

APPLICATION FOR FULL PLANNING PERMISSION

DELEGATED REPORT

APPLICATION REFERENCE:	PL/2025/09915
APPLICATION TYPE:	Full planning permission
SITE ADDRESS:	Little Orchard, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BD
DEVELOPMENT DESCRIPTION:	Retrospective full application for erection of one dwelling (not built in accordance with consent ref: 18/10970/FUL) (resubmission of PL/2024/02925)
RECOMMENDATION:	Refuse

PROPOSAL

The application is for a retrospective new dwelling at Little Orchard, Lower Kingsdown Road, Kingsdown. This unauthorised dwelling replaced a previous dwelling at the application site. Within previous years, a number of different designs for extensions to the former dwelling, and a replacement dwelling were granted consent. The current application considers a new dwelling, which is a similar design at ground and first floor level to the most recent permission for a replacement dwelling (ref: 18/10970/FUL). However, the unauthorised dwelling has been erected with an additional basement level and decking area, associated ground works, re-positioning of the dwelling and other minor alterations. It is understood that the unauthorised dwelling was practically completed and occupied from 13 April 2022. The raised decking has not been constructed.

Retrospective permission was previously sought for this unauthorised dwelling as a variation to condition of permission ref: 18/10970/FUL. However, it was determined by the Council's Enforcement Officer after a site visit that the permission was not implemented due to the construction method. The basement level had to be constructed prior to the rest of the dwelling. Consequently, it could not be considered that this permission was implemented, with an unauthorised extension – the whole dwelling is unauthorised in this case. As a consequence, this variation to condition application was withdrawn as it was invalid.

Following this, a full planning application was submitted in an attempt to regularise the unlawful dwelling under PL/2024/02925. This application was refused on grounds relating to the principle of development, green belt policy and amenity impacts.

The current application has been submitted as a further attempt to regularise the unauthorised dwelling. The proposed amendments include sealing off part of the basement floor area through the creation of a sealed void, and the depositing soil around this part of the basement level to partly conceal this. In addition, the extent of the decking area is reduced in size and opaque privacy screening is proposed to mitigate overlooking.

SITE DESCRIPTION

The application the plot of land which has historically been used as a residential property “Little Orchard”, located on Lower Kingsdown Road in Kingsdown. The previously dwelling in this location has been demolished and replaced with an unauthorised dwelling.

The proposed dwelling is four bedrooms and set over three levels. It has a relatively large residential curtilage which slopes down to the north, with wide views over the countryside. The property is situated within the Cotswold National Landscape (formerly AONB) and Green Belt. There is a public right of way some distance to the north west of the site (ref: BOX85).

PLANNING HISTORY

Proposal / Summary
N/03/01329/FUL - Full planning permission Decision - Approve with Conditions Date: 4/9/2003 – REAR EXTENSION WITH ROOMS IN THE ROOF AND THE ADDITION OF 2 DORMERS TO EXISTING DWELLING
N/04/00550/FUL - Full planning permission Decision - Approve with Conditions Date: 13/4/2004 – ERECTION OF FRONT DORMER WINDOW AND SINGLE STOREY REAR EXTENSION (REVISED)
16/05386/FUL - Full planning permission Decision - Approve with Conditions Date: 9/8/2016 – Two Storey Rear Extension
18/10970/FUL - Full planning permission Decision - Approve with Conditions Date: 13/2/2019 – Demolish and replace existing dwelling
18/02372/FUL - Full planning permission Decision - Approve with Conditions Date: 31/5/2018 – Remove side, rear extensions including front store and replace with new extensions, remove main house roof and rebuild with new design.
PL/2023/07905 - Removal/variation of conditions Decision - Withdrawn by Applicant Date: 22/2/2024 – Variation of condition 2 of 18/10970/FUL - To allow for amendments to the approved floor plans and elevations
PL/2024/02925 - Full planning permission Decision - Refuse Date: 7/8/2024 – Retrospective planning application for the retention of dwelling (built not in accordance with the approved plans on 18/10970/FUL)

RELEVANT POLICIES

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

Wiltshire Core Strategy 2015 (WCS)

CP1 Settlement Strategy
CP2 Delivery Strategy
CP11 Corsham Spatial Strategy

CP50 Biodiversity and Geodiversity
CP51 Landscape
CP57 Ensuring High Quality Design and Place Shaping
CP61 Transport and New Development
CP64 Demand Management

North Wiltshire Local Plan 2011

Saved Policy H4

National Planning Policy Framework (NPPF)

ISSUES

The principal considerations in the determination of this application are the principle of development; green belt considerations; design and the impact of the proposed development on the character and appearance of the surrounding area (national landscape); the impact of the development on the residential amenities of neighbouring properties, ecology, access/parking and land stability.

