

From: Andrew Scott [REDACTED]
Sent: 08 October 2025 20:14
To: Thomas, Andrew <Andrew.Thomas@wiltshire.gov.uk>
Subject: Subject: PL/2025/06615 (Thala/Seagry House, Upper Seagry) – Observations on Revised Submission and Unresolved Issues

Dear Andrew

Thank you for your time recently.

Despite being immediate neighbours through their recent purchase of the application site in December 2023, the applicants have not provided me with the revised submissions as requested, although I note that the updated documents were uploaded to the portal today. These are currently being reviewed by Colin Danks at Copperfield and the specialist consultants I've had to instruct at my personal expense in order to put beyond doubt our legitimate planning, technical, and legal concerns which are mirrored by Seagry residents.

I have read Mr Evans' covering letter of 3 October 2025 accompanying various revised plans/drawings. While it claims the revised scheme is a "*positive response*" to local representations, I must respectfully call out such propaganda for the window dressing it is. On initial inspection, the revisions fail to address the core concerns raised on our behalf at Oak Hill House and those raised by the village – these are all **unresolved**. In some respects, the revisions raise fresh questions.

I note the plans still [REDACTED] mislead and mis-characterise the green corridor alongside our garden and glazed living spaces of our home which is the proposed location of the commercial access referring to upgrading "*the existing access road*" – there isn't a road, this was part of our back garden fenced off some 20 years ago and is a boggy area of ground that remains wet year round and was recently cleared by the applicant [REDACTED]. Indeed, the applicant planted some laurel bushes along our boundary most of which promptly died, and their grounds keeper confirmed to me this was because the ground remains permanently wet which kills new planting. The gated area of the corridor routinely floods during rainfall events and then becomes an overspill habitat for typical visiting wetland birds e.g. moorhen, coots, mallard and

the occasional snipe that migrate over from Goss Croft Pond at the village hall, of itself containing Great Crested Newts.

1. Ecological and Arboricultural Concerns Remain Unaddressed

The ecology submissions remain unchanged and well below par:

- The site's woodland has been misclassified and is **priority habitat**.
- There is still **no assessment of lighting impacts on bats**, particularly along the green corridor which will go from no use / abandonment, to being intensively used.
- **Bat activity survey results** are still missing from the EclA – these are fundamental to any credible assessment. Just look at how the growth of Trowbridge has been stymied for decades owing to bats – why are bats being overlooked in a small village location such as this?
- No confirmation is given as to whether offsite trees (such as T15 which blocks the entrance to the site, or my own protected T14 and T13) have been assessed for bat roost potential, despite their overhanging proximity to the proposed access, and T15's proposed felling.

Below is an aerial photograph taken shortly before the site was purchased in December 2023, clearly showing the wooded character of the land that has since been actively cleared by the applicant. This activity will have presumably degraded the ecological baseline against which net gain should be measured.



Even the applicant's own consultants have felt compelled to refer to the active management of the site within their submissions [REDACTED]

[REDACTED] It is deeply alarming that this activity, which may have resulted in the disturbance or destruction of protected species and habitats, has not been directly addressed or challenged by the Council's own ecological consultees. I have previously raised this with you and I now by copy raise this with Rachel Jones.

2. Flood Risk and Access Issues Unresolved

The applicant continues to pursue a new access route in a known surface water flood risk area, without having satisfied the requirements of the Sequential Test. This is directly at odds with recent updates to national PPG and policy requiring development to avoid medium to high flood risk "so far as possible". If this application was politically unpopular, drainage would be all of this.

3. Planning Case Weakening

The applicant's covering letter now backtracks on the scale of commercial use and employment generation, suggesting that previous statements led to misunderstanding.

The fact is, employment generation was heavily relied on in the original submission to justify the proposal [REDACTED]

The applicant cannot now have it both ways – downplaying the commercial intensity to quell concerns while still relying on supposed job creation to outweigh flood risk, the destruction of a wooded greenfield site, priority habitat, protected species, protected trees and highways safety concerns. The planning balance must account for this.

4. Public and Officer Objections Growing

Your own Drainage Consultant and Ecologist have both submitted holding objections and I anticipate your Tree Officer will be revising their comments which make no reference to the incursion to the RPAs of our offsite protected trees as they had cited they had not seen our submissions when their comments were made. The Parish Council, residents of Oak Hill House, and some 40+ other residents have submitted strong, planning based technical arguments for which they are to be commended. The public interest clearly lies in full scrutiny of this proposal.

5. Technical Consultees / Officer Recommendation

As a Chartered Surveyor, I am well within my professional competence to raise concerns relating to key planning matters such as flood risk, tree protection, highway access, and ecological baseline manipulation. It would not be a safe or reasonable stance for a case officer to suggest that these issues are beyond the remit of a lay objector ***or for a case officer to express reluctance in departing from consultee advice where plainly justifiable.***

In this case, I have identified:

- The proposed access is in an area recorded on Surface Water flood risk maps to be affected by flooding.
- The failure of the applicant's drainage consultant based in China (or India as the author has two addresses) to recognise the need for Sequential Testing, despite

proposing a new access in an area of known surface water flood risk, evidenced by on-site ponding and local flooding history;

- Misclassification of the woodland on site, no results of bat activity surveys, no assessment of lighting impacts on bats.
- Clear and substantial incursions into the RPAs of T13 and T14, two protected trees in my ownership, with no on-site arboricultural assessment from the applicant or Council to date;
- Proposals showing bitmac surfacing above Cellweb, which directly contradicts the requirement for free-draining construction in Root Protection Areas (RPAs);
- No demonstrated assessment of T15, a tree outside the red line but directly along the access track, for bat roost potential, despite the proximity of known habitat.

