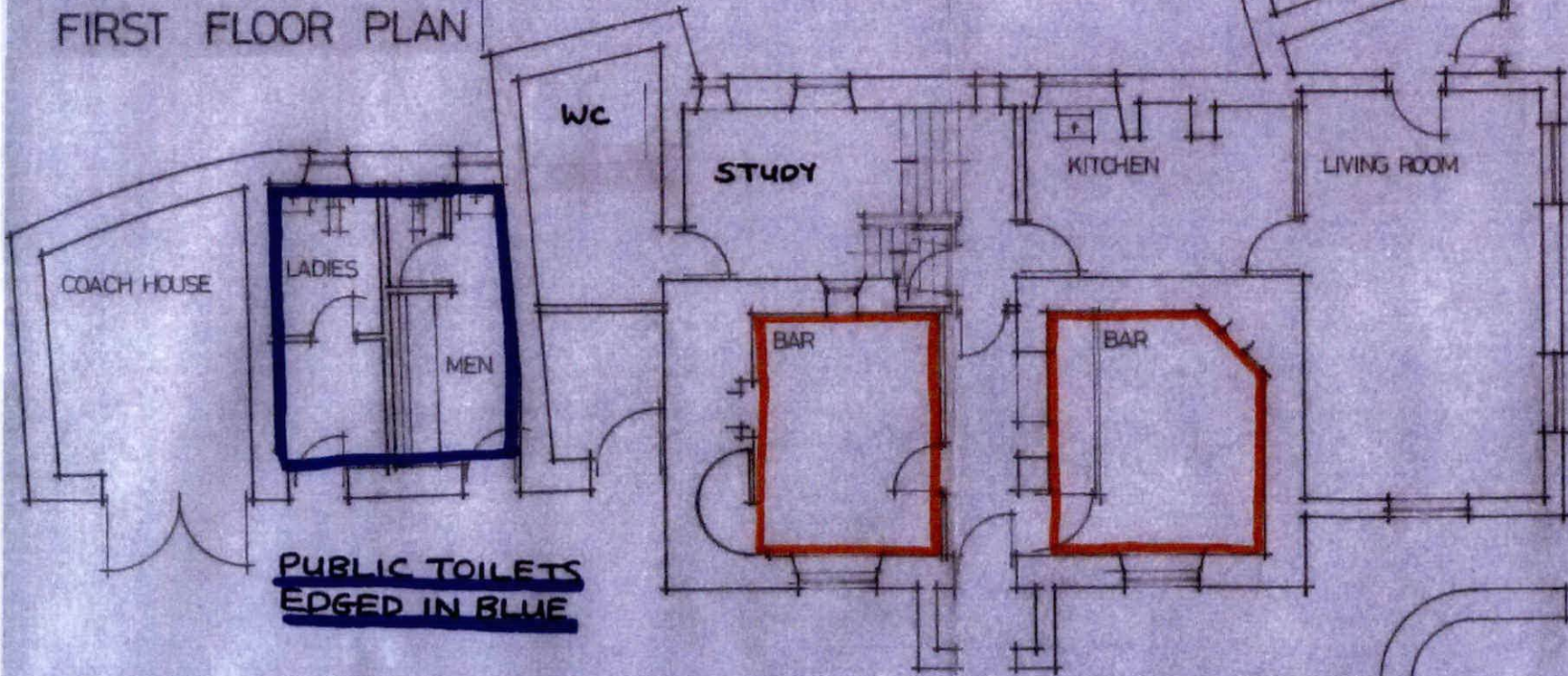
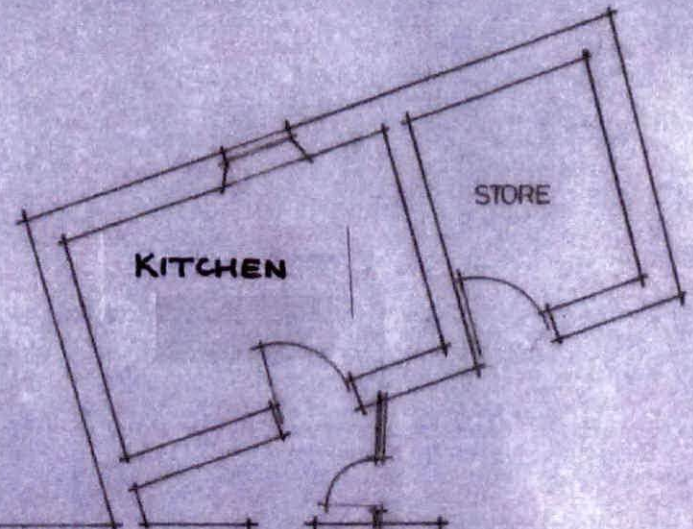


LOCATION PLAN - SCALE 1:2500
RED LION, AMPNEY ST PETER
CHANGE OF USE FROM PUBLIC HOUSE
TO SINGLE DWELLING.



FIRST FLOOR PLAN

PLAN C ● RED LION, AMPNEY ST PETER
AS EXISTING. (Not to scale)



GROUND FLOOR PLAN

TRADING AREA EDGED IN RED

110