CONSULTATION RESPONSES

Box Parish Council: Comment:

No comment. The drainage issue is deemed too complex for the Parish Council to fully understand.

Council Highway Engineer: No comment.

Council Drainage Engineer: No objection subject to conditions:

In December 2025, the applicant re-submitted a request for retrospective planning permission for the erected single dwelling at the site (not built in accordance with planning consent reference 18/10970/FUL). The original submission (PL/2024/02925) was refused for the following reasons:

1. The proposed development, by reason of its location would be contrary to the settlement, delivery and community area strategies and residential development in the open countryside policy and is unacceptable in principle. The proposal fails to accord with Core Policy 1, 2 and 11 of the adopted Wiltshire Core Strategy (Jan 2015), and Saved Policy H4 of the North Wiltshire Local Plan 2011.

2. The proposed (retrospective) new dwelling is inappropriate development within the Green Belt which is, by definition, harmful. The new dwelling does not comply with the replacement building criteria of paragraph 154 d) of the National Planning Policy Framework. The proposed (retrospective) new dwelling is materially larger than the

one it has replaced, and is therefore, by definition inappropriate development which conflicts with the purpose of the Green Belt. The application fails to demonstrate that there are any material considerations or very special circumstances that exist to outweigh this harm and overcome the presumption against such development. The proposal is contrary to Section 13, Paragraphs 142, 143, 152, 153, & 154 of the National Planning Policy Framework (Dec 2023).

3. The proposed raised terrace/decking area causes an adverse impact to the amenity of adjoining neighbours in terms of privacy due to the overlooking and sense of overlooking from the terrace/decking area. There is a lack of screening to protect the privacy of neighbours. The proposal is contrary to Core Policy 57 vii of the Wiltshire Core Strategy (Jan 2015).

It is noted that the above do not directly relate to drainage / flood risk.

In planning terms, flood risk refers to the potential for development to increase the likelihood or severity of flooding on-site or elsewhere, while drainage considerations relate to the capacity of the site and surrounding infrastructure to manage surface water runoff in a sustainable and effective manner.

The local planning authority must be satisfied that the proposed development will not increase flood risk, either on-site or elsewhere, and that surface water will be managed in a sustainable and coordinated manner.

Where necessary, planning conditions or legal agreements may be used to secure the implementation, maintenance, and monitoring of SuDS and other drainage infrastructure.

Assessment

The application has been supported with a Site-Specific Flood Risk Assessment (FRA) and Drainage Strategy. It should be noted that our comments below are reliant on the accuracy and completeness of the FRA and we do not take any responsibility for incorrect data or interpretation made by the authors.

The provided drainage strategy outlines the proposed SuDS implementation at the site, detailing the installation of a soakaway chamber supported by modelling and BRE365 infiltration testing, and exceedance routing that resembles the previous behaviour at the site. However it is noted that the site has undergone substantial earth movements, such as the construction of the proposed basement. Such earth movements have the potential to alter the existing overland paths, ground infiltration capacity, and thus flood risk to people & property.

RECOMMENDATION

No objection subject to conditions

From the details provided by the applicant, additional information is required from the applicant to assess the impact of the development regarding to flood risk. It is requested that the applicant provides:

- 1. Exceedance routing following the completion of all earthworks and excavation that demonstrate how the pre-development scenario is replicated and does not increase flood risk to adjacent property.*
- 2. Confirmation that the performance of the final constructed cellular soakaway is consistent with the infiltration testing carried out on the 5th November 2025 by Paddock Geo Engineering (Appendix 3 of the provided FRA) following the completion of all earthworks and excavation.*

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

Below is a summary of the three (3) representations received during the consultation period. 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.

