

4th March 2026

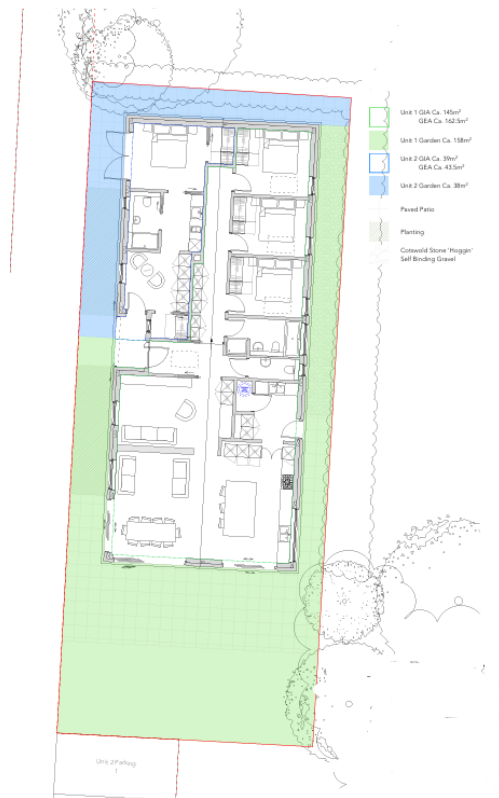
Our Ref: SWLC.LPC5840

Development Services – North
Wiltshire Council
Monkton Park
Chippenham
Wiltshire
SN15 1ER

Dear Sir/Madam

Town and Country Planning Act 1990
Provision of 1No dwelling at
Piccadilly House, Folly Lane, Lacock, Chippenham, SN15 2LP

As your records will confirm the conversion of a former agricultural building at the above site, pursuant to Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) was recently approved to provide 2No dwellings (LPA Reference; PL/2024/09383). The approved layout details are shown below, and it is understood works are just about to commence in these regards.



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It is the purpose of the enclosed application though to authorise the creation of a single dwelling, enhancing my client's amenity by removing the smaller of the two units approved. It is also proposed to enhance the new dwelling's overall amenity by extending the approved curtilage, creating a new single planning unit.

The changes proposed within the existing building shell are shown below.



As can be seen, the approved fallback position provides a clear precedent to development this site, and the alternative development proposed is not materially more impactful. Indeed, by lessening the intensity of use it is arguably a less impactful development, and there are no material changes in circumstances that would suggest otherwise, to justify resisting the proposed alternative development.

The enclosed application is of course a full application, however whilst it is the purpose of this planning statement to address the relevant planning policy framework, that assessment is heavily constrained by both the fallback position, and as will also be explained, by the tilted balance triggered at paragraph 11 (d) to the NPPF.

THE DEVELOPMENT PLAN

Section 70 [2] to the Town and Country Planning Act 1990 and Section 38 [6] to the Planning and Compulsory Purchase Act 2004 require that all planning decisions are made in accordance with the Development Plan unless other material considerations indicate otherwise.

The relevant Development Plan policies framework in this case is provided by the adopted Wiltshire Core Strategy (WCS). Those policies most relevant to both applications are believed to be as follows. The 'saved' policies of the from the West

Wiltshire District Local Plan (1st Alteration) are also material, and are listed below too.

Wiltshire Core Strategy (WCS)
Policy CP1 – Settlement Strategy
Policy CP2 – Delivery Strategy
Policy CP11– Corsham Community Area Strategy
Policy CP48 – Supporting Rural Life
Policy CP51 – Landscape
Policy CP57 – Ensuring High Quality Design and Place Shaping
Policy CP60 – Sustainable Transport
Policy CP61 – Transport and New Development
Policy CP64 – Demand Management
Policy CP67 – Flood Risk

The National Planning Policy Framework (NPPF) provides the Government's planning policies for England and explains how they should be applied. Together with the online Planning Practice Guidance (PPG) it is a material planning consideration.

The Wiltshire Design Guide (2024) is a Supplementary Planning Document (SPD) and expands upon the current Core Policy 57 "Ensuring high quality design and place shaping" in the Wiltshire Core Strategy. It is a material planning consideration

PLANNING ASSESSMENT

The main issue is whether the site is an appropriate location for permanent residential dwelling having regard to the WCS and the NPPF. With this in mind, and by reference to the fallback considerations outlined earlier, and the fact it is not therefore necessary to revert to first principles, the key planning issues applicable to the overall determination of the proposal are as follows;

- The principle of development
- Design and wider landscape impact
- Residential amenity
- Highway safety

Principle:

Planning Policy:

The application site is located in the countryside, where development will not normally be permitted other than in accordance with the exception policies set out within the development plan. The exceptions, other than any that may come forward through the neighbourhood planning process, are identified at Paragraph 4.25 of the WCS.

