

# GROUND S OF APPEAL

## Refusal of householder planning permission

|               |                                                                               |
|---------------|-------------------------------------------------------------------------------|
| Appeal site   | 7 Wedmore Avenue, Chippenham, Wiltshire, SN15 1QP                             |
| Appellant     | Greg McKay                                                                    |
| LPA reference | PL/2026/02734                                                                 |
| Proposal      | New second dropped kerb access with driveway to the property                  |
| Decision      | Refused by Wiltshire Council on 22 June 2026                                  |
| Procedure     | Householder appeal under section 78 of the Town and Country Planning Act 1990 |

### Relief sought

The appellant respectfully asks the Inspector to allow the appeal and grant planning permission, subject to proportionate conditions securing an ungated access, unobstructed pedestrian visibility splays, suitable surfacing and drainage, and construction of the highway crossing under the separate approval of the Local Highway Authority.

## 1. Executive Summary

The decision notice contains one reason for refusal. It alleges unjustified loss of kerbside parking and an additional point of pedestrian conflict along a well-used footway. The Council nevertheless found the proposal acceptable in relation to design, character, residential amenity and all other planning matters. The fencing issue has been resolved and forms no part of the refusal.

The highway reason should not be sustained for five principal reasons:

- The Council applied a test of a 'compelling' or 'overriding' highway need for a second access. That is not the test in the development plan or the National Planning Policy Framework (NPPF).
- The correct national test is whether safe and suitable access can be achieved for all users and whether the impact on highway safety would be unacceptable after reasonable mitigation. The submitted layout, visibility splays and an ungated-access condition meet that test.
- The proposal serves one dwelling and does not increase occupancy, land use or ordinary vehicle-trip generation. In an in-and-out arrangement, each vehicle arrival or departure still crosses a footway once; movements are redistributed, not multiplied.
- The alleged parking and pedestrian harm is not supported by a parking survey, pedestrian count, collision evidence, speed data, measured visibility deficiency or route audit. The refusal relies on generalised concern rather than identified unacceptable harm.
- The two appeal decisions cited by the Council are materially different. Both involved site-specific obstructions or constrained sightlines. One also involved closely adjacent accesses and the other the majority of a short frontage becoming crossover. Those features are absent here.

## 2. Site, Proposal and Agreed Matters

The appeal property is a detached dwelling on a broad corner plot at the junction of Wedmore Avenue and East Yewstock Crescent. Its existing vehicular access is from East Yewstock Crescent. The proposal forms a second access from Wedmore Avenue and links the accesses within the curtilage to create a practical in-and-out driveway.

Drawing 7/WA-02 shows the proposed access, tarmac apron and pedestrian visibility splays, with no obstruction above 600 mm. The accesses are on different road frontages and are physically separated by the corner frontage. This is not a case of two closely spaced crossovers occupying most of one short frontage.

The development remains ancillary to one dwelling. It does not create another residential unit, increase the permitted occupancy of the site, introduce a business use or generate a new destination. The ordinary number of vehicle trips associated with the property would therefore remain materially unchanged.

The delegated report records the following matters in the appellant's favour:

- Removal of approximately 3 m of the low wall is not harmful to the character or appearance of the area.
- Taking the existing context into account, the boundary treatment is not wholly out of keeping or harmful.
- The proposal complies with Core Policy 57 and the Wiltshire Design Guide in design terms.
- Residential amenity impacts are acceptable and comply with Core Policy 57 criterion vii.
- The fence was treated as permitted development by the Council's enforcement team; the separate fencing issue is now resolved and is not a reason for refusal.

Accordingly, the appeal has a single, narrow main issue: whether the second access would cause an unacceptable highway-safety impact or fail to provide safe and suitable access for all users.

## 3. Decision and Main Issue

The Council refused permission because it considered that the access would cause an unjustified loss of kerbside parking and introduce another point of conflict with pedestrians on a well-used footway. It cited Wiltshire Core Strategy Core Policies 57(xiv), 61 and 64 and NPPF paragraphs 115 and 116.

The Inspector is invited to frame the main issue as: whether the proposal, taking account of its detailed layout and reasonable mitigation, would provide safe and suitable access for all users and avoid an unacceptable impact on highway safety.

## 4. Statutory and Policy Framework

### 4.1 Statutory starting point

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the appeal to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan policies must be read fairly, as a whole, and applied to the particular facts of the site.

