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Your Ref: SN10 4QH
Our Ref: APP/Y3940/W/24/3357720

Planning Officer
Wiltshire Council
Development Services
County Hall, Bythsea Road
Trowbridge
Wiltshire
BA14 8JN

16 May 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Gaiger Brothers
Site Address: Urchfont Garage, High Street, Urchfont , Devizes, Wiltshire, SN10 4QH

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

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The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/>

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

Yours sincerely,

Mike Lloyd

Mike Lloyd

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Appeal Decision

Site visit made on 31 March 2025

by **SE Hughes BA (Hons) PGDip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Appeal Ref: APP/Y3940/W/24/3357720

Urchfont Garage, High Street, Urchfont, Devizes, Wiltshire SN10 4QH

- 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 Gaiger Brothers against the decision of Wiltshire Council.
 - The application Ref is PL/2024/07035.
 - The development proposed is the demolition of existing buildings and construction of five dwellings and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and construction of five dwellings and associated works at Urchfont Garage, Devizes, SN10 4QH in accordance with the terms of the application, Ref PL/2024/07035, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by the appellant against Wiltshire Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the development would lead to an unacceptable loss of land and workshop buildings at Urchfont Garage, contrary to the principles of sustainable development.

Reasons

4. The proposal is to redevelop land and workshop buildings at Urchfont Garage which is used as a repairs and MOT centre and a carpentry workshop. The western part of the appeal site is located in the Urchfont Conservation Area (UCA), near a number of grade II listed buildings.
5. The Council consider the site to be an “employment site” and that its loss would be contrary to the principles of sustainable development. Furthermore, that the site’s housing allocation in the “out of date” Urchfont, Wedhampton and Lydeway Neighbourhood Plan 2015 – 2026 ‘Building on a Resilient Community’ (UWLNP) and the shortfall in its five-year supply of deliverable housing sites, mean that the application should be assessed on its merits against paragraph 11(d)(ii) of the National Planning Policy Framework (the Framework), whereby the Council argues that it would result in adverse impacts which significantly and demonstrably outweigh the benefits.
6. However, paragraph 11(d) comes into force when there are no relevant

development plan policies, or the policies which are most important for determining the application are out-of-date. The Framework is clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making, with preceding paragraph 11(c) of the Framework requiring the approval of development proposals that accord with an up-to-date development plan without delay, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004.

7. For the purpose of this appeal, having been made in April 2017 and covering the period from 2015 to 2026, the UWLNP is up-to-date and together with the Wiltshire Core Strategy (WCS) the two documents comprise the extant development plan.
8. The appeal proposal accords fully with the housing allocation at policy H1(h) of the UWLNP. Whilst policy LB1 of the UWLNP protects existing employment facilities, clause (c) makes it clear that the protection does not apply to a site that has been allocated under policy H1.
9. The site is not protected for employment by the WCS, with core policy 35 applying only to existing employment sites within principal settlements, market towns, local service centres and identified principal employment areas, not large villages like Urchfont.
10. The garage business is not on the list of protected community facilities under the provisions of TIC2 of the UWLNP, nor is a garage a type of accessible local service and community facility mentioned under paragraph 88(d) of the Framework. Whilst I note that the garage was classified as an essential service during the COVID-19 pandemic, I also note that the officer's report considered the garage business not to be a community facility, nor an "essential" service that needs to be accessed to meet day-to-day needs, or one that contributes to the social and/or cultural elements of the rural community. Furthermore, a request to register the site as an "Asset of Community Value" was rejected by the Council, as it did not further the social wellbeing or social interests of the local community, therefore failed to meet the definition set out in Section 88(1) of the Localism Act 2011. Given the above, the existing garage use fails to fall under the remit of core policy 49 of the WCS which protects rural services and community facilities.
11. With regards to the statutory duties under Sections 66(1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the main parties agree that the development would not give rise to any harm to the UCA and listed buildings to the west, indeed the Council's conservation officer confirmed that the impact of the proposal on heritage assets will be largely positive. From what I saw on site and the evidence I have before me I find no reason to disagree.
12. For the reasons above, whilst the development would result in the loss of Urchfont Garage and its workshop buildings, it would not be unacceptable given the site's allocation for housing in the UWLNP and as such the proposal does not conflict with the development plan, including core policy 49 of the WCS, or the Framework, including paragraph 88 regarding rural communities.

