



The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Development Services
Wiltshire Council
Tel: 0300 456 0114
Email: developmentmanagement@wiltshire.gov.uk
www.wiltshire.gov.uk

1st July 2026

Dear Sir / Madam

Appeal and application No:	6009057 and PL/2026/01149
Appeal proposal:	Change of use of rural building to form class C3 dwellinghouse
Site Address:	Park Farm Barn, Westrop, Corsham, SN13 9QF

STATEMENT OF CASE

Further to the Planning Inspectorate notification dated 27th May 2026 and the attached appellant statement.

Please find attached as an appendix to this letter the delegated report prepared at the time of the determination of the planning application. Since the appellants position does not substantively alter from that expressed at the time of the planning application, in very large part the Council is content to rely upon the assessment and conclusions reached within that report, which is appended to this letter.

The submission of a viability assessment with their appeal is noted. This is provided presumably in an effort to prove that the only option which will render a development profitable for the appellant is a conversion to residential. However, and as is pointed out in the delegated report, the application building is not a “rural building” for the purposes of policy CP48 to the Wiltshire Core Strategy and there is no positive presumption for the reuse of domestic outbuildings such as this.

To regard such a building as a “rural building” for the purposes of CP48 would be to also interpret the scope of paragraph 83(d) of the NPPF wrongly, as explained within R on the Application of Wiltshire Council v Secretary of State for Housing, Communities and Local Government [2020] EWHC 954 (Admin) (case reference: CO/5006/2019). There has been no suggestion that policy CP48 is somehow not in compliance with the NPPF. To automatically, and unthinkingly regard the principle of using modern domestic outbuildings in unsustainable locations as unfettered, permanently occupied dwellings as acceptable (as appears to be advocated by the appellant), would

be fatally undermine the settlement strategy of the adopted development plan. That decision has been appended to this letter.

However, so as to assist the appeal, should the Inspector be minded to prefer the assertion of the appellant that CP48 is relevant and be used in the determination of the appeal, the below sets out why the appeal would still fail. For convenience, policy CP48 is appended to this covering letter.

Several prior appeal decisions from Wiltshire confirm consistency of approach with regard to the reuse of domestic out-buildings in inappropriate, countryside locations, including instances where CP48 has been applied. Those appeal decisions are appended to this statement for the Inspectors information, with the relevant matters and paragraphs within those decisions identified below:

- 190 Ashley Green, Bradford-on-Avon (APP/Y3940/W/15/3003800) – Relating to the removal of a condition which restricts the use of a domestic garage building to holiday let in the green belt and AONB. Confirms that even if CP48 were to be adopted as relevant, in paragraph 7, the decision also confirms that the lack of documented factual records in respect of the holiday accommodation no longer being a practical proposition would be grounds for failure against the sequential approach set out in CP48. It confirms that the lack of evidence proving that other employment, tourism, cultural or community uses are not practicable, as is required by CP48, would also be a reason for the appeal to fail. It should be noted that the evidence provided in this appeal amounts to a claim that the appellant cannot achieve the profit they expect from an alternative use of the building. It does not, and cannot, be taken as evidence which suggests another owner could not.
- Thyme Cottage, Crudwell (APP/Y3940/W/17/3178305) – Relating to a modern detached domestic garage located in the open countryside and a proposal to use as a permanent dwelling. In paragraph 8 the Inspector remains unconvinced that the proposal relates to a “rural building” for the purposes of CP48, but in any event concludes that the lack of evidence presented that the building is not suitable for employment, tourism, cultural or community uses as is sequentially preferred by the policy, should nonetheless be fatal to the appeal. No such documentary evidence in respect of preferable uses (such as a marketing exercise) has been submitted in support of this appeal.
- 7 Locks Cottage, Purton (APP/Y3940/W/17/3180317) – Relating to the use of a detached domestic outbuilding located outside of any defined settlement as a permanent dwelling. Despite the outbuilding already benefitting from planning permission to use it as annexed residential accommodation, it was nonetheless concluded in paragraph 7 that such a use would have a different pattern of use to an unfettered, permanent residential occupation. No reference whatsoever is made to CP48. Nonetheless, this appeal decision clearly advises that not all residential occupations should be treated alike in terms of their permanence, intensity and impacts (and as *Wiltshire Council v Secretary of State for Housing, Communities and Local Government* [CO/5006/2019] advises.

For the above reasons and those set out within the delegated report, it is respectfully requested that the Inspector dismiss this appeal.

Yours faithfully

Nic Thomas - Director of Planning, Economy and Regeneration

Enclosures:

- Delegated report and decision notice – PL/2026/01149
- Policy CP48 and supporting text
- Court decision - R on the Application of Wiltshire Council v Secretary of State for Housing, Communities and Local Government [2020] EWHC 954 (Admin) (case reference: CO/5006/2019)
- Appeal decision APP/Y3940/W/15/3003800
- Appeal decision APP/Y3940/W/17/3178305
- Appeal decision APP/Y3940/W/17/3180317

APPLICATION FOR FULL-PLANNING PERMISSION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/01149
APPLICATION TYPE:	Full planning permission
SITE ADDRESS:	Park Farm Barn, Westrop, Corsham, SN13 9QF
DEVELOPMENT DESCRIPTION:	Change of use of rural building to form Class C3 dwellinghouse
RECOMMENDATION:	Refuse

SITE DESCRIPTION/CONTEXT

The site comprises a two-storey building which has open fronted garaging / storage area at ground floor level, with space above shown on the submitted plans as being office space. The building was approved as an ancillary building to the main dwelling of Park Farm Barn, which is set some 30m to the east of the of the building, with a separate single-storey outbuilding located between these two buildings, as shown on the annotated Site Plan extract and photographs below. The building is a modern one, having been erected sometime between 2002 and 2008¹, the former showing the land as being agricultural at that time, as per the relevant extracts from publicly available aerial photographs below:



Site shown in context of the main dwelling; aerial photograph 2002



Photographs showing south and east elevations, and adjacent outbuilding

¹ Based on publicly available historic aerial photographs

Park Farm Barn itself is listed (Grade II), as are: (i) the residential dwelling to the immediate east of that dwelling Westrop House (Grade II), and (ii) Park Farmhouse which is set to the immediate south-west of the building – as shown on the map extract below; all of these (as well as the buildings on the opposite side of the rural road from which the buildings are accessed) fall within the Corsham Conservation Area.



Listed buildings within proximity of the application site

There are no Public Rights of Way crossing or adjacent to the site, and it is recorded as being within flood zone 1 and not at any elevated risk of flooding from any other source.

PROPOSAL

This application seeks the independent use of the building as a separate dwelling. The Description of Development applied for on the submitted application form references this as representing a change of use of the building, on the basis that since its erection it has been used for covered parking, office use and bed & breakfast accommodation; this is considered in more detail in this report. No external works to the building are proposed.

PLANNING HISTORY

Proposal / Summary
PL/2023/08789 - Householder planning permission Decision - Approve with Conditions Date: 19/12/2023 – Lean-to Store Extension to Dwelling
PL/2023/06506 - Notification of proposed works to trees in a conservation area Decision - No Objection Date: 31/8/2023 – 43 x Elm and Ash trees - fell on safety grounds - see attached Tree Survey Report
20/04961/FUL - Full planning permission Decision - Approve with Conditions Date: 11/9/2020 – Re-use and extension to rural building to create single dwelling
N/04/01039/COU - Full planning permission Decision - Approve with Conditions Date: 8/2/2005 – CHANGE OF USE OF OUTBUILDING TO BED AND BREAKFAST (RETROSPECTIVE)
N/03/02021/FUL - Full planning permission Decision - Approve with Conditions Date: 8/2/2005 – ERECTION OF BUILDING FOR OFFICE/COVERED PARKING

N/98/02408/LBDC - Listed building consent – LISTED BUILDING SUBMISSION OF DETAILS PURSUANT TO CONDITION NO 5 OF N.97.0890.LB - DETAILS OF STONWORK
N/97/00890/LBC - Listed building consent Decision - Unknown Date: 30/6/1997 – ERECTION OF OUTBUILDINGS & LOWERING OF BOUNDARY WALL (RESUBMISSION OF N/96/1752) OUTBUILDINGS/LOWER WALL
N/97/00889/FUL - Full planning permission Decision - Unknown Date: 30/6/1997 – ERECTION OF OUTBUILDINGS (RESUBMISSION OF N/96/1751) OUTBUILDINGS (RESUBMISSION)
N/96/00174/LBC - Listed building consent Decision - Unknown Date: 8/3/1996 – INTERNAL ALTERATIONS INTERNAL ALTERATIONS
N/93/01502/LBC - Listed building consent Decision - Approved Date: 4/10/1993 – CONVERSION OF BARN TO DWELLING, INCLUDING ROOF REPAIRS USE OF BARN AS DWELLING

RELEVANT LEGISLATION, POLICIES AND GUIDANCE

Statutory Legislation:

- The Town & Country Planning Act 1990

National Planning Policy:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide

Development Plan:

The development plan for Wiltshire comprises the *Wiltshire Core Strategy (WCS)* (adopted January 2015) and any made neighbourhood plans, which remains the principal statutory planning document guiding development across the county. In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

Though the development plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below:

The adopted *Wiltshire Core Strategy (WCS)*, with particular regard to:

- Core Policy 1 Settlement Strategy
- Core Policy 2 Delivery Strategy
- Core Policy 3 Infrastructure Requirements
- Core Policy 11 Spatial Strategy for the Corsham Community Area
- Core Policy 41 Sustainable Construction and Low-Carbon Energy
- Core Policy 48 Supporting Rural Life
- Core Policy 50 Biodiversity and Geodiversity
- Core Policy 51 Landscape
- Core Policy 57 Ensuring High Quality Design and Place Shaping
- Core Policy 58 Ensuring the Conservation of the Historic Environment
- Core Policy 60 Sustainable Transport
- Core Policy 61 Transport & Development

- Core Policy 62 Development Impacts on the Transport Network
- Core Policy 67 Flood Risk

Draft Wiltshire Local Plan Policies

The examination of the emerging Wiltshire Local Plan has been paused and the weight to be afforded to any part of the emerging plan can be no more than very limited. A decision on how to proceed will be made by the Council in May 2026.