- Impact on neighbour amenity – overlooking from the proposed balcony to Kestrels and other neighbours. Request that if the Council is minded to approve the application, privacy screening is provided.
- Soil surcharge and landslip potential. Infiltration testing not taken in a location that reflects the whole site.
- Site topography significantly changed and plans do not show the correct site topography.
- Previous consent 18/02372/FUL officer report stated the dwelling was at the limits of what would be acceptable and no further extensions could be permitted.
- The property is significantly larger than the original.
- The geotechnical reports supporting the application do not require a basement level of living accommodation.
- Drawings that pre-date the application show the basement level of living accommodation
- The sealed void does not prevent the room from being use as a habitable accommodation.
- The proposed groundworks are not reinstatement of soil, nor do they reinstate soil to former levels, they are additional ground works. – *Officer comment: this is acknowledged given the land has been excavated significantly to accommodate the additional basement level.*

ASSESSMENT

Principle of development

The application is for a retrospective new residential dwelling within the open countryside. The application site is a plot of land which had a residential dwelling “Little Orchard” in situ until this was recently demolished and a new unauthorised residential dwelling was erected in its place. The application site had planning permission for a replacement dwelling which the applicants initially claimed was implemented and attempted to vary the plans with a S73 application. However, following enforcement investigation considering the method of construction, it was concluded that this permission had not been implemented and the erected building is a wholly unauthorised dwelling. Given the previous residential dwelling has been demolished, the current application is not a replacement dwelling application, rather an application for a new open market dwelling.

Development plan policies guide development to sustainable locations. CP1 “Settlement Strategy” of the Wiltshire Core Strategy sets out where sustainable development will take place across the plan period. CP2 “Delivery Strategy” of the Wiltshire Core Strategy states that other than circumstances as permitted by other policies within the plan, development will not be permitted outside the limits of development. CP11 “Spatial Strategy: Corsham Community Area” sets out the hierarchy of settlements within the area to which some development is anticipated. The application site is situated outside of any development framework boundary, within the open countryside. This is a location where development is strictly controlled unless other policies within the development plan provide justification or material considerations apply.

The application could arguably be considered as an independent new dwelling within the countryside rather than a replacement dwelling given the previous dwelling has already been demolished. However, having regard to the planning history of the site, and the fact that the application site has had an almost continual use as a residential dwelling aside from the period between the demolition of the former dwelling and erection of the unauthorised dwelling; it is considered reasonable to consider the application against Saved Policy H4 in this case

Saved policy H4 from the North Wiltshire Local Plan 2011 allows for new dwellings in the countryside provided that:

- i) *It is in connection with the essential needs of agriculture or forestry or other rural based enterprise;*
- ii) *It is a replacement for an existing dwelling where:*
 - a. *The residential use has not been abandoned; and*
 - b. *the existing dwelling is incapable of retention in its current state, is unsightly or is out of character with its surroundings and*
 - c. *the replacement dwelling is of a similar size and scale to the existing dwelling within the same curtilage*

The application dwelling is not related to agriculture or forestry, or other rural based business. The proposal may be considered as a replacement dwelling, which is subject to compliance with the criterion set out above.

In respect of a), the residential use of the former dwelling had not been abandoned. With regard to b), the previous application for a replacement dwelling was accompanied by a building appraisal which concluded the former building was not structurally sound. The existing dwelling was not considered to be adversely unsightly or out of character with its surroundings, however, only one part of criterion b) needed to be complied with to meet the tests of this criterion.

With regard to c), the previous proposal identified the replacement building would be greater in massing, but the extant permissions at the site were considered to be a material consideration in terms of the size and scale of built form considered acceptable at that time. The current proposal comprises a much larger replacement dwelling which is not a similar size or scale to the former dwelling. Whilst the remaining parts of the policy are complied with, the application fails criterion c) and as a result is unacceptable in principle.

The current application differs from the previous application (PL/2024/02925) in that the applicant proposes to seal off part of the basement level and infill soil around some of the basement. However, these changes do not materially reduce the overall size or scale of the building. Consequently, the proposal remains unacceptable in principle for the reasons previously identified.

There are no other policies that support a replacement dwelling within this location in the countryside, outside of any framework boundary, and as a consequence the application is unacceptable in principle.