Other Matters

13. The site lies within the North Wessex Downs National Landscape. The main parties agree that the development would not harm the National Landscape and given that it lies within the built-up area of Urchfont, the effects would be limited to the

immediate local area. Therefore, I am satisfied that there would be no harm to the North Wessex Downs National Landscape.

14. Whilst I am aware that the Wiltshire Local Plan Review 2020-2038 is in the process of preparation, having recently been submitted for examination, it has limited weight and as such it does not materially change the circumstances surrounding the proposal and the primacy of its determination against the adopted development plan.
15. Central to the Council's decision to refuse planning permission is the assertion that the allocation of the site for housing in the UWLNP was made at a time when the garage business had been considered to be failing and that the decision to allocate the site for housing was not transparent to the community, the site ostensibly being protected for employment use by clauses (a) and (b) of policy LB1. Prior to the UWLNP referendum I note that despite concerns being raised, the Parish Council decided to proceed with the referendum, "warts and all". Thereafter, as the referendum went unchallenged, the UWLNP was made. As such the UWLNP is in force and to act otherwise would be to subvert the plan-led system.
16. Several interested parties have stated that a number of houses have already been built or approved within the village and that it is nearing its local housing delivery target set out in the UWLNP and that the housing will not be affordable. However, the Council have confirmed that it has a shortfall in its housing land supply (with a 2.03-year housing land supply) and the development would help to address this. As the proposed scheme is for five houses it is below the Council's threshold for the provision of affordable housing.
17. I note the concerns regarding highway safety, trip generation and car parking for the development and the requirement for the adjoining property Hillsborough to park one vehicle on the roadside. Given I observed on-street parking on the High Street outside Hillsborough on the day of my site visit, such impact would be neutral. Overall, the highway impact would be less than is currently the case with enough parking within the site to serve the development and adequate visibility provided onto the High Street.
18. I have considered representations from interested parties with respect to the effects of the proposal on their living conditions. The development would be visible from neighbouring properties, however, the intervening distances between properties are sufficient to ensure no harmful loss of privacy.
19. With respect to concerns raised by interested parties regarding construction traffic, this can be managed by a planning condition requiring a Construction Traffic and Environmental Management Plan to protect nearby properties from construction noise. Concerns have also been raised regarding site contamination. Again, this matter can be managed by a condition.

Conditions

20. The Council has suggested a number of conditions in the event that the appeal is upheld. I have considered these against the Framework and the Planning Practice Guidance (PPG), revising where necessary to reflect its advice and for the purpose of clarity, including correcting any incorrect plan numbers and titles.
21. Condition 1 is necessary as the standard time condition. Condition 2, requiring the