In this case, it is acknowledged that on its face the erection of a new dwelling would not meet any of the policy exceptions to the general policy of restraint in the countryside and is in conflict with the strategic aims of the development plan set out

at Core Policies 1 and 2 of the WCS, as well as the Spatial Strategy for the Community Area set out at Core Policy 11

However, as works have commenced to execute the existing building's approved conversion as two new dwellings and by comparison the physical changes proposed are very minor so that this application assessment falls to be carried out against Core Policy CP48 as applicable, and in light of those relevant comments at paragraph 84 to the NPPF.

The proposed conversion is clearly not significantly dissimilar from those details approved and merely requires the grant of full permission because of the change in floor area as a single dwelling unit and the single garden area created, in excess of the permitted tolerances. The delivery of the building's physically sanctioned conversion reuses the barn as an acceptable exception to the spatial limitation of providing new housing in the countryside. Consequently, there is no material conflict with the spirit and purposes of the local and national policy framework in light of the changes proposed.

The Prior Approval decision indicates that there is no dispute that the principle of residential development complies with matters relating to access/highway impact, flood risk, preserving the amenities and planning of neighbouring uses, car parking, biodiversity, infrastructure and impact on trees and hedges. These parameters are unchanged by the remodelled conversion scheme proposed.

On this basis it is strongly maintained that it is not necessary to revert to first principles, and it is therefore the tenet of the policy support provided at CP48 that is really relevant. There is an extant and recent grant of Prior Approval for the conversion of the existing barn under Part 3, Class Q General Permitted Development ('PD') rights, and this provides a fallback consideration of great weight. A full plans Building regulations submission has been made to convert the building and the enclosed application will merely allow that to be revised to create a single family home rather than include a small second property.

Principle of development – the fallback position

It is established in case law that permitted development rights can legitimately represent a fallback position when considering alternative proposals for development of the same site. The relevant legal principles relating to fallback were set out in *R v Secretary of State for the Environment and Havering BC (1998) EnvLR189*. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fallback test:

"First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fallback use."

The notion of the Class Q fallback position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, *Mansell vs Tonbridge and Malling*

Borough Council [2017]. The case concerned an appeal of a decision dismissing a claim for judicial review of a planning permission granted by Tonbridge and Malling Borough Council, the development being the demolition of a barn and bungalow and the construction of four detached dwellings. At the time of the decision, and prior to subsequent amendments, Class Q of Schedule 2, Part 3 of the General Permitted Development Order authorised the barn to be converted to three residential units with a combined floorspace of up to 450m². Coupled with the replacement of the existing bungalow-also supported by policy at the time-the resultant effect was that the principle of development existed for four residential dwellings, such four dwellings being the same number of units for the proposed redevelopment of the site.

When originally granting permission, the case officer stated in his report:

“In making an assessment of any application for development, we are bound to consider what the alternatives might be for a site: in terms of what could occur on the site without any permission at all (historic use rights) or using permitted development rights for alternative forms of development.” The judge held that the officer was entitled to draw that conclusion:

“It was not a precondition to the Council’s consideration of the fallback option that the interested party had made an application indicating to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect.”

Specifically, the planning officer advised the council’s planning committee that:

“a scheme confined to taking advantage of permitted development would, in my view, be to the detriment of the site as a whole in visual terms...the current proposal therefore, in my view, offers an opportunity for a more comprehensive and coherent redevelopment of the site as opposed to a more piecemeal form of development that would arise should the applicant seek to undertake to implement permitted development rights”.

At the Court of Appeal, legal Counsel for the appellant argued that the evidence did not demonstrate a real prospect as opposed to merely a theoretical prospect of such a development being carried out. He claimed that the judge should have recognised that the fallback development referred to in the officer’s report was not a material consideration. In responding, the judge stated:

“I cannot accept that argument. In my view the officer did not misunderstand any principle of law relating to a fallback development. His advice to the members was sound. The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar...in this case...it was plainly appropriate, indeed necessary, for the members to take into account the fallback available to the East Malling Trust as the owner of the land, including the permitted development rights arising under Class Q in the GPDO and the relevant provisions of the development plan. Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law.”