Impact on the Green Belt

The application site is situated within the Bath and West Wiltshire Green Belt. There is no relevant local development plan policy on Green Belt, and consequently the NPPF is the only policy consideration on this matter. Paragraph 142 of the NPPF sets out that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Green Belt policy is highly restrictive of new development.

Inappropriate Development

The application is for the erection of a new building within the Green Belt. Whilst consent was originally given for a replacement dwelling on site, it has been established that the dwelling constructed bears such significant differences from that previously approved that it cannot reasonably be regarded as a replacement dwelling. Instead, the development must be assessed as a new building within the Green Belt.

The starting point, therefore, is that the proposal constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. No such circumstances have been demonstrated in this case.

Exceptions set out in paragraph 154 of the NPPF

Notwithstanding the Council's position that the proposal represents a new building in the Bath and West Wiltshire Green Belt and therefore an inappropriate form of development, for completeness it is considered appropriate to consider the proposal against the exceptions set out in paragraph 154 to the NPPF.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Most new buildings would be considered to be inappropriate development within the Green Belt, however some exceptions are set out in Paragraph 154 of the NPPF.

The proposal is such that it is not relevant to consider it against exceptions (a), (b) or (c).

Exception (d), however, refers to the replacement of buildings and as has been referenced in earlier sections, there has been an existing building on the site in the past, prior to its demolition. For completeness, therefore, the proposal is assessed against 154(d) below. It states:

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

There is no statutory definition or government guidance which sets out what constitutes a 'materially larger' dwelling. An assessment should primarily compare the size (floor area, volume and height) of the proposed dwelling with that of the existing one. Relevant caselaw (Feather v Cheshire East Borough Council 2010) describes that "The expression 'materially' invites a consideration of size in context". The context is said to include the policies which apply to establishing the green belt as well as the distribution of dimensions

There is no specified volumetric increases within the policy and each application is judged on its own merits and site circumstances. So as to perhaps give context to the size of the building, the application site has planning history of a permission in 2003 for an extension (N/03/01329/FUL) which allowed a 54% increase in volume to the original building (main extension not constructed), and this was followed by a permission for a two-storey rear extension (16/05386/FUL) which represented an approximately 47% increase. The permission for alternative extensions was a similar size (18/02372/FUL). The 2003 permission was understood to have been implemented at the time of the consideration of the replacement dwelling application (18/10970/FUL), and the 2016 and 2018 permissions for extensions were extant at this time. The proposed extensions were within the same location and so only one or other could be implemented, but both clearly represented a large increase compared to the "original building".

An application was subsequently made for a replacement dwelling under application reference 18/10970/FUL as an alternative to extending the property. That application proposed a replacement building which was materially larger than the one it would replace (thereby conflicting with paragraph 154(d) to the NPPF). However, the size increase of the previously consented replacement dwelling resulted in a similar volume increases to the previous permissions for extensions. It is understood that application reference N/03/01392/FUL had been implemented, and the more recent permissions 16/05386/FUL and 18/02372/FUL were still extant at the time of determination of the replacement dwelling application

(18/10970/FUL). These permissions were therefore regarded as a legitimate “fall back” at that time and regarded as a material consideration in favour of the proposal. It was concluded the replacement dwelling would be acceptable as an alternative option. The proposals were considered to have been sensitively designed and were not considered to harm the openness of the green belt.

Notably, the delegated report in determining 18/10970/FUL concluded that “the development at this property is strictly at the limit of what would be acceptable and no further development could be permitted at this property.” Removal of permitted development rights conditions were applied to prevent further extensions/additions and outbuildings/garages.

The current situation on the ground is that the previous dwelling at the site has been demolished and an unauthorised dwelling has been erected.

In basic terms, the new building is three storey compared to the two storeys of the original dwelling and the 2018 permission, with that additional floor of accommodation representing a significant quantum of additional built form. Having compared the original building on the site which was demolished, it is clear that the building constructed on site (for which retrospective planning permission is now sought), it is clear that by every measure, the proposal would unambiguously represent a materially larger increase over the demolished building and would be contrary to paragraph 154(d) to the NPPF. The proposed dwelling north west elevation at the rear is approx. 9.8m in height from the basement floor to ridge, and in excess of 15m in width. In comparison, according to the existing elevations submitted under 18/10970/FUL, the same elevation of the previous dwelling measured approx. 5.5m in height from ground floor to ridge, and measured approximately 17.7m in width. This provides a sense of the increased size. Compared with the most recent application, the revised proposal seeks to lessen the visual prominence of part of the basement level by depositing soil around a section of the basement and creating a sealed internal void. However, this space remains part of the building and does not reduce the overall size or volume of the development. Consequently, the building is considered to be inappropriate development in the Green Belt and would conflict with the expressed purposes of the Green Belt.