Corsham Neighbourhood Plan (made Nov.2019)

Policy CNP ED1 – Ecology and Design

Policy CNP E1 – Conserve and Enhance Biodiversity

Policy CNP E2 – Achieving Sustainable Development

Policy CNP HW4 – Future-Proofing Design

Policy CNP HE1 – Design Quality

Policy CNP HE2 – Innovative Design and Historic Context

Policy CNP T1 – Transport impacts

Supplementary Planning Documents and other Guidance:

- Wiltshire Design Guide (adopted April 2024)
- Wiltshire Local Transport Plan 2011-2026, adopted 2015 - including the Car Parking Strategy and Cycling Strategy, adopted 2015
- Wiltshire Local Cycling and Walking Infrastructure Plan (LCWIP)
 - Active travel infrastructure design standards 2022
 - Active travel parking standards and design guide 2022
- LTN1/20 – Cycle Infrastructure Design (July 2020)
- Wiltshire Housing Site Allocations Plan, adopted 25 February 2020
- Open Space provision in New Housing Developments – A Guide (Supplementary Planning Guidance) and Wiltshire Council's Playing Pitch Strategy February 2017

ISSUES

The main issues that need to be addressed in this case include:

- Whether the development is acceptable in principle (CP 1 and 2)
- Whether the scheme constitutes high quality design (CP 57)
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable impact upon the reasonable living conditions of the adjoining occupants (CP 57)
- Whether the proposal would have a negative effect upon highway safety, including if there is sufficient parking for the proposed development (CP 61 and 64)
- Are there any other planning issues raised by the development?

CONSULTATION RESPONSES

WC Conservation: No objection

Corsham Town Council: Comment – acceptable subject to a condition to ensure use of the dwellinghouse remains ancillary to the main house and is not used as a separate dwelling.

REPRESENTATIONS

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the application was publicised by way of:

- Neighbour notification letters sent to adjoining and nearby properties;
- A site notice displayed near the site;
- An advertisement placed in the local press.

These methods were used to inform interested parties and provide a period of 21 days for comments to be submitted.

Only material planning considerations have been taken into account in the assessment of this application. Non-material issues, such as property values or private legal disputes, cannot be considered in the determination process.

No representations were received with regard to this application.

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In accordance with this statutory requirement, this application has been assessed against the relevant policies of the Development Plan, including the Wiltshire Core Strategy (2015) and, where applicable, any made Neighbourhood Plans. Consideration has also been given to the policies of the National Planning Policy Framework (NPPF) as a material consideration in the assessment.

Principle of Development

Policy Context

Core Policy 1: Settlement Strategy of the WCS establishes a hierarchy of settlements to guide where development should be focused. The policy prioritises growth in: Principal Settlements, Market Towns, Local Service Centres, Large and Small Villages, and outside the defined settlements development is strictly controlled and generally not supported unless exceptional circumstances apply.

Core Policy 2: Delivery Strategy of the WCS sets out how development will be distributed and delivered across Wiltshire. The policy emphasises:

- Sustainable patterns of growth, reducing the need to travel and supporting local services.
- Development should be plan-led, aligning with the settlement strategy and supported by infrastructure.

- Windfall development (not allocated in plans) must still comply with the principles of sustainable development.
- Development outside settlement boundaries is generally not permitted, unless it meets specific policy exceptions (as set out in paragraph 4.25 of the WCS).

Together, CP1 and CP2 ensure that new development is strategically located, sustainable, and supports the character and function of Wiltshire's communities.

In addition, the Planning & Heritage Statement submitted in support of the application maintains that Core Policy 48 (WCS) is also applicable (as referenced at paragraph 4.25 of the WCS) inasmuch as this relates to the conversion of existing rural buildings.

Assessment

The building is not of age, having been erected sometime after 2002. When that planning permission was granted, a legal agreement was entered into which sought to ensure that the building remained part of the same planning unit in perpetuity. Relevant extracts from that legal agreement are extracted below (with the 'Red Building' being this current application building):

- *"... the Red Building shall be used only for purposes ancillary to the residential use of the dwellinghouse situate [sic] on the Land and shown for the purposes of identification coloured blue on the plan herein ('the House') or for such use on the ground floor together with the use of the upper floor for office purposes by the occupier of the House in connection with the use of the land shown for the purposes of identification cross hatched on the plan herein ('the Yard') for the storage of building materials and provided that the Green Building shall not become an independent dwelling and provided that the Red Building the Green Building and the House shall remain in the same ownership and pursuant to the covenants herein*
- *"a) the owner will not cause or permit the Red Building to be used for any purpose except as accommodation ancillary to the residential use of the House and the Green Building provided that the use of the ground floor of the Red Building for such ancillary purpose together with the use of the upper floor of the Red Building for office use by the occupier for the time being of the House in connection with the said occupier's use of the Yard for the storage of building materials shall be deemed not to be in breach of this Agreement*
- *"b) the owner will not cause or permit the Red Building or the Green Building to be used as a separate dwelling*
- *"c) the owner will not sell or lease for any term or otherwise dispose of the Red Building unless such sale or lease or other disposition shall include the Green Building and the House*
- *"d) the owner will not sell or lease for any term or otherwise dispose of the Green Building unless such sale or lease or other disposition shall include the Red Building and the House*
- *"e) the owner will not sell or lease for any term or otherwise dispose of the House unless such sale or lease or other disposition shall include the Red Building and the Green Building*

As such, it is clear that the building is legally required to remain part of the same planning unit as Park Farm Barn, and used in an ancillary manner. Although the building benefits from a permission for its use as bed-and-breakfast accommodation, this is in an entirely ancillary manner, as has been any use of the building as 'office' space.

The reason for the requirement for this legal agreement was to ensure the building did not become a separate residential unit. This was (presumably) due to the location of the site and conflict with the principle of providing additional dwellings in an unsustainable location. Whilst the site is not in an 'isolated' location in a technical sense, it remains located at a place occupants would be largely reliant on the private car and that the potential for the use of genuine, usable, or practical alternative modes of transport is very limited. The site is located in the countryside in terms of planning policy and is some distance from any designated settlement. As such, the principle of introducing an additional dwelling remains as it did during the determination of the previous application and legal agreement, namely that it is not supported as it would conflict with the settlement and delivery strategy of the Development Plan, specifically Core Policies 1, 2 and 11 (WCS).

In terms of the location of the site, this is not considered to accord with the objective of these policies, and would also conflict with the broad aims of the NPPF which seeks to promote sustainable development and reduce growth in the length and number of motorised journeys, as set out at paragraphs 84, 110 and 115, the latter two of which are referenced at Footnote 9. The location of the site thus also gives rise to conflict with the sustainable transport objectives of the Core Strategy and NPPF, in particular Core Policies 60 and 61. Overall, this conflict is afforded significant weight against the proposal.

The building is such that it appears as an ancillary building, with garaging space below and with storage / accommodation above being fairly typical form of ancillary building. Whilst the reference to Core Policy 48 is noted, this policy is clearly targeted at 'rural' buildings and it is not of any direct relevance to ancillary domestic buildings such as this.

Whilst each case must be treated on its own merits, a number of other recent appeal decisions in the County² demonstrate that, particularly for small scale proposals away from settlements towards the higher end of the hierarchy where the benefits (to housing land supply and other matters) are limited, the planning balance must still be applied.

Conclusion

Given the nature and location of the site, any future occupants would be largely reliant on the private car and that the potential for the use of genuine, usable, or practical alternative modes of transport is very limited. As such, the rationale and reason for the imposition of the legal

² For example:

3354426 Land to the south of 1 Townsend, Great Cheverell, Devizes SN10 5TL (09 April 2025)

3355552 Land at Chittoe Heath, Bromham, Wiltshire (09 April 2025)

3357063 16 Kings Avenue, Corsham, SN13 0EF (24 April 2025)

3346470 Land off Church Road, Luckington, Wiltshire SN14 6PD (25 April 2025)

3352933 Land west of Stonewold House, Alderton Lane, Grittleton SN14 6AN (03 June 2025)

3362227 Land adjacent to 8 Bishopstrow Road, Warminster, BA12 9HQ (08 July 2025)

3361383 Land at Willowfield House, Foxley Road, Malmesbury, SN16 0JQ (15 July 2025)

3367300 Land at 20 Malmesbury Road, Cricklade, SN6 6RH (27 November 2025)

3371671 Land at The School, The Green, Biddestone, SN14 7DG (19 December 2025)

agreement when the building was approved remains valid and applicable to the current circumstances.

5 Year Housing Land Supply

The Wiltshire Housing Land Supply Statement (June 2025) provides the latest position on the Council's ability to demonstrate a five-year supply of deliverable housing land, which is a material consideration in the determination of planning applications.

The National Planning Policy Framework was revised in December 2024. This has reintroduced the requirement to meet five years' worth of deliverable sites and a buffer to be applied to the five-year housing requirement in all circumstances, and has revised the Local Housing Need calculation to establish the five-year housing requirement. These factors have resulted in a substantial increase in the five-year housing requirement to be met from the previous calculation. When this is assessed against the housing land supply which can be delivered within five years, the recalculation shows a significant reduction in the number of years supply. The resulting position shows that the Council can currently demonstrate a 2.42 years housing land supply of housing at a unitary authority level. This is considered to be a substantial shortfall.

The absence of a five-year housing land supply is a material consideration in the determination of this application. In accordance with Paragraphs 78 and 11(d) of the National Planning Policy Framework (NPPF), for applications involving the provision of housing, where there is a shortfall in the supply of deliverable housing sites, the most important policies for determining the application should be considered out of date. The current housing land supply shortfall is a factor that must be considered in the planning balance and in this case, as a five-year housing land supply cannot be demonstrated, the weight that can be applied to the most important policies for determining this application should be assessed and altered in the light of the shortage in housing land supply. The proposal must be assessed against the national policy context of the need to boost housing supply and the benefits of delivering new homes whilst having particular regard to the key policies set out in paragraph 11(d)(ii) and Footnote 9 of the NPPF.

Design and Impact on the Character and Appearance of the Area

Policy Context

Core Policy 57 of the WCS requires high-quality design that:

- Enhances local character.
- Responds to the natural, historic, and built environment.
- Retains important features (e.g., trees, hedges).
- Supports sustainable construction and compatibility with surrounding uses.
- Creates safe, legible, and accessible spaces.

Section 12 of the NPPF emphasises design that is:

- Visually attractive.
- Functionally effective.
- Contributes to the quality of the built environment.

The Wiltshire Design Guide encourages sensitivity to local character, materials, and architectural styles and supports modern living standards while maintaining aesthetic and functional quality.

Building for a Healthy Life Framework promotes healthy, inclusive, and sustainable places. The document encourages:

- Walkability.
- Access to green space.
- Active design principles for well-being.

Assessment and Conclusion

The building is existing and its design and appearance does not of itself give any cause for objection. As noted above, it is a building of relatively standard design and appearance as an ancillary building, and despite being a recent addition to this historic setting does not look incongruous in terms of design and appearance due to its quality.