- development to be carried out in accordance with the approved plans, is also necessary to provide certainty as to the development permitted.
22. Condition 3 is necessary in the interests of clarity and visual amenity to ensure that details of ground floor slab levels are agreed before the development commences. Condition 4, which requires a ground investigation to be carried out, is required for safety reasons, and condition 5 is also necessary as already explained above.
 23. Condition 6 is necessary to ensure trees are protected during demolition and construction. Given that the Council's Tree Officer is satisfied with the submitted Arboricultural Impact Assessment but requires an Arboricultural Method Statement, I have amended the condition to make this clearer.
 24. Condition 7, requiring the materials to be approved by the Council, is necessary to safeguard the character and appearance of the area. Conditions 8 and 13 regarding the installation of rooflights and boundary enclosures are necessary for the same reason.
 25. Conditions 9 and 15 are necessary to protect biodiversity during the construction phase and ensure that features to enhance biodiversity are maintained.
 26. Condition 10 is necessary in the interests of highway safety and to secure the provision and retention of the parking, with vehicle charging points to meet the expectations of development plan policies. In accordance with advice from the appellant, I have amended the drawing number reference to the correct drawing reference, and I have also included the corresponding highway access drawing in order that adequate visibility splays are maintained.
 27. Condition 11 is necessary in the interest of promoting sustainable transport and to ensure the proposal supports the Council's waste reduction and recycling targets and condition 12 is necessary to manage surface water drainage and prevent flooding.
 28. Condition 14 is necessary to ensure the provision, establishment and maintenance of a good standard of landscaping in the interests of providing a satisfactory landscaped setting, privacy and to provide biodiversity enhancement.
 29. Given the appeal site's location within the UCA and its proximity to a number of grade II listed buildings, condition 16 which removes permitted development rights, is necessary to preserve the character and appearance of these heritage assets.

Conclusion

30. For the reasons given above and having considered all other matters raised, I conclude that the proposed development would be in accordance with the development plan when read as a whole and the appeal should be allowed.

SE Hughes

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - SITE- 2081-PLANNING1-REV B – ‘Proposed site layout’;
 - SITE SECTIONS- 2081-PLANNING1-REV A – ‘Site sections existing and proposed’;
 - Plots 1-3- 2081-PLANNING1-REV B – ‘Proposed elevations, floorplans, garage details, cycle store details - Plots 1 to 3’;
 - Plots 4-5- 2081-PLANNING1-REV B – ‘Proposed elevations, floorplans, garage details, cycle store details - Plots 4 and 5’;
 - DWG-1742-01-REV C – ‘Landscape Proposals’; and
 - DEMOLITIONS_2081-Planning1 – ‘Demolitions plan’.
- 3) The construction of the dwellings hereby approved shall not commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details thereafter.
- 4) No development (including demolition) shall commence until a ground investigation has been carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants.

As a minimum, the ground investigation shall be undertaken in accordance with the recommendations of the submitted Phase 1 Assessment of Land Quality (Author: Ground Investigation Limited, dated 17 July 2024) and shall include assessment of the potential risks to:

- human health,
- property (existing and proposed),
- adjoining land,
- groundwater and surface waters, and
- ecological systems.

This must be conducted in accordance with DEFRA and the Environment Agency’s “Model Procedures for the Management of Land Contamination, CLR 11” and other authoritative guidance.

Step 2 – Remediation Scheme

If any unacceptable risks are identified as a result of the investigation referred to above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This shall detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural environment and shall be submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step 3 – Implementation of Approved Remediation Scheme:

The approved remediation scheme under step 2 must be carried out in full in accordance with its requirements. The local planning authority must be given at

least two weeks written notification of commencement of the remediation scheme works.

Step 4 – Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development (that was not previously identified) it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the DEFRA and Environment Agency guidance referenced above and where remediation is necessary, a remediation scheme shall be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the local planning authority.

Step 5 – Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to the local planning authority. The report shall demonstrate the effectiveness of the remedial works.

A statement shall also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (the local planning authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at step 2 above).

The verification report and signed statement should be submitted to and approved in writing of the Local Planning Authority.

Step 6 – Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the local planning authority for approval at the relevant stages in the development process as per the details approved pursuant to step 2 above, until all the remediation objectives in that scheme have been achieved.