Following the refusal of the 2024 application, the applicant has sought to reduce the impact of the basement through the creation of a sealed void within part of the basement; and the regrading of surrounding land levels around some of the basement. Whilst the Council’s position is that the proposal is a new building in the Green Belt, regardless of the changes to the basement area, for completeness, this section nonetheless considers the effect of these changes in the context of Green Belt policy.

Case law (Feather v Cheshire East BC [2010]) confirms that basement floorspace and volume must be taken into account when assessing whether a building is materially larger. The creation of sealed or unused void space does not remove that part of the structure from the overall assessment of built form.

The Local Planning Authority has carefully considered these amendments. However, the creation of sealed void space does not remove the presence of built form or reduce the overall structural envelope of the building. The basement structure, retaining walls and usable space

would be retained and could be re-opened at a later date. The footprint and extent of the development are therefore largely unchanged.

Whilst the proposed void space may reduce the amount of usable internal floorspace, it does not materially reduce the scale of the development for the purposes of Green Belt policy. The building remains substantially larger than the one it replaces.

The regrading of soil to conceal part of the basement level means its less visually prominent, but does not lessen the quantum of built form.

As is required by paragraph 154(d) to the NPPF, the assessment of the proposal requires a comparison with the original building on the site which has been demolished. Whilst a comparison with the 2018 permission cannot be given any weight since it is established that that permission was not implemented and is therefore not extant, nevertheless, given the scale of the as built dwelling with a whole additional floor being added, even a cursory comparative exercise reveals that the proposals are for a dwelling which is materially larger. As a comparison, the proposed 2018 replacement dwelling's north west elevation measured approx. 7.1m in height, and 14.7m in width. Accordingly, even if the 2018 permission were to somehow be given weight, the increase in size in scale is so great that it would still fail the requirements of paragraph 154(d) to the NPPF and represent inappropriate development in the Green Belt. The revised proposal does not alter the conclusions reached under permission PL/2024/02925, as the proposed amendments do not result in any reduction in the overall scale or volume of the building.

The proposal does not comply with paragraph 154(d) of the NPPF, as it results in a materially larger building than the one it replaces. It therefore constitutes inappropriate development in the Green Belt. Substantial weight must be given to this harm.

Paragraph 154(e) of the NPPF states an exception for:

e) limited infilling in villages

As the application site is not located within a village, the proposal cannot reasonably be considered infill development and this exception is therefore not applicable.

With their submission, the applicant argues that the application site is previously developed land. In this regard, paragraph 154(g) to the NPPF provides for the following exception:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

When the former dwelling was in situ the area in which the dwelling was situated may have been considered previously developed land. However, since this has been demolished and replaced with an unauthorised structure, it is not considered that this exception is relevant in this case. In any event, even if the previous dwelling were considered as a starting point, the replacement dwelling would certainly have a much greater impact on the openness of the Green Belt than the previous development given the significant volumetric increase. Such an increase unambiguously rises to substantial harm, thereby constituting conflict with 154(g), second bullet point. Consequently, this exception does not provide any justification for the proposals.

Grey belt

The applicant has also sought to rely on the provisions of paragraph 155 of the National Planning Policy Framework, which introduces a potential exception for development on 'grey belt' land, where specified criteria are met.

For development to be considered not inappropriate under this provision, all of the following criteria must be satisfied:

- The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt;
- There is a demonstrable unmet need for the type of development proposed; and
- The development would be in a sustainable location.

Whilst the application site may be considered previously developed land, the proposal must meet all of the above criteria for the development not to be regarded as inappropriate. In this case, the site lies outside any defined settlement boundary and is not considered to represent a sustainable location for new residential development, having regard to the spatial strategy set out in Core Policies 1, 2 and 11 of the Wiltshire Core Strategy.