As such, there is no objection to the application for reasons of design and appearance in terms of Core Policy 57 (WCS) and HE1 and HE2 (CNP).

Impact on Heritage Assets

Policy Context

From the point of view of the historic environment the main statutory tests are set out within the Planning (Listed Building and Conservation Areas) Act 1990. Section 66 requires that special regard be given to the desirability of preserving listed buildings, their settings or any features of special architectural or historic interest which they possess.

Section 72(1) of the Act requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

The NPPF outlines government policy for planning. Chapter 16 of the NPPF 'Conserving and enhancing the historic environment' sets out the Government's high-level policies concerning heritage and sustainable development. In particular:

Paragraph 208 requires LPAs should “avoid or minimise any conflict” between the heritage asset’s conservation (which includes achieving its optimum viable use) and any aspect of a proposal.

Paragraph 210 requires local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable new uses and of new development making a positive contribution to local character and distinctiveness.

Paragraphs 212 requires “great weight” to be given to an asset’s conservation “irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

Paragraph 213 advises that harm to the significance of a designated heritage asset should require “clear and convincing justification”.

Paragraphs 213-215(214-216) require a balanced approach with any harm which would be caused being weighed against the potential public benefits which might be achieved.

Paragraph 220 advises that not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm or less than substantial harm as appropriate.

The Planning Practice Guidance provides guidance on interpreting the NPPF.

The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that designated and non-designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance and encourages proposals which improve the condition of heritage assets at risk.

The Council's Core Strategy CP 57: Ensuring high quality design requires a high quality of design in all new developments. The policy requires applicants to "demonstrate how the proposal will make a positive contribution to the character of Wiltshire through (amongst other things) responding to the value of the natural and historic environment and being sympathetic to and conserving historic buildings and landscapes. Development is required to respond positively to the existing in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines to effectively integrate the building into its setting.

Assessment and Conclusion

The application relates to an existing building and as such the extent of heritage harm arising is minimal. No external alterations are proposed and as such there is not considered to be any material conflict arising with Core Policy 58 (WCS), HE1 and HE2 (CNP), or Section 16 of the NPPF.

Whilst concern regarding the loss of garage space for the main dwelling, and any consequent pressure for such for both the main dwelling and also this building, should permission be granted, is valid, that does not form part of this application proposal and as such cannot be considered in the planning balance.

Amenity

Policy Context

Core Policy 57 (Point vii) of the Wiltshire Core Strategy requires development to respect the amenity of existing occupants and ensure appropriate amenity levels for future residents. The National Planning Policy Framework (NPPF), particularly Paragraph 135, reinforces the need for development to provide a high standard of amenity for both existing and future users.

The relationship and layout of the subject building with the main dwelling is one of ancillary arrangement, with the building facing directly into the rear garden area of the main dwelling, at a relatively close distance of some 8m. However, the distances between the two buildings themselves is some 32m and as such, it is not considered that the direct overlooking of the garden area would be sufficient of itself to warrant a reason for refusal.

There are no other amenity issues arising, including loss of light / overshadowing, or noise impacts, given the proposed introduction of a residential use to the immediate locality. As such there is not considered to be any conflict with Core Policy 57 (WCS).

Highways Impacts and Parking

Policy Context

Transport implications are a key factor in assessing planning applications, especially for larger developments. Proposals must demonstrate:

- Safe and suitable access for all users, including pedestrians, cyclists, and those with mobility impairments.
- No severe residual impacts on the surrounding highway network.
- Promotion of sustainable travel, reducing reliance on private vehicles.
- Adequate parking and cycle provision, in line with adopted standards.
- Protection and enhancement of public rights of way and active travel routes.

Relevant policies include Core Policies 60–64 of the Wiltshire Core Strategy, supported by the Wiltshire Local Transport Plan, Car Parking Strategy, and Cycling Strategy. The Local Cycling and Walking Infrastructure Plan (LCWIP) and LTN 1/20 (DfT) provide further design guidance for active travel infrastructure.

Proposals must also ensure safe access for refuse collection vehicles and comply with the Wiltshire Council Waste Storage and Collection SPD (2017).

Where necessary, Transport Assessments or Statements should be submitted to evaluate impacts and identify mitigation. Planning conditions or legal agreements may be used to secure off-site improvements, travel plans, or contributions to sustainable transport infrastructure.

Assessment and Conclusion

Given the nature and scope of the application the Highway Officer has not been directly consulted on this application. Whilst there is unlikely to be any highways safety impact arising, the nature and location of the site, being within the open countryside in terms of planning policy and not well connected to any services or facilities by sustainable means of transport, means that the locational aspects of the application site in terms of Core Policies 60 and 61, as well as paragraphs 84 and 115 of the NPPF (the latter of which is referenced at Footnote 9 of paragraph 11).

Other matters

As the works relate to the conversion of an existing building and no external works are proposed, there are no **ecology** impacts or issues arising, and the proposal falls within the de minimis exemption from biodiversity net gain (BNG). Similarly there are no **flood risk or drainage** matters arising.

PLANNING BALANCE AND CONCLUSION

At the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with an up-to-date

development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless (taken from paragraph 11d of the NPPF):

- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;

The principle of development is considered acceptable when assessed against the settlement strategy of the Wiltshire Core Strategy and the emerging Local Plan.

The application proposal is for the conversion of a garage building to a single dwelling on a site located in the countryside and distant from any designated settlement. As such, the application proposal conflicts with the locational policies of the development plan: CP1, CP2 and CP11 (WCS) as well as CP60 and 61 for similar reasons. From a planning policy perspective, the proposal would not constitute sustainable development and thereby also conflicts with the aims and objectives of the NPPF. The Council's settlement strategy set out in the Core Strategy clearly directs applicants to the locations that it has assessed as being sustainable and suitable for new development and to reduce reliance on the private car for the majority of journeys.

It is accepted that the Council is currently unable to demonstrate a five year supply of housing sites and as such the 'tilted balance' set out at paragraph 11(d) of the NPPF is engaged, with the delivery of housing carrying significant weight. This requires that, where the development plan policies are out of date, planning permission should be granted unless: *"(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."*

In terms of benefits, the proposal would make a minor positive contribution to the supply of housing in terms of providing an additional unit. However, the proposal is for a single dwelling and as such, its benefits to housing supply would be relatively limited. There are no material construction benefits arising (other than relatively limited internal works). Future occupiers would make social and economic contributions to the wider community area, but this is counter-balanced by the loss of any tourist spend within that catchment. There is no benefit in terms of biodiversity net gain as the application proposal is exempt under the 'de minimis' exemption.

In this case the adverse impacts identified in terms of the relatively remote location of the site in terms of the possibility of accessing the site through sustainable modes are considered to significantly and demonstrably outweigh the limited benefits arising from the erection of a single dwelling, when assessed against the policies in the NPPF and the development plan as a whole. For these reasons it is recommended that planning permission should be refused.

RECOMMENDATION:

That Planning Permission be REFUSED for the following reason:

1. The site is located outside of the defined settlement boundary and is within the open countryside. The site is not allocated for housing development and the proposal amounts to new residential development in the open countryside that is not related to the essential need of agriculture, forestry or other rural based enterprise. The proposal is therefore contrary to Wiltshire Core Strategy Core Policies 1, 2, 11, 60 and 61 (WCS) and Saved Local Plan Policy H4 (NWLP) and paragraphs 2, 8, 11, 12, 48, 84 and 115 of the NPPF.



The Town and Country Planning Act 1990
Refusal of Full Planning Permission
Application Reference Number: PL/2026/01149
Decision Date: 09/04/2026

Applicant:	Mr T. Waldron Park Farm Barn Lacock Road North East C157 Through Westrop To T Junction, Westrop, Corsham, Wiltshire, SN13 9QF
Particulars of Development:	Change of use of rural building to form Class C3 dwellinghouse
At:	Park Farm Barn, Westrop, Corsham, SN13 9QF

In accordance with paragraph 39 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

In pursuance of their powers under the above Act, the Council hereby **REFUSE TO GRANT PERMISSION** for the development referred to in the above application and plans submitted by you, for the following reason(s):

Refusal Reason

- 1 The site is located outside of the defined settlement boundary and is within the open countryside. The site is not allocated for housing development and the proposal amounts to new residential development in the open countryside that is not related to the essential need of agriculture, forestry or other rural based enterprise. The proposal is therefore contrary to Wiltshire Core Strategy Core Policies 1, 2, 11, 60 and 61 (WCS) and Saved Local Plan Policy H4 (NWLP) and paragraphs 2, 8, 11, 12, 48, 84 and 115 of the NPPF.

Nic Thomas - Director of Planning, Economy and Regeneration

NOTES

1. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to refuse permission, they may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - [Appeal a planning decision: Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/appeal-a-planning-decision-overview)).

Core Policy 48: Supporting rural life

Supporting rural life

6.61 Core Policy 48 explains the approach that will be taken to support rural communities, outside the limits of development of Principal Settlements, Market Towns, Local Service Centres and Large Villages and outside the existing built areas of Small Villages. The policy is based on the following key objectives:

- Protecting the countryside and maintaining its local distinctiveness.
- Supporting the sensitive reuse of built assets to help meet local needs.
- Supporting improved access between places and to services.
- Supporting the community in taking ownership of local services.

The approach to development within small rural settlements is set out in Core Policy 2.

6.62 Residential development will not normally be permitted in the countryside unless it meets the requirements of Core Policy 44 (rural exceptions sites). However, additional dwellings may be justified in certain circumstances when they are required in the interests of supporting rural employment, for example in association with equestrian activities when worker accommodation is needed onsite. In view of the exceptional circumstances applications will be scrutinised thoroughly and opportunities for accommodation within nearby settlements must be considered initially.

6.63 Proposals to convert or re-use buildings for employment, tourism or residential uses, community uses, meeting rooms or places of worship will need to fulfil the requirements set out in Core Policy 48. Proposals must not lead to subsequent applications for replacement buildings elsewhere. It is recognised that the insensitive re-use of rural buildings can be damaging to the character of the building and its rural setting. Furthermore, additions and extensions should normally be avoided.

6.64 Improving accessibility between places within the countryside may sometimes mean that development requiring planning permission is required, such as new roads, cycle routes, gates, signposts and bus shelters. Some telecommunications works may also fall into this category. In such cases, Core Policy 48 introduces a presumption in favour of such works which can greatly benefit rural areas, where these are environmentally acceptable. Core Policy 48 also identifies measures to support community ownership of local shops, pubs and other services where this is appropriate to retain the facility. Core Policy 49 provides further details on the protection of existing community services and facilities.