These are not marginal points. They are core planning/technical issues which go to the heart of the application's acceptability, and they sit squarely within the case officer's responsibility to interrogate and assess as part of a robust and lawful recommendation. They are not especially technical in nature either.

It is well established that:

- Planning officers are not bound to follow consultee advice, especially where concerns exist or material conflict is present; and
- Planning Committees are not bound to follow officer recommendations.

This is confirmed in House of Commons Briefing Paper SN00930 (30 August 2019) and supported in law by the principle of Wednesbury reasonableness, which demands that decisions must be **rational** and properly weighed against all material considerations.

In this case, Oak Hill House has submitted technical representations from qualified professionals (planning consultant, arboricultural, drainage and highways) who have submitted objections.

In accordance with the legal principle established in *R (David Wilson Homes Ltd) v Secretary of State for Communities and Local Government* [2014] EWHC 2115 (Admin), the Council is required to consider all technical representations fairly and may not simply prefer its own consultee advice over the evidence provided by independent consultants instructed by objectors. To do so would be irrational and render any decision legally vulnerable.

6. Deliverability and Restrictive Covenants

The green corridor land forming the proposed commercial access corridor is subject to enforceable restrictive covenants benefitting third parties, which directly affect the lawful deliverability of the scheme.

- My property, Oak Hill House, benefits from a restrictive covenant prohibiting the construction of any structures within this corridor **which I fully intend to enforce**.
- The Courtyard Freeholder (comprising multiple residents), a separate title, benefits from a covenant restricting the use of that same land to **agricultural purposes only**.

In planning law, deliverability is a material consideration, and the Council must assess whether the scheme can lawfully be implemented, especially where development is dependent on third-party land or rights not under the applicant's unilateral control.

The applicant's proposals include a bitmac-surfaced commercial access road, kerbstones, fencing, gates, signage, and lighting — all of which amount to "structures" for the purpose of covenant enforcement.

In *David Wilson Homes Ltd v City of Westminster* [2003] EWHC 1272 (Ch), the Court held that the term "structure" in a restrictive covenant is not limited to buildings. It includes roads, footpaths, kerb lines, lighting columns, bollards, fences and similar built features, as these change the character and use of the land. As such, the applicant's proposed access works are a clear breach of the restrictive covenant benefitting Oak Hill House.

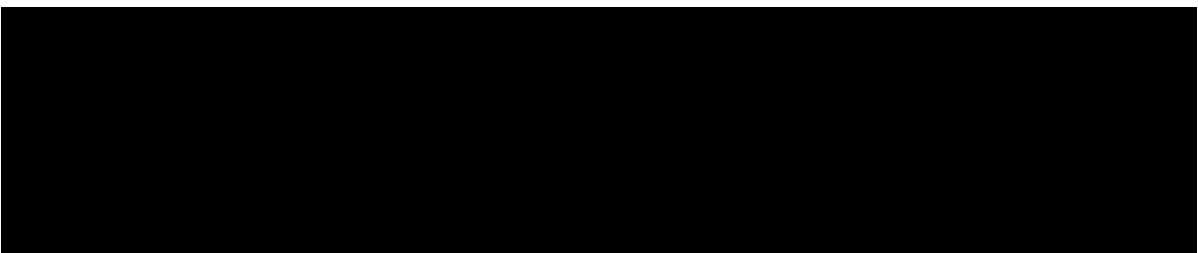
Furthermore, the use of the land as a commercial access also breaches the agricultural use restriction enforceable by the Courtyard Freeholder, who (we understand) intends to enforce.

These constraints materially impact the lawful implementation of the scheme and must be taken into account in the planning balance. This is not merely a private legal matter – it goes to the heart of whether the development is deliverable.

In Conclusion

This application does not just fall short – it is based on a pack of misrepresentations and fails even the faintest scrutiny.

The applicant has built their case on contradictory claims and has already begun backtracking. The promised job creation, which underpins the supposed economic justification, has been wildly overstated. Faced with legitimate community concern, the applicant now retreats, blaming “misunderstandings” – but they wrote the words. If not jobs, then what exactly is the driver behind this scheme? Because it certainly isn’t need, and it certainly isn’t policy.



The scheme proposes a major new commercial access through a flood-prone corridor, priority habitat woodland, and the root zones of protected trees, with no genuine biodiversity net gain, no sequential testing, and no credible public benefit. It causes material harm to residential amenity, protected species, visual character, and policy objectives.

Meanwhile, the land has been cleared in advance of submission, degrading the biodiversity baseline. The applicant's own consultants refer to "active management" of the site – a convenient euphemism for the removal of habitat that should have formed part of the baseline BNG assessment. This should alarm every consultee involved – yet no enforcement action has been taken, nor has a proper baseline assessment been insisted upon.

The application is also undeliverable: not one but two restrictive covenant prevents 1. construction of any structures (including roads, kerbs, footpaths, etc.) on the green corridor enforceable by the owners of Oak Hill House and 2. Restricts the use of the green corridor to agriculture. That alone should weigh heavily in the planning balance.

We therefore urge the Council to:

- Reject this application in its entirety;
- Record a clear and comprehensive refusal [REDACTED]
[REDACTED]
- Treat all professional submissions – including those from Oak Hill House's retained experts – on equal footing with internal consultee comments;
- Require the Arboricultural Officer and Head of Ecology to conduct site visits to assess the true extent of clearance, encroachment, and harm;

[REDACTED]

There is no policy support, no environmental credibility, no employment justification, and no deliverability.

To approve this application would be irrational, unjustified, and plainly vulnerable to legal challenge.

I would be grateful if you could please ensure this letter is uploaded in full to the public file and given due weight prior to the revised consultation deadline of 22 October 2025.

Kind regards,

Andrew Scott

Oak Hill House

Upper Seagry