Furthermore, the proposal does not represent development of a scale or type necessary to meet an identified unmet housing need, but rather relates to a single private dwelling.

As such, the proposal fails to satisfy the requirements of paragraph 155 of the NPPF. The development cannot therefore be regarded as appropriate development within the Green Belt under this provision.

Openness

The unauthorised dwelling is inappropriate development and as a consequence harmful to the openness of the Green Belt.

To accommodate the unauthorised dwelling, the site has been reprofiled which constitutes engineering operations. Paragraph 155 of the NPPF states that engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. It is not considered that the groundworks in isolation would harm the openness of the Green Belt given these are relatively minor.

Very Special Circumstances

Paragraph 153 of the NPPF states that Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The applicant has stated a case for very special circumstances relating to the medical needs of a resident. Supporting evidence was previously submitted as part of a pre-application submission. Whilst this evidence was not submitted as part of this formal application it is considered relevant (it being referenced within the supporting information) and is taken account of. Such information is confidential and therefore not reproduced in this report, but confirms a need for accessible accommodation, the provision of a lift, and space associated with a live-in carer for ongoing medical care and emergency support.

The Local Planning Authority affords significant weight to this evidence. It is accepted that the need to provide accessible and adapted accommodation is a material consideration and are theoretically capable of constituting very special circumstances. However, very special circumstances must not only justify the principle of development, but also the extent of the development proposed and is deliberately worded in the NPPF as being a very high bar to clear.

In this case, whilst the provision of accessible accommodation is accepted in principle, the Local Planning Authority is not satisfied that the scale of the basement level as constructed is proportionate to those needs. In particular, only part of the basement is directly related to medical and accessibility requirements. A substantial proportion of the basement comprises additional residential accommodation not clearly linked to those needs.

Supporting information states that the basement has provision for a lift, a large wheelchair-accessible hallway, a disabled ensuite, and a separate room and bathroom for a carer. However, the floor plan shows a bedroom, en-suite, large hallway with a large circulation space around the stairs, plant room and cloak room. There are no details about the use of the rooms, required space or storage associated with the medical need. Consequently, the extent of basement accommodation has not been demonstrated as reasonably necessary to meet the identified medical requirements. It is noted that the previous 2024 application included part of the basement to be used for a cinema which was a space clearly not linked to a medical need. There remains a lack of detail and justification in terms of the scope of space required.

Whilst significant weight is afforded to the medical needs of the occupant, these considerations do constitute the very special circumstances which would outweigh the definitional harm arising from inappropriate development; and harm to the openness of the Green Belt. There is a lack of justification and detail in this regard and very special circumstances have therefore not been demonstrated.

Conclusion

The proposal constitutes inappropriate development within the Green Belt and is therefore, by definition, harmful. In addition to this definitional harm, the development results in harm to the openness of the Green Belt. The proposal does not fall within any of the exceptions set out in paragraphs 154 or 155 of the NPPF.

Whilst the medical needs of the occupant are acknowledged and carry significant weight, insufficient evidence has been provided to demonstrate the extent to which the basement accommodation is reasonably required to meet those needs. In particular, the quantum of floorspace has not been adequately justified, and the scale of the basement level is not considered to be proportionate.

The justification provided by the applicant is not considered to meet the very high bar of very special circumstances and would not outweigh the identified harm caused by inappropriate development in the Green Belt. Such harm to the Green Belt should rightly be given substantial weight when considering the proposals.

Design and Impact on the character and appearance of the area

Core Policy 57 looks to ensure that a high standard of design is required in all new developments and that proposals should take into account the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and the wider character of the area. The property is situated within the Cotswold National Landscape (formerly Cotswold AONB), which Policy CP51 of the Wiltshire Core Strategy applies great weight to conserving and enhancing landscapes and scenic beauty.

The former dwelling on site comprised a bungalow which was predominantly finished in render, set beneath a tiled roof. The previously consented replacement dwelling (18/10970/FUL) which had a similar appearance at ground and first floor, comprised a modestly higher roof, which would be finished in natural Cotswold stone, set beneath a natural slate roof, with cream wood foil pvc windows and composite doors. It is understood the proposal would not have required significant groundworks.