Core Policy 48

Supporting rural life

Dwellings required to meet the employment needs of rural areas

Outside the defined limits of development of the Principal Settlements, Market Towns, Local Service Centres and Large Villages, and outside the existing built areas of Small Villages, proposals for residential development will be supported where these meet the

accommodation needs required to enable workers to live at or in the immediate vicinity of their place of work in the interests of agriculture or forestry or other employment essential to the countryside. Proposals for accommodation to meet the needs of employment essential to the countryside should be supported by functional and financial evidence.

Improving access to services and improving infrastructure

Proposals which will focus on improving accessibility between towns and villages, helping to reduce social exclusion, isolation and rural deprivation, such as transport and infrastructure improvements, will be supported where the development will not be to the detriment of the local environment or local residents.

Conversion and re-use of rural buildings

Proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported where it satisfies the following criteria:

- i. The building(s) is / are structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building; and*
- ii. The use would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas; and*
- iii. The building can be served by adequate access and infrastructure; and*
- iv. The site has reasonable access to local services or*
- v. The conversion or re-use of a heritage asset would lead to its viable long term safeguarding*

Where there is clear evidence that the above uses are not practical propositions, residential development may be appropriate where it meets the above criteria. In isolated locations, the re-use of redundant or disused buildings for residential purposes may be permitted where justified by special circumstances, in line with national policy.

Community ownership

Community ownership and /or management of local shops, pubs and other services will be supported where appropriate to retain a local facility through the following measures:

- vi. Development proposals for the adaptation of a building, such as sub-division or change of use, will be supported where these are necessary to allow a viable continued use*
- vii. Appropriately scaled enabling development will be considered, where this is environmentally acceptable and justified through a supporting viability study, and where it can help maintain and enhance the community uses provided and*
- viii. The facility may be protected from loss of its current use until such time as the community has had a realistic opportunity to take control of the asset.*

New Shops

New shops in villages will be supported where they are small in scale and would not threaten the viability of nearby centres. Farm shops will be supported where they utilise existing buildings, are small in scale and cause no unacceptable impact on nearby village shops or the character of the area.



Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be 10.30am on 23 April 2020

Neutral Citation Number: [2020] EWHC 954 (Admin)

Case No: CO/5006/2019

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/04/2020

Before :

MRS JUSTICE LIEVEN

Between :

**THE QUEEN ON THE APPLICATION OF
WILTSHIRE COUNCIL**

Claimant

v

**SECRETARY OF STATE FOR HOUSING, COMMUNITIES
AND LOCAL GOVERNMENT**

Defendant

v

MR W HOWSE

Interested Party

Mr Hashi Mohamed (instructed by Wiltshire Council Legal Services) for the Claimant
Mr Mark Westmoreland Smith (instructed by Government Legal Department) for the
Defendant

Mr Peter Wadsley (instructed by Thrings LLP) for the Interested Party

Hearing dates: 2 April 2020

Approved Judgment

Mrs Justice Lieven :

1. This matter concerns an application for statutory review under s.288 of the Town and Country Planning Act 1990 of an appeal decision decided by an Inspector (“the Inspector”) appointed by the Defendant, the Secretary of State for Communities, Housing and Local Government (“the Secretary of State”), dated 22 November 2019 (“the appeal decision”) concerning land at Providence Cottage, Braydonside, Brinkworth, Wiltshire (“the site”).
2. The Claimant and local planning authority is Wiltshire Council (“the Council”). The Interested Party, Mr Howse, appealed the decision of the Council to refuse planning permission dated 8 July 2019 (“the Council’s decision”) for the proposed new dwelling at the site. The appeal was determined by the Inspector following a written representations procedure.
3. The Claimant was represented before me by Mr Mohamed, the Secretary of State by Mr Westmoreland Smith, and the Interested Party by Mr Wadsley. I am very grateful to all of them for their assistance. The hearing was conducted by video link on Skype given the coronavirus pandemic.
4. The issue in the present case is whether the Inspector erred in her interpretation of the words “subdivision of an existing residential dwelling” in para 79(d) of the National Planning Policy Framework (NPPF). She applied those words to the subdivision of the residential planning unit where there were two separate buildings in residential use, and it was the second and separate building which was the subject of the application. The Council argues that in the context of para 79(d) the subdivision must be of one physical residential building and therefore the Inspector was wrong to apply the policy in the circumstances of the appeal before her.
5. On 15 January 2020 the Secretary of State indicated that he did not intend to contest the claim. Mrs Justice Lang granted permission to bring the proceedings on 3 February 2020. On 13 February 2020 Mr Justice Holgate ordered that the Secretary of State attend the hearing through counsel. Therefore, Mr Westmoreland Smith attended at the hearing, supporting Mr Mohamed’s case, and the task of defending the decision letter fell on Mr Wadsley.

The Facts

6. The Interested Party made an application on 8 May 2019 to the Council. The description of the development is given as an ‘Independent use of an annex’. The application sought permission to change the use of annexed accommodation from ancillary to independent residential accommodation. The red line on the application plan is around the annex building and a small surrounding area. The larger plot includes Providence Cottage and a fairly large area of land behind.
7. The factual position is that the site is outside the settlement boundary of the village. The principal building, Providence Cottage, is some 19 metres from the annex with a driveway running between the two. Planning permission was refused in 2014 for the

conversion of the garage/outbuilding on the site to be converted into a separate dwelling. The garage/outbuilding was subsequently adapted to provide an annex which, according to the Interested Party's planning consultant, forms an integral part of the single planning unit. It was this building which formed the subject of the 2019 application. I note at this point that there had been no planning application or grant of permission in respect of the use of the outbuilding as a residential annex. There is an email from a planning officer at the Council, Mr Croft, dated 15 January 2015 in which he says "*it would appear that the annexe forms an integral part of the residential planning unit, and accordingly use of the annexe, as described, does not constitute development for which planning permission is required.*" Mr Croft requested that a unilateral undertaking be entered into which would prevent the annex from being sold or rented separately or have a separate curtilage created. No such undertaking was entered into. Therefore, at the point the 2019 application was made, the annex was in residential use and the Council had accepted that was a lawful use which did not require permission.

8. The application for planning permission was made on 8 May 2019. On 30 May 2019 an Officer's Report ("OR") considered the application in detail and recommended refusal on the basis that the proposal did not accord with development plan policy. On 8 July 2019 the notification of refusal of planning permission was issued to that effect. The two material reasons for refusal included (1) that the proposal is contrary to local and national policy; and (2) the proposal would be located in a remote place from a range of services, employment opportunities and will not be well served by public transport, also contrary to local and national policy.
9. An appeal was lodged on 27 August 2019 by the Interested Party to the Inspectorate against the Council's decision to refuse planning permission. The appeal progressed by way of the written representations made. It was allowed by a decision letter dated 22 November 2019.

Decision Letter

10. The decision letter records the relevant policies in the Wiltshire Core Strategy (WCS) which I will set out below. DL4 states;

"the appeal site is a modest detached structure within the ground of Providence Cottage and provides residential accommodation as an annex, and therefore, comprises part of a planning unit that is in use as a dwelling house (class C3). It is proposed that the annex should become an independent dwelling such that there would be two Class C3 planning units."

11. The Inspector then described the distance from the site to the village, being some 2km, and that the site would appropriately be described as being isolated (DL5). She found that the proposal did not meet the criteria in CS policy CP48.
12. At DL8 she referred to the NPPF being a material consideration and critically says at DL9-11:

9. Paragraph 79 of the Framework states that isolated homes in the countryside should be avoided save for 5 exceptions, one of which

expressly refers to the subdivision of an existing residential dwelling. Given that these are deliberate exceptions to the normal approach to isolated dwellings, it is implicit that account had already been taken of the relatively poor accessibility that is likely to occur in such locations. In this regard I concur with the findings of the Inspector in a recent appeal to which I am referred.

10. *The Council consider that paragraph 79(d) would not apply to the appeal proposal as it relates to a detached residential annex rather than a physical component of the main house. However, I have not seen evidence to substantiate why such narrow interpretation would be applicable to the term 'dwelling' such that it would exclude the configuration of built form before me. The wording of paragraph 79(d) is not qualified by reference to what form the existing residential development must take, nor is it clear why that would be especially relevant to the principle of sub-division. The proposal would sub-divide the existing planning unit comprising a single dwelling and annex providing habitable residential accommodation into two dwellings. Therefore, I find that it would fall within the scope of the exception set out in paragraph 79(d).*
11. *Paragraph 21.3 of the Framework stipulates that due weight should be given to development plan policies that pre-date the Framework according to their degree of consistency with the Framework. Therefore, although policies CP48, CP60 and CP61 of the CS, amongst other matters, seek to restrict isolated residential development that heavily relies on the private car as the principal mode of transport, there is recent and express national policy that applies more directly to the circumstances of the appeal proposal. This limits the weight I can give to the CS policies as well as to decisions that refused similar development made prior to the introduction of paragraph 79(d).*

Policy Context

Wiltshire Core Strategy

13. Core Policy 1 and 2 of the Wiltshire Core Strategy (2015) sets out a settlement strategy across the county that seeks to direct a level of residential development proportionate to the scale of settlements within a hierarchy. Core Policy 2 provides for a strategy which sets out what is to be within and outside the defined limits of development. The CS seeks to direct most residential development to the principal settlements and market towns to focus development in settlements in areas with a good range of local facilities and better access to public transport.
14. Core Policy 48 goes on to set out the circumstances in which proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported where they satisfy the criteria set out. The policy then goes on to state;

“Where there is clear evidence that the above uses are not practical propositions, residential development may be appropriate where it meets

the above criteria. In isolated locations, the re-use of redundant or disused buildings for residential purposes may be permitted where justified by special circumstances, in line with national policy.”

National Planning Policy Framework

15. Paragraphs 77-79 of the NPPF deal with “Rural Housing”.

77. *In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilities this.*
78. *To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.*
79. *Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
 - d) the development would involve the subdivision of an existing residential dwelling; or*
 - e) the design is of exceptional quality, in that it:*
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

Legal Framework

16. By s.78(1)(a) where a local planning authority refuses an application for planning permission or grants it subject to conditions, the applicant may by notice appeal to the Secretary of State.