### 4.2 National Planning Policy Framework

The operative NPPF is the December 2024 Framework. Paragraph 115 requires, among other things, safe and suitable access for all users and mitigation of significant transport or highway-safety impacts to an acceptable degree. Paragraph 116 states that development should only be

prevented or refused on highway grounds if the impact on highway safety would be unacceptable, or if residual cumulative network impacts following mitigation would be severe, taking account of reasonable future scenarios.

This is deliberately a test of identified effect and proportionality. It is not a requirement that a householder must prove an overriding highway need before a second access can be permitted.

### 4.3 Wiltshire Core Strategy

| Policy    | Proper effect                                                                                                                                    | Application to this appeal                                                                                                                                                  |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CP57(xiv) | Requires development to meet CP61.                                                                                                               | It adds no separate necessity test. The Council found the proposal acceptable on design and character.                                                                      |
| CP61      | Requires consideration of all transport users in the stated hierarchy and that the proposal can be served by safe access to the highway network. | An ungated access, retained visibility splays and a compliant section 184 crossing provide safe access; one dwelling's trip generation is unchanged.                        |
| CP64      | Addresses demand management and residential parking standards, including minimum provision for new residential development.                      | The proposal is not a new dwelling scheme and creates additional usable off-street capacity. CP64 does not establish a blanket protection of every informal kerbside space. |

The wording 'overriding need' does appear elsewhere in the Core Strategy, in Core Policy 62 in relation to direct access to the national primary route network outside built-up areas. That circumstance plainly does not apply to this residential street within Chippenham. Its deliberate absence from Core Policy 61 is important: the Council should not import a more restrictive test into CP61.

### 4.4 Wiltshire parking and neighbourhood policy

Policy PS6 of the Wiltshire Car Parking Strategy sets residential parking standards. Its purpose is to secure appropriate parking provision and prevent unmet demand being displaced onto streets. It does not say that a domestic crossover may only be allowed where an overriding highway need is proven. The proposal increases the ability to accommodate vehicles within the site and therefore supports, rather than frustrates, that underlying objective.

The Chippenham Neighbourhood Plan forms part of the development plan. The Council identified no specific neighbourhood-plan policy conflict in either its assessment or its reason for refusal. Policy T1 is directed to provision and enhancement of cycle paths, particularly in major development, and does not impose a prohibition on a second domestic access. No cycle route identified in the evidence is shown to be severed or obstructed by the proposal.

## 5. Ground 1: The Refusal Applies the Wrong Policy Test

The repeated proposition in the highway response is that there is no 'compelling highway reason', 'overriding road safety issue' or sufficient 'justification' for the access. That reverses the policy exercise. Neither NPPF paragraph 115 or 116 nor Core Policy 61 requires a householder to establish necessity as a threshold before an otherwise safe access may be approved.

The planning question is not whether the Council would itself choose to provide a second access. It is whether the development proposed would cause unacceptable harm. Convenience, improved circulation and better use of a substantial corner plot are legitimate private benefits. They need not be 'overriding' where no unacceptable public harm is demonstrated.

The Council's approach also treats the mere existence of a second access as harm in itself. Core Policy 61 contains no numerical limit on accesses. A policy-compliant decision must turn on this access's width, visibility, pedestrian environment, traffic generation and local geometry, not on a general presumption against multiplicity.

## **6. Ground 2: Safe and Suitable Access Can Be Achieved**

### **6.1 Vehicle movements are not intensified**

The proposal does not change the use or occupation of the dwelling and does not generate additional trips. A vehicle arriving at or departing from the property crosses a footway once under either arrangement. The second access changes where some crossings occur; it does not double the number of crossings caused by the household.

The in-and-out layout also enables vehicles to circulate through the site and emerge in forward gear. Even if the existing curtilage can physically accommodate turning, a direct forward exit remains a practical safety and accessibility benefit. It reduces reliance on reversing and repeated manoeuvring and provides clearer forward observation of pedestrians and traffic.

### **6.2 Visibility and access design**

The submitted plan identifies pedestrian visibility splays at the new access and requires them to remain free of obstruction above 600 mm. The frontage is formed by a low wall; the scheme need not include gates or gateposts at the new opening. Unlike the Council's cited appeal cases, no street tree, telephone box, cycle stand, tall pier or similar fixed obstruction is identified within the proposed splays.

