The Planning Inspectorate

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Your Ref: PL/2023/08238
Our Ref: APP/Y3940/W/24/3351590

09 June 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Ms Patsy Day
Site Address: Ludlows Farm, Bradley Road, WARMINSTER, BA12 7JY

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

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The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Jasmine Rogers
Jasmine Rogers

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

Planning Inspectorate

Appeal Decision

Site visit made on 29 April 2025

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/Y3940/W/24/3351590
Ludlows Farm, Bradley Road, Warminster, Wiltshire BA12 7JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Ms Patsy Day against the decision of Wiltshire Council.
- The application Ref is PL/2023/08238.
- The development proposed is change of use of former clinic building to separate residential unit.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of the site visit I noted that the appeal building had been converted to residential use and is now occupied. The application has been submitted retrospectively and I have dealt with the appeal on this basis.

3. The appellant contends that the lawful use of the building is residential use ancillary to the main dwelling. Notwithstanding that I must conclude such status on the balance of evidence, it is not for me, under a section 78 appeal, to determine whether or not it is lawful. To that end it is open to the appellant to apply for a determination under section 191 of the Act and my determination of this appeal under s78 does not affect the issuing of a determination under s191 regardless of the outcome of this appeal.

Main Issues

4. The main issues are:

   - Whether the proposal is an appropriate location for new housing having regard to the development strategy for the area;
   - Flood risk; and
   - The effect of the proposed development upon the Hampshire River Avon Special Area of Conservation (SAC).

Reasons

Appropriate location

5. The appeal site is formed of a detached cottage located on Ludlows Farm - a commercial equestrian holding that accommodates a farm house, livery units, indoor and outdoor exercise arenas and associated structures. The building previously formed an annex to the main farm house before being used as a

veterinary clinic. Although separated by the A36 and fields the site is located within a short distance of the town of Warminster.

6. Core Policy 1 of the Wiltshire Core Strategy (2015) (WCS) states that development will be limited to defined settlements to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. The supporting text sets out that permission for development outside settlement boundaries will be limited to development specifically permitted by other WCS policies, which does not include the provision of market housing in countryside locations.

7. WCS Core Policy 48 aims to support rural life and supports the conversion and re-use of rural buildings to employment, tourism, cultural and community uses subject to a number of criteria. The policy goes on to state that where there is clear evidence that such uses are not practical propositions residential development may be appropriate.

8. Based on the evidence before me the building was previously used as a clinic associated with a veterinary business that operated on the farm. The appellant operates a commercial equestrian holding and thus it is not an unreasonable assumption that running tourist accommodation would not align with the core operations of the business. This is further reinforced by the presence of an existing holiday let on Ludlows Farm which I understand has remained unused for a number of years. Thus, it is evident that there is no will to offer holiday accommodation in this location.

9. Furthermore, to me, having tourist accommodation on a working equestrian holding would not be a practical proposition on account of the different comings and goings of visitors, daily activities, vehicle movements including horseboxes and delivery vehicles and the potential for conflict between users of the tourist accommodation and operations associated with the farm.

10. When taking into account the relatively modest size of the building it is unlikely that it would be an attractive option for employment, cultural or community uses. Moreover, it is likely that Warminster would be a more desirable location for such uses when taking into account the existing services and facilities in the town including transport options.

11. Having regard to WCS Core Policy 48 there is nothing within the wording of the policy nor the supporting text setting out a requirement for submission of a viability assessment. The policy only requires clear evidence to be submitted to demonstrate that employment, tourism, cultural and community uses are not practical propositions. It is reasonable to assume that such a matter is one of planning judgement based upon the merits of the case. As such, whilst the appellant has produced a Viability Appraisal Report I do not find that it is determinative in coming to my decision.

12. Consequently, I am satisfied that clear evidence to demonstrate that employment, tourism, cultural and community uses are not practical propositions on the site has been provided. As such, residential development is appropriate on the site.

13. I conclude that the development accords with WCS Core Policies 1, 2, 31 and 48 which, amongst other things, seek to direct new development to appropriate locations and support the re-use of rural buildings.

Flood risk

14. Paragraph 170 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk (whether existing or future).

15. The Council's Strategic Flood Risk Assessment shows that the site is at risk from surface water flooding. I acknowledge that the site is located within Flood Zone 1, however, a more vulnerable residential use has been introduced on the site and thus in the absence of a site-specific flood risk assessment, I cannot be certain that no built development within the site, including access or escape routes, land raising or other potentially vulnerable elements, would be located on areas that would not be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).

16. Whilst the appellant alleges that there is no history of flooding on site nor a high water table these matters do not lead me to reach a different conclusion in respect of this issue.

17. Taking the above into account the development fails to accord with WCS Core Policy 67 and the Framework which, amongst other things, seek to steer developments to the lowest areas of flood risk.

Impact upon the River Avon SAC

18. The appeal site is located within a catchment area which forms part of the River Avon. The River Avon is a large, lowland river system that transitions between chalk and clay and which is recognised by the Conservation of Habitats and Species Regulations 2017 as an area of international importance for its mosaic of aquatic habitats and diverse community including Desmoulin's whorl snail, lamprey and Atlantic Salmon.

19. The River Avon SAC is in an unfavourable condition due to high levels of nutrients. New residential development has the potential to cause adverse effects either alone or in combination with other developments through discharge, within the river catchment, of additional phosphorus and thus potentially harming the water quality of the River Avon SAC.

20. The Council's second reason for refusal relates to the potential impact upon protected habitats and species and the absence of a sufficient information. However, as I have found harm in respect of flood risk which is significant enough to dismiss the appeal there is no benefit in me pursuing this matter any further.

Planning Balance

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

22. The Framework states that local planning authorities should identify and update a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, including an appropriate buffer. The Council accepts that they cannot demonstrate a deliverable five-year supply of housing land advising that the supply is in the region of 2.03 years.

23. As such, in line with paragraph 11 d) of the Framework planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

24. However, paragraph 195 of the Framework indicates that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. For the reasons set out above I have not reached such a conclusion and consequently paragraph 195 applies.

Conclusion

25. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR