

From: Colin Danks

Sent: Tuesday, September 30, 2025 12:28

To: Thomas, Andrew <Andrew.Thomas@wiltshire.gov.uk>

Subject: RE: Planning Ref PL/2025/06615 – Land Adjoining Oak Hill House, Upper Seagry

Hi Andrew,

Sorry to miss your call yesterday and thanks for copying me into the email below. You're right about the change to the PPG and proportionality which has just been introduced. I hope you don't mind me going through the changes and how I believe they are applied.

Amongst others, there were two paragraphs inserted into the PPG which tread a careful path when considering all forms of flood risk (as per the NPPF): Paras 23 (the objective of the test) and 27 (proportionality) are relevant here.

The main objective of the para 23 is:

"The approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding" [my emphasis]

Medium risk is a chance of flooding of 1 in 100 and 1 in 30. From what I have seen the site access falls into a medium risk category,). The approach to assessment which the PPG applies is 'to avoid so far as possible, development in current and future medium and high risk....'

Para 27 is then clear that:

"The sequential test should be applied to 'Major' and 'Non-major' development proposed in areas at risk of flooding..."

So, the sequential test should be applied to this application unless there is a proportionate reason not to do so. Para 27 sets defined parameters for determining whether it is proportionate not to apply the sequential test:

“In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.”

I cannot see that the design of the layout or any mitigation measures ensure occupiers would remain safe or that flood risk would not be increased elsewhere. An alternative access route would address this. Likewise, an alternative site could address the medium risk identified.

Turning back to the first paragraph, the applicant has not demonstrated they have explored any options to “avoid so far as possible” the area of medium flood risk for the site access road. The application provides no evidence of showing how the proposed layout, design or any mitigation for this area of flood risk has been provided to “ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development” and in this instance a proportionate approach would be to seek a sequential test at the very least.

Again, I hope you don’t mind me going through this, but as you can see, just because the main body of the site is FZ1, it still needs to be treated as a site at medium risk and when you look at the proportionate parameters, the application as presented should raise a red flag with regard to sequential testing.

Do give me a call if you would like to discuss and thanks for your time with Andrew yesterday.

Kind regards

Colin

COLIN DANKS MRTPI

Director

A: Suite 2, Leigh Court Business Centre, Pill Road, Abbots Leigh, Bristol, BS8 3RA



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From: Thomas, Andrew <Andrew.Thomas@wiltshire.gov.uk>

Sent: 29 September 2025 16:53

To:

Cc: Colin Danks

Subject: RE: Planning Ref PL/2025/06615 – Land Adjoining Oak Hill House, Upper Seagry

Hi Andrew,

Just off the back of the conservation. I would state no formal decision has been made with regard to the sequential test and there is still an outstanding drainage objection at this point, so further detail is required.

The PPG was recently updated to note that *“in applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.”*

[Flood risk and coastal change - GOV.UK](#)

I am not in anyway trying to indicate that the above details have been met though. Simply noting this recent clarification, and noting its impact.

For my purposes, as outlined on the call, it is flood zone 1, but an area defined as at risk of flooding within the sFRA. Typically thus would suggest the sequential test is needed, but now in applying 175, I need to consider the above.

As previously discuss though, any comment you wish to make I would encourage adding them to the application itself, and they will be considered when I put together my report.

Kind regards

Andrew Thomas

Planning Officer

Development Management

Place Directorate

Phone 0300 456 0100

Email Andrew.Thomas@wiltshire.gov.uk



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From: Andrew Scott

Sent: 29 September 2025 15:08

To: Thomas, Andrew <Andrew.Thomas@wiltshire.gov.uk>

Subject: Re: Planning Ref PL/2025/06615 – Land Adjoining Oak Hill House, Upper Seagry

Importance: High

Dear Andrew

I would be very grateful to arrange a short phonecall with you please as a matter of some urgency, I can be reached on. I am emailing you from my work email address for expediency having previously emailed you on my personal email.

Whilst I recognise that it is perhaps uncommon for a case officer to have to have regard to title matters, I now need to bring to your attention a legal impediment to such a development (should the Council be minded to approve) from being implemented – the green corridor proposed to be used as the principal commercial access, and part of the site, is subject to a restrictive covenant that is plain for all to see on the applicants title register (copy attached) and extracted below for ease of reference if you note entry C3 which confirms the affected land is restricted to agriculture or poultry or farming and no buildings may be erected:

Separately and noting your reply below, I am also concerned regarding attention to detail of some of the consultee responses and Colin I believe has tried to phone you in this regard and has just emailed you. I would be very grateful if you could take the time to speak with him over the phone.

Kind regards

Andrew

Andrew Scott MRICS

Director, Andrew Scott Land & Property



From: "Thomas, Andrew" <Andrew.Thomas@wiltshire.gov.uk>

Date: Friday 19 September 2025 at 10:14

To: "

Cc: "

Subject: RE: Planning Ref PL/2025/06615 – Land Adjoining Oak Hill House, Upper Seagry

Dear Mr Scott,

Thank you for the details provided. I will review each point in forming my recommendation, and seek further advice from our consultees concerning aspects such as the root protection areas, drainage concerns, and highways comments.

Kind regards

Andrew Thomas

Planning Officer

Development Management

Place Directorate

Phone 0300 456 0100

Email Andrew.Thomas@wiltshire.gov.uk



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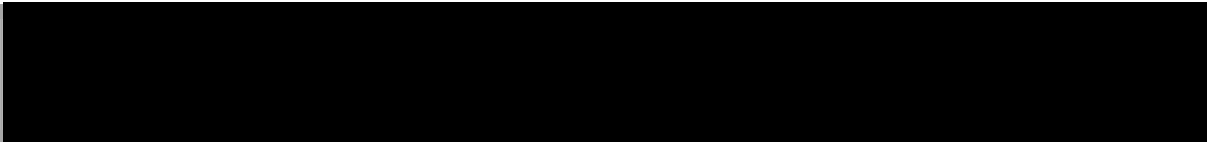
From: Andrew Scott

Sent: 18 September 2025 14:23

To: Thomas, Andrew <Andrew.Thomas@wiltshire.gov.uk>

Cc:

Subject: Planning Ref PL/2025/06615 – Land Adjoining Oak Hill House, Upper Seagry



Dear Andrew

I write as the owner and resident of **Oak Hill House, Upper Seagry**, which directly adjoins the site identified in planning application **PL/2025/06615** – more accurately known and registered with HM Land Registry as “*Land Adjoining Oak Hill House*”. I’ve indicated below the approximate extent of my property (in red) and that of the application site (in blue), for ease of reference.

Given the immediate proximity and potential impact of the proposed scheme, I have appointed **Colin Danks** MRTPI (cc’d) of **Copperfield Planning** to independently review the application on my behalf. Colin’s professional advice is included below, and I would respectfully request that it be treated as part of the application record.

While I intend to submit further material in due course, I wish to raise several critical issues at this stage:

Protected Trees (TPO 2017/00024/MIXED)

Two trees within my garden – **T13 and T14** – are subject to a confirmed Tree Preservation Order and sit entirely outside the applicant’s ownership or control. The submitted Tree Protection Plan clearly shows that the root protection zones of both trees are materially affected by the proposed access road and footpath. I show below an extract for clarity.

Surface Water Flood Risk and Sequential Test

The land at the site entrance is frequently **waterlogged and prone to surface flooding**. The area referred to as an “access road” is in fact a long-disused overgrown strip, recently cleared in anticipation of the application. There is **no constructed surfacing or lawful commercial track**. Sequential testing of alternative access arrangements is therefore clearly triggered under the **NPPF flood risk framework**.

Planning History – Restriction on Use

I also refer you to application **N/04/00992/FUL** (copy attached), where consent for the original gate was granted only on the basis that the access be used “***exclusively for grass-cutting machinery***”. Condition 3 of the consent explicitly restricts the use of the access to “**agricultural purposes only**”, in order to prevent inappropriate activity in this sensitive location.

Restrictive Covenant and Boundary Obligations

The strip of land proposed as access is subject to a **restrictive covenant in favour of Oak Hill House (my property)**, which prohibits the building of structures. In addition, the owners of the strip are legally obliged to forever maintain a post-and-wire fence along our shared boundary. These obligations strongly reinforce the intended function of the strip as a non-commercial buffer, protecting residential amenity and separation.

Residential Amenity and Visual Intrusion

The proposed access route runs in direct parallel to the glazed rear elevation of Oak Hill House, which includes our kitchen, dining and sitting rooms and several upstairs bedrooms. These are our principal family living spaces, and the scheme would result in severe and direct visual intrusion, compounded by noise, lighting, emissions and passing vehicle movement.

Importantly:

- Our children's play equipment and their use of the garden and our own sits directly along this boundary, making the strip highly sensitive in amenity terms;
- I also work professionally from the annexe at Oak Hill House, and rely on the quietness and setting of the property in the course of my business.

This scheme would severely compromise both our residential enjoyment and economic use of our home.

I will be in touch with further observations in due course, but should you have any queries in the meantime, I am available at

Yours sincerely

Andrew Scott

-END-

From:

Date: Wednesday 10 September 2025 at 14:24

To:

Subject: Upper Seagry

Dear Andrew,

Thank you for asking Copperfield to review application PL2025/06615, building at Seagry House, comprising 4 flexible B8 storage/ or Class E commercial business

units. I've read the application and make the following observations (see below). At this stage this email represents planning advice to you, but should you wish, it can be provided as a letter of representation to Wiltshire Council.

Copperfield is generally supportive of good development that is capable of complying with the Development Plan and other material considerations such as National Planning Policy. In this case however, the proposals are not compliant with the relevant parts of the Development Plan and there are substantial material considerations that indicate planning permission should not be granted in the form proposed.

The observations that lead to the above conclusion are as follows:

1. With the exception of 0.1ha (the former storage building to which the 2005 Certificate of Lawful Use relates), the site is greenfield, open countryside and not adjacent to a defined settlement (as per the Wiltshire Core Strategy). Any assessment of planning policy must start from this point.
2. The 2005 Lawful Use Certificate was granted 20 years ago and the applicant has not presented evidence to show that it has been in B8 use based on the 4 tests set in *The Trustees of Castell-y-Mynach Estate v Taff-Ely BC* [1985]. The covering letter explains the building is "beyond repair". If it is proven that the use has not been abandoned, then the established use relates only to the building in question and only to B8 storage, not Class E. In either scenario the application must be considered in principle as well as detail.
3. Development Plan Policy CP34 deals with the principle of commercial development. The second part of the policy is relevant and sets four tests i-iv. None of the tests are met:

i. It is not adjacent to a Principle, Market or Local Service Centre and is not an expansion of an existing business with or adjacent to the settlements.

ii. The proposals are not to support farming, food production to support modern agricultural practices or diversification.

iii. It is not adjacent to a defined Large or Small Village on the Proposals Map.

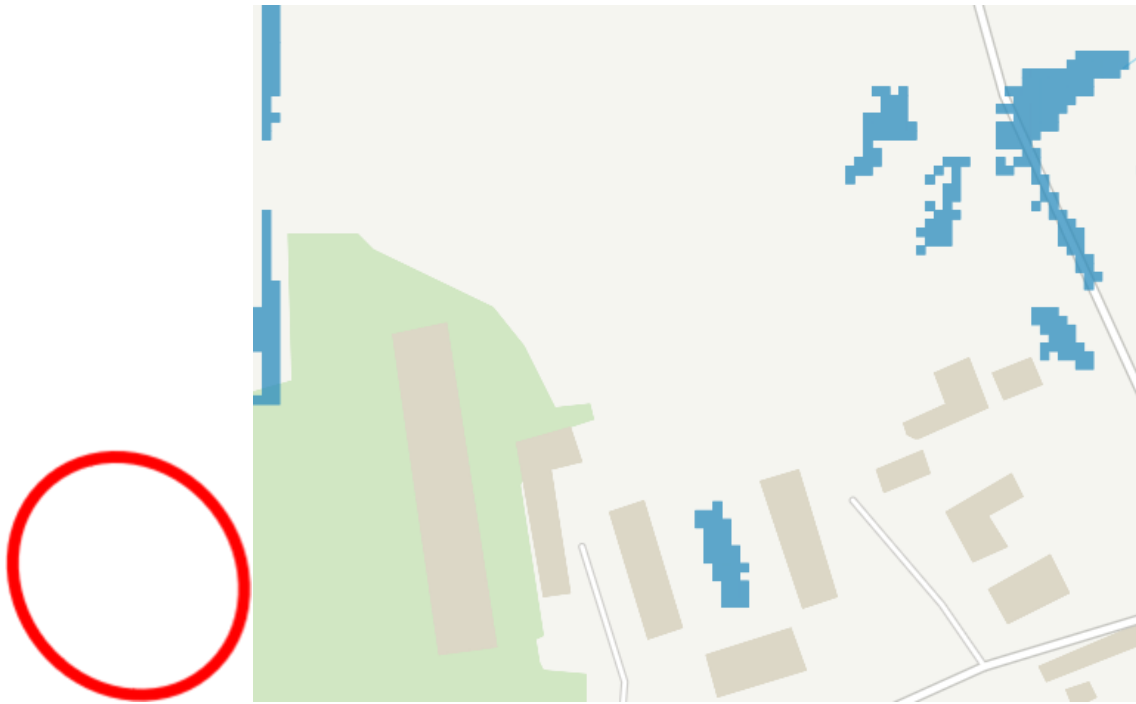
iv. It is not essential to the wider strategic interest of the economy.