17. The principles on which a court should approach a challenge under s.288 are very well known. In Bloor Homes East Midlands Ltd v SSCLG (Admin) [2014] EWHC 754 (Admin) at 19) Lindblom J (as he then was) set out the principles to be applied in a s.288 challenge;

“The relevant law is not controversial. It comprises seven familiar principles:

(1) Decisions of the Secretary of State and his inspectors in appeals against the refusal of planning permission are to be construed in a reasonably flexible way. Decision letters are written principally for parties who know what the issues between them are and what evidence and argument has been deployed on those issues. An inspector does not need to "rehearse every argument relating to each matter in every paragraph" (see the judgment of Forbes J. in Seddon Properties v Secretary of State for the Environment (1981) 42 P. & C.R. 26, at p.28).

(2) The reasons for an appeal decision must be intelligible and adequate, enabling one to understand why the appeal was decided as it was and what conclusions were reached on the "principal important controversial issues". An inspector's reasoning must not give rise to a substantial doubt as to whether he went wrong in law, for example by misunderstanding a relevant policy or by failing to reach a rational decision on relevant grounds. But the reasons need refer only to the main issues in the dispute, not to every material consideration (see the speech of Lord Brown of Eaton-under-Heywood in South Bucks District Council and another v Porter (No. 2) [2004] 1 WLR 1953, at p.1964B-G).

(3) The weight to be attached to any material consideration and all matters of planning judgment are within the exclusive jurisdiction of the decision-maker. They are not for the court. A local planning authority determining an application for planning permission is free, "provided that it does not lapse into Wednesbury irrationality" to give material considerations "whatever weight [it] thinks fit or no weight at all" (see the speech of Lord Hoffmann in Tesco Stores Limited v Secretary of State for the Environment [1995] 1 WLR 759, at p.780F-H). And, essentially for that reason, an application under section 288 of the 1990 Act does not afford an opportunity for a review of the planning merits of an inspector's decision (see the judgment of Sullivan J., as he then was, in Newsmith v Secretary of State for [2001] EWHC Admin 74, at paragraph 6).

(4) Planning policies are not statutory or contractual provisions and should not be construed as if they were. The proper interpretation of planning policy is ultimately a matter of law for the court. The application of relevant policy is for the decision-maker. But statements of policy are to be interpreted objectively by the court in accordance with the language used and in its proper context. A failure properly to understand and apply relevant policy will constitute a failure to have regard to a material consideration, or will amount to having regard to an immaterial consideration (see the judgment of Lord Reed in Tesco Stores v Dundee City Council [2012] PTSR 983, at paragraphs 17 to 22).

(5) When it is suggested that an inspector has failed to grasp a relevant policy one must look at what he thought the important planning issues were and decide whether it appears from the way he dealt with them that he must have misunderstood the policy in question (see the judgment of Hoffmann L.J., as he then was, South Somerset District Council v The Secretary of State for the Environment (1993) 66 P. & C.R. 80, at p.83E-H).

(6) Because it is reasonable to assume that national planning policy is familiar to the Secretary of State and his inspectors, the fact that a particular policy is not mentioned in the decision letter does not necessarily mean that it has been ignored (see, for example, the judgment of Lang J. in Sea Land Power & Energy Limited v Secretary of State for Communities and Local Government [2012] EWHC 1419 (QB), at paragraph 58).

(7) Consistency in decision-making is important both to developers and local planning authorities, because it serves to maintain public confidence in the operation of the development control system. But it is not a principle of law that like cases must always be decided alike. An inspector must exercise his own judgment on this question, if it arises (see, for example, the judgment of Pill L.J. Fox Strategic Land and Property Ltd. v Secretary of State for Communities and Local Government [2013] 1 P. & C.R. 6, at paragraphs 12 to 14, citing the judgment of Mann L.J. in North Wiltshire District Council v Secretary of State for the Environment [1992] 65 P. & C.R. 137, at p.145).

18. The present case turns on the correct interpretation of planning policy, namely para 79 of the NPPF. It is therefore important to have regard to what Lord Reed said in Tesco v Dundee CC in the Supreme Court at paras 17-21;

17. It has long been established that a planning authority must proceed upon a proper understanding of the development plan: see, for example, Gransden & Co Ltd v Secretary of State for the Environment (1985) 54 P & CR 86, 94 per Woolf J, affd (1986) 54 P & CR 361; Horsham DC v Secretary of State for the Environment (1991) 63 P & CR 219, 225-226 per Nolan LJ. The need for a proper understanding follows, in the first place, from the fact that the planning authority is required by statute to have regard to the provisions of the development plan: it cannot have regard to the provisions of the plan if it fails to understand them. It also follows from the legal status given to the development plan by section 25 of the 1997 Act. The effect of the predecessor of section 25, namely section 18A of the Town and Country (Planning) Scotland Act 1972 (as inserted by section 58 of the Planning and Compensation Act 1991), was considered by the House of Lords in the case of City of Edinburgh Council v Secretary of State for Scotland 1998 SC (HL) 33, [1997] 1 WLR 1447. It is sufficient for present purposes to cite a passage from the speech of Lord Clyde, with which the other members of the House expressed their agreement. At p 44, 1459, his Lordship observed:

"In the practical application of sec 18A it will obviously be necessary for the decision-maker to consider the development plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it."

18. *In the present case, the planning authority was required by section 25 to consider whether the proposed development was in accordance with the development plan and, if not, whether material considerations justified departing from the plan. In order to carry out that exercise, the planning authority required to proceed on the basis of what Lord Clyde described as "a proper interpretation" of the relevant provisions of the plan. We were however referred by counsel to a number of judicial dicta which were said to support the proposition that the meaning of the development plan was a matter to be determined by the planning authority: the court, it was submitted, had no role in determining the meaning of the plan unless the view taken by the planning authority could be characterised as perverse or irrational. That submission, if correct, would deprive sections 25 and 37(2) of the 1997 Act of much of their effect, and would drain the need for a "proper interpretation" of the plan of much of its meaning and purpose. It would also make little practical sense. The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that in principle, in this area of public administration as in others (as discussed, for example, in *R (Raissi) v Secretary of State for the Home Department* [2008] QB 836), policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context.*

19. *That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, 780 per*

Lord Hoffmann). Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean.

20. *The principal authority referred to in relation to this matter was the judgment of Brooke LJ in R v Derbyshire County Council, Ex p Woods [1997] JPL 958 at 967. Properly understood, however, what was said there is not inconsistent with the approach which I have described. In the passage in question, Brooke LJ stated:*

"If there is a dispute about the meaning of the words included in a policy document which a planning authority is bound to take into account, it is of course for the court to determine as a matter of law what the words are capable of meaning. If the decision maker attaches a meaning to the words they are not properly capable of bearing, then it will have made an error of law, and it will have failed properly to understand the policy."

By way of illustration, Brooke LJ referred to the earlier case of Northavon DC v Secretary of State for the Environment [1993] JPL 761, which concerned a policy applicable to "institutions standing in extensive grounds". As was observed, the words spoke for themselves, but their application to particular factual situations would often be a matter of judgment for the planning authority. That exercise of judgment would only be susceptible to review in the event that it was unreasonable. The latter case might be contrasted with the case of R (Heath and Hampstead Society) v Camden LBC [2008] 2 P & CR 233, where a planning authority's decision that a replacement dwelling was not "materially larger" than its predecessor, within the meaning of a policy, was vitiated by its failure to understand the policy correctly: read in its context, the phrase "materially larger" referred to the size of the new building compared with its predecessor, rather than requiring a broader comparison of their relative impact, as the planning authority had supposed. Similarly in City of Edinburgh Council v Scottish Ministers 2001 SC 957 the reporter's decision that a licensed restaurant constituted "similar licensed premises" to a public house, within the meaning of a policy, was vitiated by her misunderstanding of the policy: the context was one in which a distinction was drawn between public houses, wine bars and the like, on the one hand, and restaurants, on the other.

21. *A provision in the development plan which requires an assessment of whether a site is "suitable" for a particular purpose calls for judgment in its application. But the question whether such a provision is concerned with suitability for one purpose or another is not a question of planning judgment: it is a question of textual interpretation, which can only be answered by construing the language used in its context. In the present case, in particular, the question whether the word "suitable", in the policies in question, means "suitable for the development proposed by the applicant", or "suitable for meeting identified deficiencies in retail provision in the area", is not a question which can be answered by the exercise of planning judgment: it is a logically prior question as to the issue to which planning judgment requires to be directed*

Submissions

19. Mr Mohamed's submissions, supported by Mr Westmoreland Smith, are as follows. The starting point is that the meaning of "dwelling" within para 79(d) is a question of law, and as such a matter for the court. "Dwelling" is a word which takes its meaning from its context, and therefore limited assistance is to be drawn from other statutory contexts and the caselaw upon them. The context of the NPPF, and paras 77-79 in particular, points strongly to the exception in para 79(d) being narrowly construed. The use of the word "sub-division" combined with "dwelling" indicates that the sub-paragraph is concerned with one physical building. If the NPPF had intended to include the sub-division of a residential planning unit, or a residential plot, then it would have used different words. The purpose or intent of the NPPF strongly points in favour of the narrow construction because otherwise the policy could give rise to a proliferation of new dwellings in isolated rural locations, which is plainly contrary to the overall intention of the NPPF in respect of such locations.
20. Mr Mohamed points to a number of recent appeal decisions since the changes to the NPPF in July 2018 where Inspectors have taken the narrower approach to para 79(d). I have been taken to five appeal decisions in which para 79(d) has been in issue where a variety of different conclusions have been reached by the Inspectors involved. It is apparent that Inspectors have differed in their interpretation of the sub-paragraph rather than having just differed on its application to the facts of the case before them. Ultimately those decisions do not help me very much because the interpretation of the policy is a matter of law for the Court and the Inspectors' decisions do not show any clear indication of their approach to the policy. What is clear is that there is considerable confusion over what "dwelling" in para 79(d) means and there is an issue of law which needs to be determined.
21. Mr Westmoreland Smith supported these arguments. He pointed out that the consultation draft version of the 2018 NPPF had at para 79(d) used the word residential "property", but this had been changed in the final version to "dwelling". He said that this was to prevent larger curtilages being developed as a result of the policy change and there was a deliberate choice to focus on the building rather than the plot. He said that it had been the Secretary of State's intention that para 79(d) would apply to the subdivision of single houses, not wider residential properties or curtilages. He supported Mr Mohamed's submission that para 79 set out a series of exceptions to the policy of avoiding development of isolated homes in the countryside and, as such, the exceptions should be narrowly construed. He also points to the fact that "dwelling" is not the word used in the rest of chapter 5 of the NPPF, rather it refers to "homes" and therefore dwelling must have been meant to have a narrow definition.
22. Mr Wadsley argued that the word "dwelling" can have a variety of meanings, but generally means a home and he relies on Miah v Secretary of State for Work and Pensions [2003] EWCA Civ 1111. The Court of Appeal there was considering what was the "dwelling" for the purposes of assessing capital under the Jobseekers Allowance Act. Mr Miah and his family occupied two adjoining properties, and the issue was whether both should be disregarded. At [26] Ward LJ said;

If one approaches construction of the words literally, one notes that the word "dwelling" has been chosen, not, for example, "dwelling-house" nor "residential accommodation". "Dwelling" is defined by the Oxford

English Dictionary as "Place of residence; dwelling-place, habitation, house". "Dwelling-place" is "A place of abode", whereas "Dwelling-house" is "A house occupied as a place of residence, as distinguished from a house of business, warehouse, office, etc." Because the single word is expanded into a phrase "dwelling occupied as the home" I am given the impression that the legislature intended to convey the function to be served by the concept of a dwelling rather than to connote its constituent elements, the bricks and mortar of the dwelling. The function is a place serving as home for the claimant. That place is not necessarily confined to a single building. For me this emphasis is reinforced by the inclusion within "dwelling" of "any garage, garden and outbuildings normally occupied as his home including any premises not so occupied ...". A barn converted for residential accommodation is part of the dwelling constituted by the farmhouse and that converted barn. I appreciate that not too much can be derived from that analogy because they both lie within the same curtilage, but it gives the flavour.

23. Mr Wadsley relies on this passage for the reference to the Oxford English Dictionary that "dwelling" is a "place of residence" and Ward LJ's point that the Legislature had, by using the word "dwelling", focused on the function of the property rather than the bricks and mortar. To my mind the critical point that emerges from this case is that the context of the words used are key. In *Miah* the context suggested that the dwelling was not confined to one building and the policy background was the disregarding of the property for the purpose of means testing benefits. The context here is an entirely different one, and the reasons for focusing on the building rather than the wider unit is quite clear in a planning policy document where the issue is the form of physical development which is or is not supported by national policy.
24. On the basis of the various different definitions of dwelling, Mr Wadsley argues that the approach the Inspector took, that the dwelling included the residential annex, was one that was clearly open to her on the language and therefore was an application of the policy that fell within her planning judgement. On the policy, he argued that the NPPF supported a boost to the number of houses and the Inspector's construction of the policy supported an increase in housing. There was no obvious reason for the difference between allowing sub-division of a single house and allowing the sub-division of the residential unit. Both would lead to more households in the rural area, so the stated policy intent was not as clear cut as the Council and Secretary of State were suggesting.
25. He pointed out that there were necessarily safeguards in place to ensure that inappropriate development did not take place. If there were highway or other planning objections to the development then planning permission could be refused on those grounds. Mr Wadsley also referred to *Gravesham DC v SSE 1982 47 P&CR 142*, which establishes that for a building to be a dwelling house it must have the ability to provide its occupants with the facilities required for day to day living. He argued that to rely on the exception in para 79(d), the building for which planning permission was being sought would have to meet this test. For the reasons I have set out below I am not sure this analysis is correct, and, in any event, I do not think it would act effectively to limit the scope of the exception.

Conclusions

26. In my view Mr Mohamed and Mr Westmoreland Smith's arguments are correct, and the Inspector erred in law in her approach to para 79(d) of the NPPF. The starting point is that the meaning of "dwelling" within the paragraph is a question of the interpretation of policy, and not its application. The issue is whether "dwelling" means a single residential building, or a wider residential unit that can include secondary buildings within the same plot. That issue is capable of one objective answer regardless of the facts of any particular case, and as such falls within [18] of *Tesco v Dundee* as being a matter of law. This is the type of case where there is a difference from the *ex p Woods* approach to the approach of the Supreme Court in *Tesco v Dundee*. The issue is not whether the word "dwelling" is reasonably capable of carrying the meaning given to it by the Inspector but rather whether that is the correct meaning in the policy context. Once that issue of law is determined there may well be questions of planning judgement on a particular case as to whether those facts fall within para 79(d), for example whether the building being sub-divided is properly described as one dwelling or not.
27. I approach the meaning of dwelling by looking at the words themselves; the context in which they appear; and the overarching policy objective or "mischief". The words "sub-division of an existing residential dwelling" tend in my view towards the dwelling being one physical building rather than a wider residential unit encompassing other buildings. Although it is always possible to posit clearer or different words that could have been used, if the Secretary of State had intended to encompass sub-division of the residential plot then it would have been more natural to use the words "the residential unit" or "the property". To my mind, sub-division of a dwelling, implies a single building.
28. The change from the consultation draft of the 2018 NPPF which used the word "property" to the final version which used the word "dwelling" supports the Secretary of State's position that the intention was to narrow the exception and keep it to the single residential building. I should make clear at this point that, in my view, the Secretary of State's stated intention, as set out in the GLD letter and Mr Westmoreland Smith's written submissions, carries very little if any weight. As Lord Reed said in *Tesco v Dundee* it is not up to a policy maker to say what they think the policy means. It therefore cannot be open to the Secretary of State to say what he intended the policy to mean unless he can point to some contemporaneous document which shows that policy intent at the time the document was finalized. The only document that Mr Westmoreland Smith can point to is the change between the consultation draft and the final version. There is apparently nothing in the consultation response from the Secretary of State which deals with the point, and there is nothing equivalent to a White Paper or travaux préparatoire for the NPPF. Therefore, I am not assisted by the Secretary of State's asserted intention, save to the degree to which it is reflected in the change from consultation to final version of the NPPF.
29. Most importantly, in my view the context strongly militates towards a narrow interpretation. The sub-paragraphs in para 79 are exceptions to the general policy against creating new residential development in isolated rural locations. It is important to have in mind that the policy reason for not supporting new housing in such locations is that it would be fundamentally unsustainable, being poorly located for local services, and that sustainability lies at the heart of the NPPF. As such, it does in my view follow that the exceptions should be narrowly construed as being in general not supportive of sustainable development. The exceptions are all forms of development which could be

said to enhance the countryside, whether by adding housing for rural workers, or reusing redundant buildings. As the letter from GLD dated 15 January 2020 states, para 79(d) makes sense in this context as allowing the sub-division of large properties into flats where that is a good use of the existing dwelling. To allow the sub-division of residential units by allowing separate buildings to become separate dwellings goes well beyond that limited exception.

30. Mr Wadsley argues that there is support in the NPPF for a boost in housing supply and the Inspector's interpretation meets this policy intent. However, it is clear from Chapter 5 of the NPPF, and paras 77-79 in particular, that the general thrust of the policy to increase housing is specifically excluded when it comes to the creation of isolated homes in rural locations. Therefore, I do not think the broader policy in the NPPF is of assistance.
31. Mr Wadsley argues that as the policy plainly allows the sub-division of single residential buildings, there is no sound policy reason to say that it does not apply to the sub-division of residential units. However, there is in my view a very material distinction between sub-division of a single building and the type of sub-division which Mr Wadsley says falls within the policy. Many residential properties in the countryside have some form of outbuildings whether garages, sheds or barns. It is not entirely clear from Mr Wadsley's submissions what he says would be included in the "residential dwelling" in para 79(d) and whether the secondary building had to already be in actual residential use. On the facts of this case, the outbuilding/garage was being used for residential purposes and had been laid out with a bedroom, living room and bathroom. Therefore, both buildings could be said to be being used for residential purposes before the application for a separate dwelling.
32. However, it is also clear that the change from being used as a garage/outbuilding to a residential use was done without planning permission and the Council's officer Mr Croft had accepted that it did not need planning permission. Subject to there being no need for any operational development requiring permission, and there being no issue of planning conditions, then internal alterations of an outbuilding to allow ancillary residential use (i.e. not the creation of a separate residential dwelling) would not require planning permission. It follows from this that if para 79(d) supported the sub-division of a residential planning unit into two separate dwellings, then the implications could be very wide. Any residential property with a suitable outbuilding into which a residential use could be inserted would then have policy support to become a separate dwelling.
33. Therefore, even if the secondary building has to be in residential use at the point at which reliance is sought to be placed on para 79(d), this will often not be a difficult step to achieve. These issues merely highlight the potential extent of the exception to the policy against isolated rural development that would be created if Mr Wadsley's interpretation was correct.
34. For all these reasons I find that the Inspector erred in law in her interpretation of the word "dwelling" and the decision must be quashed and the appeal redetermined.

Appeal Decision

Site visit made on 2 July 2015

by B J Sims BSc(Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 July 2015

Appeal Ref: APP/Y3940/W/15/3003800

190 Ashley Green, Little Ashley, Bradford-on-Avon, BS15 2PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr John Banks against the decision of Wiltshire Council.
 - The application Ref 14/09946/VAR, dated 21 October 2014, was refused by notice dated 15 December 2014.
 - The application sought planning permission for the conversion of existing garages into holiday let without complying with a condition attached to planning permission Ref 07/02817/FUL, dated 30 October 2007.
 - The condition in dispute is No 4 which states that: The dwelling shall only be used as holiday accommodation and not as permanent residential accommodation, and it shall not be occupied during the month of February.
 - The reason given for the condition is: The site is in an area where residential development would not normally be permitted.
-

Decision

1. The appeal is dismissed.

Planning Issues

2. The main issue is whether the disputed condition is reasonable and necessary to prevent permanent residential occupation of the appeal building with reference to adopted local planning policy regarding the conversion and re-use of rural buildings.
3. It is also necessary to consider the degree to which permanent residential use of the building would amount to sustainable development with particular regard to road access, highway safety and the availability of local services, compared with its currently permitted use as a holiday let.

Reasons

4. The appeal building has been nicely converted into a modest, two-bedroom dwelling standing within its own garden area behind No 189 Ashley Green, with which it shares its vehicle access. No 189 is the home of the Appellant who has operated the building as a holiday let following the completion of its conversion in 2011.