- 5) No development shall commence on site (including demolition and ground works) until a Construction Traffic and Environmental Management Plan (CTEMP) has been submitted to and approved in writing by the local planning authority. As a minimum, the CTEMP shall provide details of the following:
- i. how surface water runoff will be managed during construction and demolition phases to prevent an increase in flood and pollution risk to the public highway and adjoining land;
 - ii. key personnel, responsibilities and contact details (including Site Manager and Arboricultural Consultant);
 - iii. the movement of construction vehicles and provision for parking of vehicles of site operatives and visitors;
 - iv. the provision for loading and unloading of plant, materials and demolition materials;
 - v. the provision for storage of plant and materials used in constructing the development, as well as demolition materials;
 - vi. the provision for wheel washing and vehicle wash down facilities;
 - vii. measures to control the emission of dust and dirt during construction;
 - viii. the provision for recycling/disposing of waste resulting from demolition and construction;

- ix. the location and use of generators and temporary site accommodation; and
- x. site working hours and a named person for residents to contact.

The details to be submitted under this condition shall include all details of timing and phasing of proposed measures to ensure that they are in place and maintained for so long as required.

The approved measures shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in full accordance with the Statement without the prior written permission of the Local Planning Authority.

- 6) The development hereby approved (including demolition) shall not commence until an Arboricultural Impact Assessment (AIA) and an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the local planning authority.

As a minimum, the AIA and AMS shall be appropriate to the development proposals and shall detail the exact locations and specifications of tree protection measures and construction/demolition methods where works are required to be undertaken in proximity to the root protection areas of trees on or adjacent to the development site.

The AIA and AMS shall be prepared in accordance with the guidance of BS:5837:2012 (Trees in relation to design, demolition and construction – Recommendations).

- 7) The construction of the dwellings hereby approved (including any associated outbuildings and/or garages) shall not proceed above ground floor slab level until a full schedule of external materials has been submitted to and approved in writing by the local planning authority. As a minimum, the written schedule shall include:
- the manufacturer and material name,
 - colour,
 - external finish for any timber/joinery (paint/stain etc.),
 - a photographic sample of each material,
 - where it relates to brickwork, details of bonding pattern and mortar mix/application method,
 - where it relates to installation of windows and/or doors, joinery details to an appropriate scale.

Thereafter, the development shall be completed and maintained in accordance with the approved details.

- 8) The rooflights hereby approved shall be installed flush to the roof plane of the dwelling and shall be of a conservation type design maintained in that state thereafter.
- 9) The development hereby approved shall be implemented strictly in accordance with the recommendations within Section 6 of the Ecological Appraisal (Author: Malford Environmental Consulting, dated 15 July 2024).
- 10) No part of the development hereby approved shall be occupied or brought into use until the vehicular accesses, off-road car parking and turning areas to serve each plot (to include the infrastructure for at least 1 EV charging point) have been constructed/laid out in full in accordance with the details of approved plan nos SITE-2081-PLANNING1-REV B and G328/07 Rev D 'Site Access General

Arrangement'. Thereafter, the vehicular accesses, car parking and turning areas shall be kept available for their intended use and maintained free from the storage of materials.

- 11) No part of the development hereby approved shall be occupied or brought into use until areas for the secure storage of bicycles and bins/recycling boxes have been provided to each plot in full in accordance with the details of approved plans:
- SITE- 2081-PLANNING1-REV B – 'Proposed site layout';
 - Plots 1-3- 2081-PLANNING1-REV B – 'Proposed elevations, floorplans, garage details, cycle store details - Plots 1 to 3'; and
 - Plots 4-5- 2081-PLANNING1-REV B – 'Proposed elevations, floorplans, garage details, cycle store details - Plots 4 and 5'.

The development shall be maintained in accordance with the approved details thereafter.

- 12) No part of the development hereby approved shall be occupied or brought into use until a surface water drainage system has been constructed/installed in full in accordance with a written technical specification that shall first be submitted to and approved in writing by the local planning authority.

As a minimum, the written technical specification shall be informed by the recommendations of the submitted Drainage Strategy (Author: PFA Consulting, dated July 2024) and shall include layout plans, sections, full technical and manufacturers specifications of all equipment and a scheme of maintenance to ensure the system operates to its intended purpose for the lifetime of the development.

