CASE OFFICER'S REPORT

Application Reference:	PL/2023/11129
Application Type:	Lawful development: Proposed use
Site Inspection:	
Consultation ends:	21 December 2023
Case officer:	Helena Carney

Site Address:	1 Eastleaze Farm, Aldbourne Road, Baydon, Marlborough, SN8 2HU
Proposal:	Application for a Certificate of Proposed Lawful Use for Amalgamation of 2 Dwellings back into a Single Property
Recommendation:	Approve

Site Description:
This application relates to two separate dwellings (No.1 & No.2 Eastleaze Farm) The properties are located at the end of a private drive in what would be classed as 'open countryside' for the purposes of planning policy.

The properties were once one dwelling. The submitted Covering Letter states that the subdivision of the property into two separate dwellings (No.1 being a 3 bedroom dwelling and No.2 being a 2 bedroom 'maisonette') circa 1968.

The properties are not listed buildings and the application site does not lie within a Conservation Area. The application site does lie within the North Wessex Downs National Landscape.

Policies:
Section 55 of the Town and Country Planning Act 1990 (as amended).

Relevant Planning History:
None

Assessment:
This application is seeking confirmation that amalgamating the two dwellings into one would be lawful.

As mentioned above, the properties were a single dwelling until it was subdivided circa 1968. As can be seen in the images below, the properties still read as one dwelling with a shared driveway and parking area located to the front and a shared rear garden.





Front elevation and shared driveway/parking Rear elevation and shared garden



Rear garden looking from dwelling(s)

Section 55(3)(a) of the Town and Country Planning Act 1990 (as amended) makes it clear that:

“The use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used”.

Section 55 does not however make such a provision in respect of the amalgamation of two or more dwellings into a single property, although there is various case law that examines the issue.

As stated in the submitted Covering Letter ‘Case law has held that the amalgamation of two or more dwellings may amount to a material change of use.

The judgement in Richmond-upon-Thames LBC v SSETR [2001] suggested that a change in the character and impact of the use in planning terms (even in the absence of any physical or environmental effect) might in itself amount to a material change of use. This could include factors such as the loss of a certain type of accommodation or facility that the previous planning units provided. The Richmond case was concerned with the conversion of a property from seven flats into a single dwellinghouse…. the key test in that case in determining whether a material change of use would take place amalgamating seven flats into a single dwelling was whether there would be a change in the character and impact of the use in planning terms, including whether this would have physical or environmental effects’.

On reviewing the submitted information, it is evident that there are no external features that distinguish the building as two properties and the rear garden has not been subdivided providing one large, shared area. The properties also benefit from a shared driveway and parking area.

The amalgamation of the two properties back into a single property would only require internal alterations, and would not materially affect the character of the building or the surrounding area.

Whilst it is acknowledged that the amalgamation of the dwellings would result in the loss of a residential unit, it is worthy of note that Wiltshire Council has no policy that safeguards against the loss of residential units.

Conclusion:
The proposal involves the amalgamation of two dwellings, reverting back to a single dwelling. No external alterations or extensions are proposed and therefore the works do not amount to development as defined within Section 55 of the Town and Country Planning Act 1990.

As such, it is concluded in this case that planning permission will not be required for the amalgamation of the dwellings and the proposed use would be lawful.

That said, if consent was required for any particular reason, the Council would have no objections to the principle of creating a single residential dwelling here.

Recommendation:
Approve

The proposal involves the amalgamation of two dwellings, reverting back to a single dwelling. No external alterations or extensions are proposed and therefore the works do not amount to development as defined within Section 55 of the Town and Country Planning Act 1990.

Conditions: (1)

1 The proposal involves the amalgamation of two dwellings, reverting back to a single dwelling. No external alterations or extensions are proposed and therefore the works do not amount to development as defined within Section 55 of the Town and Country Planning Act 1990.