5. The building is situated in the Bristol Green Belt where, in the strict terms of Green Belt policy, its conversion and re-use is not regarded as 'inappropriate'. Therefore, the Green Belt test of whether there are 'very special circumstances' to justify the permanent residential use now proposed does not have to be applied.
6. Be that as it may, the use of the building must still comply with relevant provisions of the statutory development plan unless material circumstances indicate otherwise. These include Core Policy 48 (CP48) of the adopted Wiltshire Core Strategy 2015 (WCS). This policy is essentially consistent with the National Planning Policy Framework (NPPF) in requiring clear evidence that the current holiday, or tourism, use is not a practical proposition, before permanent residential development may be regarded as appropriate. Even then, the development must not detract from the character or appearance of the landscape and must be served by adequate access and local services.
7. The Appellant asserts that most visitors prefer to stay in Bradford-on-Avon itself and that the "Saddle Stone Cottage" website and advertisement via the Bradford-on-Avon Information Centre have failed to attract a significant number of bookings in the years since the conversion was completed. The Appellant provides a schedule of comparable weekly rental charges for other holiday lets in the area as an indication that the asking price has been reasonable. However, the Appellant admits to rejecting a contract with a commercial letting company, claiming that the level of commission would render the holiday let unviable.
8. Without any other documented financial records or correspondence, the information available does not amount to the requisite clear evidence that the holiday let is not a practical proposition in terms of CP48. This objection alone warrants dismissal of the appeal, even though it is accepted that the development is low-key in nature and not commercially speculative.
9. Moreover, notwithstanding that the holiday let is an attractive dwelling, it lacks outbuildings of its own, such that permanent occupiers would be likely to require. The regular use of the garden and a potentially greater level of domestic activity and paraphernalia within the open countryside would detract from the character and appearance of the landscape. This consideration adds to the degree of conflict with CP48 and its criterion (ii) in particular.
10. The route along the rural lanes leading to the appeal property is of poor quality with a risk of conflict between vehicles and pedestrians contrary to the interests of road safety. Moreover, the relatively long distance from local shops and other community services would require regular reliance on the private car for access. In these two respects, the proposed permanent residential use of the appeal building would fail to accord with the principles of sustainability and be in some further conflict with CP48, criteria (iii-iv), as well with the principles of sustainable transport set down in CP60 of the WCS. However, it must be taken into account that, in its permitted holiday use, there is nothing to prevent the dwelling from becoming frequently occupied, other than during the month of February. This could also give rise a substantial number of car trips. As a result, neither the consideration of poor access nor the long distance from available community facilities are determining factors in this case.

11. This appeal is considered in the light of every matter raised in the representations, including reference to a previous permission for a holiday let at Haugh (Potticks Stable) not far from Little Ashley, cited by both District and Parish Councils as evidence of local demand for tourist accommodation; but each case is decided on individual merit and it is the lack of documentary evidence in the present appeal which is the main deciding issue. It is also noted that the appeal dwelling could contribute a small permanent addition to the local housing supply. However, this socio-economic benefit is clearly outweighed by the potential environmental harm to the rural landscape and the conflict with adopted policy.
12. No other point raised is of sufficient importance to affect the overall conclusion that, for the reasons explained above, the appeal should fail.
13. For the reasons given, the appeal fails.

B J Sims

Inspector



The Planning Inspectorate

Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 03034445000

Customer Services:
0303 444 5000

Email: west1@pins.gsi.gov.uk

www.gov.uk/planning-inspectorate

Wiltshire Council
Planning Appeals
Monkton Park Office
Chippenham
Wiltshire
SN5 1ER

Your Ref:

Our Ref: APP/Y3940/W/17/3180317

22 December 2017

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr Richard Bullough
Site Address: 7 Locks Lane , Purton, Wiltshire, SN5 4HD

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

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

Yours faithfully,

Latoya Blake-Griffths

Latoya Blake-Griffths

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Appeal Decision

Site visit made on 5 December 2017

by G P Jones BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22nd December 2017

Appeal Ref: APP/Y3940/W/17/3180317

7 Locks Lane, Purton, Wiltshire SN5 4HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Bullough against the decision of Wiltshire Council.
 - The application Ref 17/00798/FUL, dated 23 January 2017, was refused by notice dated 27 March 2017.
 - The development proposed is the conversion of detached outbuilding into a single dwelling and erection of detached double garage.
-

Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. Since the planning application was determined the appellant has submitted an amended plan, reference C12117.PL.050 Revision B Proposed Block Plan, that in effect proposes the removal of the detached double garage element of the proposal. I consider that the removal of this double garage from the scheme would not fundamentally alter the nature of the proposal and thus would not prejudice any interested parties. I shall proceed with my determination of this appeal on the basis of this revised scheme.
3. In addition, the Council has now agreed that sufficient information has been submitted in regard to an assessment on the potential impact on trees on the site, and is therefore not pursuing this reason for refusal.

Main Issues

4. Taking all of this into account, I consider that the main issues are as follows:
 - whether the appeal site is an appropriate location for housing having regard to the development plan and the National Planning Policy Framework (the Framework); and
 - whether occupants of the proposed development would have acceptable access to shops and services.

Reasons

Planning policy

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material

considerations indicate otherwise. Core Policies 1 and 2 of the Wiltshire Core Strategy (WCS), adopted January 2015, provide a settlement strategy and delivery strategy and seek amongst other things to direct development to the Principal Settlements, Market Towns, Local Service Centres and Large Villages and require that development should be restricted to within the defined limits of development of the identified settlements. Furthermore, I have not been presented with any evidence that the proposal would meet the criteria for a rural exception site as defined in the WCS. WCS Core Policy 19, among other matters, sets out a spatial strategy for housing for the Royal Wootton Bassett and Cricklade Community Area. It identifies Purton as a Large Village, and seeks to ensure that new housing development is within the defined settlement boundary in accordance with the settlement strategy set out in WCS Core Policy 1.

6. The settlement boundary for Purton is defined in the North Wiltshire Local Plan 2011. It is not in dispute between the parties that the appeal site lies outside of but immediately adjacent to the Purton settlement boundary. The settlement boundary for Purton will be reviewed as part of Wiltshire Housing Site Allocations Plan (WHSAP) which the Council is preparing. Even though the draft WHSAP proposes some changes to it, the appeal site would continue to lie just outside of the proposed revised settlement boundary.
7. The appeal site currently contains an outbuilding and there is an extant permission, reference 14/10406/FUL, for the conversion of the existing detached outbuilding to a residential annexe. Therefore the principle of a conversion to form a residential annexe within the curtilage of no. 7 has been established. However, a separate dwelling would have a different pattern of use than a residential annexe associated with the main property of no. 7, and thus is a significantly different consideration.
8. There is a row of houses further along Locks Lane to the north-east beyond the appeal site, and the housing that forms the outer edge of this part of the settlement is located not far away to the south-west. Therefore, despite the presence of open fields on the other side of Locks Lane to the west I do not concur with the Council's contention that this would be an isolated, countryside location in terms of paragraph 55 of the Framework.
9. There is dispute between the two parties as to whether the Council can demonstrate a five-year supply of deliverable housing sites. The appellant contends that the Council cannot demonstrate a five year supply of deliverable housing sites and has referred to the fact that Wiltshire Council and Swindon Borough Council are working together on their evidence base for their respective emerging Local Plans and that consultation is being undertaken on these plans.
10. The joint evidence base includes a Strategic Housing Market Assessment and a new housing market area (HMA) for Swindon which includes Purton. However, I note that the new HMA is in draft form and has been prepared to inform the Swindon and Wiltshire Joint Spatial Framework: Issues Paper. The appellant has calculated that the new Swindon HMA has only 3.6 years housing land supply. Furthermore, the appellant has cited a recovered appeal decision in Swindon¹ that concludes that Swindon has less than 2.5 years housing land supply. In addition the appellant has cited topic papers that relate to four of

¹ Appeal reference APP/U3035/W/16/3147902

Wiltshire's Community Areas, including Royal Wootton Bassett and Cricklade, which inform the WHSAP that the Council is preparing.

11. In contrast the Council has cited two recent appeal decisions in Wiltshire² in which the Council was found to have a five-year housing land supply. Therefore I have been presented with conflicting evidence in regard to the matter of five-year housing land supply. I consider that the two emerging Local Plans are at an early stage of preparation and I accord them little weight. In addition, unlike the appeal decisions that the Council has referenced, the appeal decision cited by the appellant relates to Swindon not Wiltshire and is therefore not directly applicable to this proposal. Having considered all the evidence available to me, it is my view that I have not been presented with clear substantive evidence to demonstrate that the Council does not currently have a five-year supply of deliverable housing sites. Therefore I consider that the fourth bullet point of paragraph 14 of the Framework is not engaged.
12. The appeal site is outside the settlement boundary and therefore the proposal would be contrary to WCS Core Policies 1, 2 and 19. I attach considerable weight to the conflict with the development plan that I have identified.

Access to shops and services

13. The development would be located on the immediate outskirts of Purton, which has a range of shops and services that include, among other things, a primary and a secondary school, a convenience store, a pharmacy, a takeaway and two public houses.
14. These shops and services would be within a reasonable walking distance and clearly within an easy cycling distance of the appeal site. There is no pavement available for the initial section of the route from the appeal site into the centre of Purton. However, the topography is flat, there is street lighting within reasonably close proximity of the appeal site and the surrounding roads leading to Purton centre are typical of a residential area and on the, albeit limited, evidence of my site visit did not appear to be heavily trafficked.
15. For these reasons, I consider that the appeal site is not in an isolated location and future occupants of the proposed development would have good access by sustainable travel means to the reasonable range of shops and services in Purton. In this regard I find that overall the proposal would accord with the relevant guidance in the Framework and Core Policy 60 of the WCS that seeks to promote sustainable travel objectives and ensure developments are in accessible locations.

Planning balance and conclusion

16. Paragraphs 7 and 8 of the Framework refer to three, mutually dependent dimensions to sustainable development: economic, social and environmental. In terms of its benefits the proposal would boost the supply of housing, albeit by a modest amount and future occupants would have reasonable access to the range of services of and facilities provided in Purton. The construction of the proposed dwelling would provide a source of employment, as would the construction of a residential annexe, and once built it is likely that there would be some additional patronage from future occupants for the services and facilities that are available in Purton and nearby. The principle of a residential

² Appeal references APP/Y/3940/W/16/3150514 and APP/Y/3940/W/16/3262581

building on the site has been established, although it would be ancillary to the main property.

17. Overall I consider that there is no justification for reducing the weight that should be given to WCS Core Policies 1, 2 and 19 and thereby releasing the appeal site for unfettered residential development. To do so would conflict with paragraph 17 of the Framework which guides that planning should be genuinely plan-led.
18. Even though I have found little harm, nevertheless the proposal would not accord with an up to date development plan. The benefits of the proposal are limited and would not outweigh this conflict that I have identified and to which I attach considerable weight. For the reasons set out above, and having regard to all other matters raised including other relevant development plan policies, I conclude that the appeal should be dismissed.