The appellant expressly accepts conditions requiring the new access to remain ungated and the splays to be permanently kept clear above 600 mm. These are precise, enforceable and directly related to the highway concern. NPPF paragraph 57 and Planning Practice Guidance require proportionate consideration of conditions where they can make development acceptable.

### **6.3 Separate highway approval**

Planning permission would not itself authorise works to the public highway. The dropped crossing must also be licensed and constructed to Wiltshire Council's requirements under section 184 of the Highways Act 1980. That separate process controls detailed construction, levels, materials and protection of the highway. A standard informative can make this clear.

## **7. Ground 3: Pedestrian Harm Has Not Been Demonstrated**

The officer report describes the footway as well-used and refers to a school route and a 'natural' or 'desire line' crossing point. However, the decision evidence contains no pedestrian survey, timed count, school-route audit, collision record, speed survey, visibility measurement or plan identifying a formal crossing facility at this precise location.

The absence of a formal crossing does not make pedestrian safety irrelevant, but equally it does not establish that the particular access would be unsafe. The development must be assessed on evidence of its actual layout and likely operation. The submitted visibility treatment, low boundary and ungated opening allow drivers and pedestrians to see one another before a vehicle reaches the footway.

The footway would remain physically continuous. Detailed crossover construction would be controlled through the section 184 process. Subject to the proposed conditions, the allegation of

an unacceptable pedestrian conflict is therefore speculative and does not meet the refusal threshold in NPPF paragraph 116.

The hierarchy in Core Policy 61 is respected: the design gives priority to visibility for pedestrians, avoids gates that could hold a vehicle in the highway, and enables forward vehicle movement. Prioritising pedestrians does not mean that every new domestic crossover is unacceptable; it requires the crossover to be designed and operated with pedestrian safety first.

## 8. Ground 4: Loss of One Kerbside Space Does Not Justify Refusal

The Council estimates that the access would remove one informal kerbside parking opportunity. It has not demonstrated that this would create an unacceptable safety effect. There is no parking beat survey, occupancy calculation or evidence that lawful parking would be displaced to a dangerous location. Nor does the reason identify any formal parking bay, controlled space or residents' allocation that would be removed.

The proposal must be assessed as a whole. It creates additional usable off-street driveway area within the site and can reduce the household's and visitors' reliance on the street. The public effect is therefore not simply the loss of one potential kerbside position; it includes increased private parking capacity and easier access to it.

Core Policy 64 and Policy PS6 are concerned with managing demand and securing appropriate parking. They do not convert informal highway space into a guaranteed planning asset or impose a 'no net loss' rule. On the evidence available, the claimed parking harm is neither quantified nor causally linked to an unacceptable highway-safety impact.

## 9. Ground 5: The Council's Appeal Comparators Are Distinguishable

| Decision                                           | Material facts                                                                                                                                                                       | Why it does not determine this appeal                                                                                                                                                                                                                                         |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| APP/W5780/D/25/3<br>362485, 115<br>Clayhall Avenue | A street tree constrained the footway; parked cars restricted visibility; most of a short frontage would become crossover.                                                           | The Wedmore Avenue scheme shows clear pedestrian splays, a low boundary, no equivalent tree obstruction and accesses on different frontages. Importantly, the Inspector found the loss of one on-street space was not unacceptable where no parking survey demonstrated harm. |
| APP/X5990/D/25/33<br>68513, 27 Grove<br>End Road   | Frequent pedestrian activity in central London; accesses close together; tall piers, telephone box, cycle stands, signs and a mature tree impeded sightlines.                        | The appeal site is a suburban corner plot. The accesses are separated around different frontages and the identified obstructions are absent. The proposed access can remain ungated with visibility kept below 600 mm.                                                        |
| APP/Y3940/D/25/33<br>63112, 23 Wiltshire<br>Drive  | A classified road with formal restrictions; a scarce 5-6-space lay-by; risk of displaced parking on double yellow lines near junctions; alternative private parking already existed. | No comparable lay-by, formal restriction or evidenced displacement risk is identified here. The proposal adds off-street capacity and does not remove a marked bay.                                                                                                           |

Appeal decisions are fact-sensitive and do not create a general rule against second accesses. The Council was entitled to refer to them, but it was not entitled to substitute their facts for evidence about this site. Properly analysed, they show why visibility obstructions and demonstrable displacement matter; they do not establish such harm at 7 Wedmore Avenue.