The Court of Appeal dismissed the appeal and thereby did not quash the Council’s grant of planning permission. Three issues arose on appeal. The first two concerned: a) the interpretation of Class Q GPDO rights; and b) the materiality of the fallback position. The second challenge by the appellant concerned whether

there was a ‘real prospect’ of development under Class Q on the lack of contemporaneous evidence that the landowner had contemplated such development.

Lindblom LJ confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement were:

‘the basic principle is that for a prospect to be a “real prospect”, it does not have to be probable or likely; a possibility will suffice; There is no rule of law that, in every case, the “real prospect” will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker’s planning judgment in the circumstances of the case in hand.’

He then concluded that the clear desire of the landowner to develop and maximise the value of the site was sufficient to demonstrate there was a real prospect to the Class Q fallback position in this case. Therefore, the council made no error in law in giving material weight to such fallback position.

The presence of a fallback position has weight on the basis that it remains achievable and is greater than a theoretical possibility - that is to say, there is a likelihood that the fallback position would be carried out if the prospective application were not approved.

The approval was agreed to involve a building that is structurally sound and capable of conversion and the extant Prior Approval was demonstrated to represent a conversion rather than a rebuild of the building. It is a matter of fact that the conversion therefore remains “feasible”, and that the proposed changes simply offer advantages to the applicants in terms of a single family home, increased flexibility, while also providing greater logistical ease in the course of the works. The Council has no reason to consider that the extant Class Q Prior Approval cannot now be implemented, nor that it would not be if this application were ultimately to be resisted. The extant approval is therefore a material consideration to be afforded substantial weight in the decision-making process.

In this instance, the application is proposing the same apparent built development and in the same location. Taken as a whole, the proposed development is therefore believed to be supported in principle by the fallback position that is to be afforded sufficient weight to overcome the policy objection to development at this site and is a sequentially preferred rural conversion, supported by policy CP48 to the WCS.

Design and Landscape impact

Core Policy 57 states that new development is expected to create a strong sense of place by drawing on the local context and being complementary to the locality. Good design helps to provide a sense of place, creates or reinforces local distinctiveness,

and promotes community cohesiveness and social wellbeing; The layout and design of new developments must also be based on a thorough understanding of the site itself and its wider context, and seek to maximise the benefits of the site's characteristics. This will require careful consideration of the site layout. No two sites share the same landscapes, contours, relationship with surrounding buildings, street patterns and features. The proximity of poor quality or indistinct development is not a justification for standard or poor design solutions. New development should integrate into its surroundings whilst seeking to enhance the overall character of the locality; A high standard of design is required in all new developments.

Overall, it is considered that the proposed dwelling has been fully informed by the existing location and rural characteristics, and will be largely unchanged in terms of the physical externalities appreciated locally and as already sanctioned. As such it is considered that the proposed works are of an acceptable scale, mass, height and design to preserve the character of the wide site, would not harm the sense of place and would not erode the character of the wider area.

Residential Amenities:

WCS policy CP57 (Ensuring High Quality Design & Space Shaping) requires that development should ensure the impact on the amenities of existing occupants/neighbours is acceptable and ensuring that appropriate levels of amenity are achievable within the development itself. The NPPF includes that planning should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”. Residential amenity is affected by significant changes to the environment including privacy, outlook, daylight and sunlight, and living areas within private gardens and this, therefore, needs to be carefully considered accordingly.

The proposal is positioned well away from any neighbours and maintain the reasonable amenity for the existing population. The design of the new dwelling is considered to provide an attractive family home too, with ample space and no conflict with neighbouring land uses, being less intensive as a use of the site than that already approved.

Highways:

In terms of the highway considerations, it is again material to consider the fallback position as this removes any highway objection under the guise of sustainability, which could have been posited without the fallback position. The like for like nature of the built form and reduced intensity of use of the established access means all such issues are effectively unchanged regarding parking and the collection of refuse and recycling etc. The removal of the smaller unit ultimately enhances the plot's individual amenity and highway impact.

I trust the above comments are sufficient to ensure the application can be favourably assessed, simply as a 'better' use of the site and building with less potential impact. However, if there are any questions to ensure your support, please do not hesitate to contact me direct.

Yours faithfully

Simon Chambers
Director

Enc.

Cc Mr and Mrs Williams