The Planning Inspectorate

3P Kite Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 0303 44 45931

Customer Services:
0303 444 5000

Email: West1@pins.gsi.gov.uk

www.gov.uk/planning-inspectorate

Wiltshire Council
Planning Appeals
Monkton Park Office
Chippenham
Wiltshire
SN5 1ER

Your Ref:

Our Ref: APP/Y3940/W/17/3178305

11 January 2018

Dear Sir/Madam,

Town and Country Planning Act 1990

Appeal by Mr and Mrs . West

Site Address: Thyme Cottage, Tetbury Lane, Crudwell, MALMESBURY, SN16 9HB

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

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

Yours faithfully,

Jasmine Rogers

Jasmine Rogers

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Appeal Decision

Site visit made on 8 November 2017

by Melissa Hall BA(Hons), BTP, MSc, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11th January 2018

Appeal Ref: APP/Y3940/W/17/3178305

Thyme Cottage, Tetbury Lane, Crudwell SN16 9HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs West against the decision of Wiltshire Council.
 - The application Ref 17/03293/FUL, dated 31 March 2017, was refused by notice dated 26 May 2017.
 - The development proposed is described as the conversion of detached domestic outbuilding to dwelling.
-

Decision

1. The appeal is dismissed.

Background

2. As I understand it, the appeal building was constructed as a detached double garage with loft storage above under planning permission 92/01685/FUL granted in 1992. In 2014, it was converted to an office albeit without the benefit of planning permission. The appellants state that it reverted to a domestic outbuilding ancillary to the residential use in 2016.
3. At the time of my site visit, the building was substantially complete but did not appear to be in use. However, the appeal site had already been divided from the remainder of the garden serving Thyme Cottage with a close boarded fence, a separate gated access and a parking area formed to serve the building.

Main Issues

4. Against the background that I have described, the main issues are:
 - Whether the proposal would be a suitable form of residential development in this location, having regard to the sustainability of the location.
 - The impact on the living conditions of the occupants of the neighbouring property and on the future occupants of the development.
 - Whether adequate off-street parking could be provided and its effect on highway safety.

Reasons

Principle of development

5. The appeal site formerly comprised part of the garden serving Thyme Cottage. The cottage is situated at the eastern end of a small terrace of two storey properties which front the highway on Tetbury Lane. The northern side of Tetbury Lane is generally characterised by a loose knit cluster of residential properties and farm buildings of varying form, design, scale and external appearance. Of particular note, is the residential development under construction to the east of the appeal site at Ridgeway Farm consisting of 10 dwellings. To the west of the appeal site, lies the Village Hall and associated recreation facilities. The settlement of Crudwell lies some 160 metres to the east.
6. That is, the appeal site lies outside the settlement boundary as defined by the Wiltshire Core Strategy (WCS). WCS Core Policy 1 outlines the settlements hierarchy where sustainable development will take place. Within this hierarchy, Large Villages such as Crudwell are considered as having a limited range of employment, services and facilities. WCS Core Policy 2 states that residential development will not be permitted outside the limits of development other than in exceptional circumstances as permitted by other policies within the Plan. WCS Core Policy 48 adds that outside of the defined limits of development, residential development will only be supported where it enables workers to live at or in the immediate vicinity of their place of work in the interests of agriculture or forestry or other employment essential to the countryside.
7. It is no part of the appellants' case that the development constitutes any of the exceptions listed. In this context, the development amounts to a new dwelling in an open countryside location unrelated to a need for agriculture, forestry or other enterprise exceptionally justified in conflict with WCS Policies 1, 2 and 48 and saved Local Plan Policy H4 of the North Wiltshire Local Plan 2011. I therefore conclude that the proposal would be contrary to the adopted WCS's approach to the settlement boundary. I attach this conflict significant weight.
8. I note the appellants' claim that the development could constitute the conversion and re-use of a rural building also advocated by WCS Policy 48. In respect of residential conversions, it states that where there is clear evidence that an employment, tourism, cultural or community use is not a practical proposition, residential use may be appropriate provided that it meets the specified criteria. Even if I were to conclude that the building constitutes a 'rural building' intended by this Policy, there is no evidence before me that the building is not suitable for any of the uses specified prior to consideration of its use for residential purposes.

Living conditions

9. Immediately to the south of the building lies the neighbouring property known as Cleaver House. The Council confirms that the distance between the rear elevation of Cleaver House and the south gable end elevation of the appeal building is in the order of 5.5 metres, with an existing first floor rear bedroom window of this neighbouring property facing directly towards the appeal site. The rear garden of Cleaver House is also immediately adjacent to the east elevation of the appeal building, separated only by a 1m gap and low stone boundary wall.

10. The Council states that the proximity and relationship between the two is such that the building is of an overbearing nature when considering the noise and activity associated with the residential occupation of these properties.
11. I cannot agree that the building has an unacceptable overbearing impact; no external alterations are proposed and the building will retain its existing scale, form, mass and siting. Be that as it may, I am concerned that the activities associated with a separate residential use of this building, in such close proximity to the private rear amenity space of the neighbouring property, would result in an unacceptable level of disturbance to the occupants of Cleaver House.
12. Furthermore, I concur that there would be a harmful degree of overlooking between the appeal site and Cleaver House insofar as the views across the site from Cleaver House would result in only limited available private amenity space for any future occupants of the development. Additionally there would be a direct view into the ground floor window of the building from the closest first floor window in Cleaver House from an unacceptably close distance, thereby compromising the level of privacy that future occupants should reasonably expect to enjoy. Whilst I accept that a means of enclosure could be erected along the common boundary to improve privacy, the siting relationship between the two is such that this would not overcome the unacceptable overlooking impact from the first floor habitable room window of Cleaver House.
13. Consequently, the development would not provide an adequate level of amenity for future occupants and would significantly impact on the living conditions of the occupants of Cleaver House. It would thus conflict with WCS Core Policy 57 which inter alia requires new development to have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself.

Parking provision and highway safety

14. The Council takes issue with the development as it considers that it has not been demonstrated that the division of the existing residential curtilage of Thyme Cottage would provide the required 3no off-street parking spaces for the existing 5 bedroom dwelling in accordance with the adopted Wiltshire Local Transport Plan 2011-2026 Car Parking Strategy, March 2011.
15. The appellants state that there are currently two sizeable spaces available on the front hardstanding and further space between the side of the dwelling and the boundary fence to comfortably park additional vehicles. I have been provided with a plan showing the precise dimensions of the driveway, albeit it does not show how the required 3no spaces would be laid out within the space available.
16. Based on this submitted plan, I am not persuaded that there would be adequate space to park 3no vehicles with sufficient access around each one for getting in and out of the vehicles or loading and unloading goods. I do not dispute that the front part of the hardstanding may well comfortably accommodate 2no. vehicles side-by-side. However, a third vehicle would need to park to the side of the property, which ranges in width from 2.4 metres at the front to 2.7 metres to the rear; in my view, and in the absence of

compelling evidence to the contrary, it is likely to be too narrow for the purposes described.

17. Hence, I am not convinced that the off-street parking available to serve Thyme Cottage complies with the Council's guidance. A lack of off-street parking would generate additional on-street parking demand, which would be detrimental to the free movement of traffic and highway safety. To this end, it would conflict with WCS Core Policy 64 and the Council's Car Parking Strategy.

Other Considerations

18. The appellants have drawn my attention to Paragraph 14 of the National Planning Policy Framework ("the Framework") which sets a clear presumption in favour of sustainable development. It states that where the Development Plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would be significant and demonstrably outweigh the benefits.
19. Paragraph 47 of the Framework emphasises the need to boost housing supply. In its Officer's Report, the Council confirms that the most up to date Housing Land Supply Statement released in March 2017 has identified a shortfall of 84 dwellings in this Community Area in the plan period between 2006 and 2026. However, in the same report, it adds that a 5 year housing land supply in the North & West HMA (5.73 year supply) can be demonstrated.
20. Conversely, the appellants argue that the Council's Housing Land Supply Figures continue to show that there is a shortfall in the 5.25 year supply that it is required to demonstrate.
21. Nevertheless, the position regarding the five year housing land supply does not automatically lead to a grant of planning permission. In this case, set against the harm to highway safety and living conditions, the additional unit would make little difference to the overall supply of housing and the support one extra household would provide to the local economy would also be insignificant. Taking these matters into account, even if I were to conclude that there is a shortfall in the five-year housing land supply on the scale suggested by the appellants and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
22. I have also given weight to the fact that the development would make a contribution, albeit small, to housing supply in the context of a delay in the Council's review of the settlement boundaries. Whilst the Council has committed to a Settlement Boundary Review to ensure the settlement boundaries are up to date, I note the appellants' objections to the Wiltshire Housing Sites Allocations Plan Pre-submission draft plan on the grounds that it is not based upon a robust and credible evidence base and that there are realistic alternatives to the position of the settlement boundary for Crudwell. As a result, the appellants claim that the Plan does not comply with the requirements of paragraph 182 of the Framework, which requires the Plan to be the most appropriate strategy when considered against reasonable alternatives, based on proportionate evidence.
23. Whether or not the plan is sound is not a matter for me to determine in the context of this appeal and I have determined this appeal in accordance with the

adopted WCS. I have considered the development at Ridgeway Farm, and the lack of consistency of design or layout in the vicinity. Whilst the Council contends that planning permission was granted at Ridgeway Farm (also outside the settlement boundaries) at a time when the Council could not demonstrate a 5 year housing land supply, it nonetheless forms part of the character and appearance of the surrounding area and contributes to the pattern of development that I have described.

24. The appeal site is, in fact, set within a cluster of existing dwellings and buildings. It reads as a continuation of the village and the proposed development would not create an isolated home in the open countryside. Consequently, I do not find that the development would amount to encroachment into the countryside or urban sprawl, and the wider landscape value of the area would be protected.
25. Furthermore, future occupiers would have reasonable access to the services and facilities in the settlement which lie in relative close proximity, and there is evidence of a public transport service. I also observed that a footway linking Ridgeway Farm to the community facilities, passing in front of the appeal site, is currently under construction along the south side of Tetbury Lane. Overall, and on this basis, I consider the site to be sustainably located such that it would not significantly increase reliance on the private car, in accordance with WCS Policies CP60 and CP61.
26. Be that as it may, the application of paragraph 14 of the Framework involves a presumption in favour of sustainable development unless any adverse impacts of doing so would significant and demonstrably outweigh the benefits. In this case, the harm to the living conditions of neighbours and future occupants and to highway safety would outweigh any benefits.
27. The appellants have drawn my attention to several other appeal decisions in relation to what they consider to be similar forms of development. I do not know the full facts of each case. However each one differs from that before me in terms of the nature of the development and its relationship with the existing built form, in particular the neighbouring properties. In any event, each proposal must be determined on its own merits.

Conclusion

28. In the circumstances of this appeal, there are no material considerations to justify making a decision other than in accordance with the development plan. For these reasons, and having regard to all matters raised, the appeal is dismissed.

Melissa Hall

Inspector