## 10. Gates and Boundary Treatment

The submitted drawing shows gates, but the appellant offered during the application to omit them. The delegated report expressly records and considers that offer. There can therefore be no procedural surprise or prejudice in securing an ungated access by condition.

The appellant does not ask the Inspector to approve a materially different development. A condition that the new access remain ungated removes an element and reduces impact. It directly answers the concern that a vehicle might wait in the highway while a gate is operated. Wiltshire Highway officers commonly use a standard condition requiring gates either to be set back 4.5 m and open inward or for an access to remain ungated. The latter is the appropriate solution here.

The fencing matter is separate, has been resolved, and was not carried into the refusal reason. The Council's report also concluded that the relevant fence was permitted development. It should therefore carry no weight against the appeal.

## 11. Planning Balance

The development plan supports safe, functional access and appropriate off-street parking. The proposal is modest, serves one dwelling and has already been found acceptable in design, character and amenity terms. Its benefits include improved circulation, forward-gear access, additional usable off-street capacity and better practical use of a large corner plot.

Against those benefits, the Council identifies potential loss of one informal kerbside position and a theoretical additional conflict point. The evidence does not demonstrate that either effect would result in an unacceptable impact on highway safety. The residual concerns can in any event be addressed by an ungated-access condition, maintained visibility splays, retention of the internal circulation area and section 184 technical approval.

Read as a whole and applied to the site's actual circumstances, Core Policies 57, 61 and 64 are satisfied. The proposal also meets NPPF paragraphs 115 and 116. There is no development-plan policy requiring an overriding highway need for a second domestic access, and no evidenced harm of sufficient degree to justify refusal.

## 12. Suggested Conditions and Informative

Without prejudice to the Inspector's final wording, the appellant invites the following conditions:

1. The development shall be carried out in accordance with the approved location and block plans, except where expressly modified by the conditions below.
2. Notwithstanding the submitted drawing, the new Wedmore Avenue vehicular access shall remain ungated. No gate, gatepost or other obstruction shall be installed across the new access.
3. Before the new access is brought into use, the pedestrian visibility splays shown on drawing 7/WA-02 shall be provided and thereafter permanently maintained free of obstruction exceeding 600 mm above the adjoining footway level.
4. Before first use of the new access, the internal driveway and circulation area shown on drawing 7/WA-02 shall be laid out and made available for vehicle circulation and shall thereafter be retained for that purpose.
5. The access shall be surfaced in a bound material for an appropriate distance from the highway and surface water shall be disposed of within the site so that it does not discharge onto the public highway, with details agreed where necessary by the Local Planning Authority.

**Suggested informative:** Nothing in the planning permission authorises works within the public highway. The appellant must obtain the separate consent of the Local Highway Authority under section 184 of the Highways Act 1980 before undertaking the vehicle-crossing works.

## 13. Conclusion

The refusal rests on an unsupported necessity test and on potential rather than demonstrated harm. The proposed access can be made safe and suitable for all users through the design shown and straightforward conditions. The loss of one informal kerbside opportunity has not been shown to cause unacceptable highway-safety harm and is balanced by additional off-street capacity.

The appellant therefore respectfully requests that the appeal be allowed and householder planning permission granted subject to appropriate conditions.

## Appendix A: Principal Sources

- [National Planning Policy Framework, December 2024, paragraphs 57 and 115-116](#)
- [Planning Practice Guidance: Use of planning conditions](#)
- [Wiltshire Core Strategy, adopted January 2015, Core Policies 57, 61 and 64](#)
- [Wiltshire Local Transport Plan 2011-2026: Car Parking Strategy, Policy PS6](#)
- [Wiltshire Council: section 184 vehicle crossing licence applications](#)
- [Chippenham Neighbourhood Plan 2023-2038, made May 2024](#)
- [Appeal decision APP/W5780/D/25/3362485, 24 June 2025](#)
- [Appeal decision APP/X5990/D/25/3368513, 14 November 2025](#)
- [Appeal decision APP/Y3940/D/25/3363112, 30 June 2025](#)

## Appendix B: Application Documents Reviewed

- Wiltshire Council decision notice dated 22 June 2026
- Wiltshire Council delegated officer report for PL/2026/02734
- Application form PP-14892360
- Drawing 7/WA-02: Proposed Site Block Plan and Street Views
- Drawing 7/WA-03: Existing and Proposed Block Plans
- Applicant's additional information/rebuttal dated 1 June 2026