The proposals are therefore inconsistent with CP34 and contrary to a key policy of the Development Plan. Tests a.-e. are not therefore triggered and even if they were, there are substantial sustainability concerns with the proposals in respect of ecology and arboriculture impacts (see assessment of CP50 below).

4. The proposals are to remove 58% of trees on site (51 removed and 37 retained). Of the 37 proposed retained trees, development occurs within the RPZ of at least 29 individual trees and 5 tree groups. The loss of trees and impact on the remainder is substantial.
5. Offsite trees T13 and T14 which are not in the control of the applicant are subject to TPO Orders and both RPZs are impacted by the access road/ footpath. Whilst there is an existing gate way, there is no road surfacing. The access was granted for a paddock only (N/04/00992/FUL) and not commercial and storage businesses.
6. The site habitat, including trees and understorey planting. Most of the site is Priority Habitat Inventory Woodland (deciduous woodland) with trees T1 and T2 having moderate bat roosting potential at the entrance of the site and are proposed to be felled to form the access. They were not inspected for roosts. Building B1 which would be demolished supports a day roost.
7. The ecology report also confirms the site is optimal foraging and community habitat and is connected to other habitat, surveys confirmed the presence of a range of protected bat species including Leisler's and Barbastelle. Even if there

were no external lighting on site (which is unlikely for a B8/ E Class use, the lighting impact from vehicle movements in spring and autumn will have a substantial impact. No lighting assessment has been provided to show a 0.2-0.4lux can be achieved.

8. Development Plan policy CP50 requires all applications to demonstrate how they protect features of nature conservation and geological value as part of the design rationale. This is the minimum. The majority of Deciduous Woodland trees are proposed to be felled and those that remain including off-site TPOs are impacted by development within PRZs. There is no demonstrable lighting strategy to protect the optimal bat foraging habitat either. The proposals are therefore contrary to Development Plan policy CP50.
9. Development Plan policy CP50 expects biodiversity enhancement and the Environment Act requires this to be at least 10% based on the latest statutory metric. The submitted metric shows a net loss contrary to policy CP50, The Environment Act and the National Planning Policy Framework.
10. The Government Flood Maps for Planning indicate that parts of the site, including the access are affected by 1 in 100 and 1 in 1000 year surface water events. The NPPF is concerned with all forms of flood risk, including surface water flooding which affects the site access and extends across the main road at this point. Paragraph 175 of the NPPF states *“The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).”* It does not appear that a sequential test has been applied as a result of the access road being within an area affected by flooding., especially as the minor developments exception (para 176 and footnote 62) does not apply. Whilst the access road remains in its current route onto the main road, the sequential test for alternative sites applies. The proposals are not necessary and do not provide any sustainability benefits for the community which would outweigh the flood risk. They do not show that the access road will not increase surface water flood risk in the vicinity of the site. For the above reasons proposals are not consistent with the NPPF in this regard.



Government Flood Plan Maps for Planning 1:100 year event

11. Paragraph 11 of the National Planning Policy Framework provides the presumption in favour of sustainable development tests and provides the basis for assessing whether planning permission should be granted. With regard to test 11c), the proposals are not consistent with the development which in respect of policies CP34 and CP50 is up to date. On these important matters alone, planning permission can be refused.
12. In the unlikely event that paragraph 11d)i and 11d)ii were engaged, the surface water flood risk element alone at the site entrance would render d)i unusable as a route to the grant of planning permission. And in the even more3 unlikely event that 11d)ii were engaged, the substantial harm to ecology, trees, TPO trees would significantly outweigh any perceived benefit from economic development given this is not an allocated site for this use and there is no demonstrable urgent or pressing need in this part of Wiltshire.
13. In all respects there is no reason or justification, with or without the tilted balance provided by the presumption in favour of sustainable development, to

grant planning permission. It is my conclusion that policies that seek to protect largely greenfield, woodland priority sites like this are fully engaged.

I will leave it to you to consider discussing this with the landowner. However, if instructed this email can be amplified and issued to the Local Planning Authority as a formal representation. It should carry the same weight as any other submission in the determination process.

Kind regards

Colin

COLIN DANKS MRTPI

Director

A: Suite 2, Leigh Court Business Centre, Pill Road, Abbots Leigh, Bristol, BS8 3RA



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