Thereafter, the development shall be maintained in accordance with the approved details.

- 13) The dwellings hereby approved shall not be occupied or brought into use until the boundary enclosures have been installed in full in accordance with the details of approved plan number SITE- 2081-PLANNING1-REV B – 'Proposed site layout'.

The development shall be maintained in accordance with the approved details thereafter.

- 14) The site planting scheme shall be carried out in full in accordance with the details of approved plan number DWG-1742-01-REV C – 'Landscape Proposals' no later than the first planting and seeding season following the first occupation of any part of the development or the substantial completion of the development whichever is the sooner.

All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin.

Any trees or plants (including existing trees and hedges to be retained) which, within a period of five years from first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

- 15) No part of the development hereby approved shall be occupied or brought into use until the integral biodiversity enhancement features (bat and bird boxes) have been installed/laid out in accordance with details of approved

Plots 1-3- 2081-PLANNING1-REV B – ‘Proposed elevations, floorplans, garage details, cycle store details - Plots 1 to 3’ and Plots 4-5- 2081-PLANNING1-REV B – ‘Proposed elevations, floorplans, garage details, cycle store details - Plots 4 and 5’ and the recommendations within Section 6 of the Ecological Appraisal (Author: Malford Environmental Consulting, dated 15 July 2024).

The biodiversity enhancement features will be maintained in accordance with the approved details to ensure they are available for the target species for the lifetime of the development.

- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Schedule 2, Part 1, Classes A-E shall take place on the dwellinghouses hereby permitted or within their curtilage.

End of Schedule

Costs Decision

Site visit made on 31 March 2025

by **SE Hughes BA (Hons) PGDip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3357720 Urchfont Garage, High Street, Urchfont, Devizes, Wiltshire, SN10 4QH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Gaiger Brothers for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for the demolition of existing buildings and construction of five dwellings and associated works.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour on the part of a local planning authority may include it making inaccurate assertions which are unsupported by any objective analysis, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant contends that in refusing planning permission and overturning its officers' recommendation of approval to the Eastern Area Planning Committee (planning committee), the Council prevented and delayed development which should clearly be permitted, having regard to its accordance with the development plan, the Framework and other material considerations. Despite the clear and robust guidance provided in the Officer's Committee Report and also verbally at the meeting, the Council's planning committee members wholly and unreasonably ignored this advice and instead issued a flawed and ill-founded reason to refuse the application and did not properly exercise their development control decision making responsibilities with inaccurate and incorrect interpretation and assertions about the development plan.
5. The Council responds that members are entitled to reach a different conclusion to officers, and that they considered the garage site acted as a locally valued rural service provider (evidenced by significant local opposition to the residential redevelopment of the site) and, whilst it was accepted the existing use was not strictly a community use, it was considered to be a viable and valued rural service that fell within the Framework and Wiltshire Core Strategy (WCS) policy 49

- protections. The site also having elements of mixed-use including offering storage to support the Urchfont Scarecrow Festival. This led members to vote to refuse planning permission.
6. The Council further responds that members of the planning committee accepted the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan 2015 – 2026 'Building on a Resilient Community' (UWLNP) was part of the development plan, albeit over 5 years old, so the site's housing allocation could be considered to be out-of-date. Furthermore, the identified conflicts with NPPF paragraph 88 and WCS policy 49 were material considerations that outweighed the out-of-date UWLNP site allocation.
 7. However, for the reasons set out in my appeal Decision, I have concluded that the UWLNP is up-to-date, including the housing allocation under policy H1. Furthermore, the existing garage use fails to fall under the remit of core policy 49 of the WCS. Given the statutory status of the development plan as the starting point for decision-making, with paragraph 11(c) requiring the approval of development proposals that accord with an up-to-date development plan without delay, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, the Council has clearly erred in its approach and there is no reasonable basis for the stance taken by its planning committee.
 8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Gaiger Brothers, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

SE Hughes

INSPECTOR