The previously permitted replacement dwelling would have resulted in a two-storey building which was traditional in appearance with the use of natural Cotswold stone. There is varying design within the area with properties situated at different levels and not one uniform design/materials palette. The proposal was considered to be an improved design of the existing bungalow, and was not considered to compromise the character or appearance of the AONB (now Cotswold National Landscape). Permitted development rights were removed for further outbuildings/extensions would be removed in the interests of safeguarding the character and appearance of the area.

The current application for the unauthorised dwelling has replicated the design of the replacement dwelling consent at ground and first floor levels (ref: 18/10970/FUL) but has undertaken significant cut and fill on the site, and constructed a new basement level. The appearance from the front of the building remains largely the same (minor changes), however when viewed at the rear this is now a three storey dwelling compared to the previously consented two storey dwelling.

The current application proposes a regrading of the land around part of the basement to conceal some of the building at this level. The design of the building from the rear appears bulky and the proportions with fenestration design appears imbalanced. The use of natural stone materials is supported in this location. Whilst there are some reservations in respect of the design, it is not considered that it is so poor that the proposal should be refused on this ground.

The visual impact of this building as a three-storey dwelling has a more prominent visual impact and may be more prominent within the wider Cotswold National Landscape. There is little assessment of the impact on the Cotswold National Landscape in the application submission. The proposed materials of natural stone and slate materials remains appropriate in principle, and these are materials recommended to be used within the National Landscape. The additional built form above that previously approved comprises an additional floor at basement level. The elevated position means this dwelling is visible within the wider landscape and it is the rear elevation which has the most potential to cause an impact. However, the natural stone materials used are high quality and will weather over time to become less vibrant. The dwelling sits in place of a previous residential dwelling, and seen within the context of a row of dwellings, where it is bordered on both sides by residential dwellings. The character of the site remains similar, aside from a bulkier dwelling. The regrading of land to conceal part of the basement will reduce the visual impact in part. There are no additional boundary treatments proposed that would be harmful to the wider landscape. Whilst it may be more visually prominent on the rear elevation, in landscape terms it is not considered the proposal would cause harm to the Cotswold National Landscape given the site context and appropriate materials. The cut and fill on the site is not considered to be significant enough that would cause harm to the landscape.

In terms of impact on light spill, there would be two sets of additional doors at basement level compared to the previously approved replacement dwelling. The proposal sits on a site that previously had a dwelling. Whilst there is increased glazing, it is not considered that the cumulative level of glazing is so great that it would have a harmful effect on the Cotswold National Landscape.

Impact on amenity of neighbours

The permitted replacement dwelling application (ref: 18/10970/FUL) was considered acceptable in amenity terms. However, the current proposal differs from the approved scheme in several respects, including the repositioning of the dwelling further to the rear of the plot, groundworks, the introduction of a basement level, and the addition of raised balcony/terrace areas.

There are neighbouring properties to either side of the dwelling and a number of objections have been received in respect to impact on privacy and overlooking, particularly in relation to the balcony/terrace. At the time of the last site visit, the unauthorised dwelling has been substantively erected but the elevated balcony/terrace has not.

During the course of the application the balcony/terrace area has been reduced in scale and is now split into two smaller separate areas. Opaque privacy glass panels are proposed to the sides of these terrace areas in order to mitigate overlooking.

Considering firstly the impact on Kestrels (formerly Lawton), the dwelling is situated next door to the north. There is some distance between the two buildings and there is intervening foliage. There are no windows at first floor in the side elevation. This neighbour has raised concern in respect of the balcony/terrace. The neighbour has stated that they have no objection in principle to the application provided that effective and permanent measures are secured to prevent overlooking from the proposed balcony into their bedroom and private garden. The most recent application PL/2024/02925 did not include any screening to the balcony. The proposals as revised has added privacy glass panels which would help mitigate overlooking or perceived overlooking towards Kestrels and their private garden. Such screening can be conditioned to ensure that it is maintained in perpetuity.

In considering Borderlands to the south, this property is closer to the application dwelling and there is currently no intervening foliage so this has a more sensitive relationship.

The original proposal included a large raised terrace which would have resulted in a significant degree of overlooking towards the private garden of Borderlands. The revised proposal reduces the scale of the terrace and introduces opaque side screening, which materially lessens both direct overlooking and the perception of overlooking.

Whilst the concerns of the neighbour are understood, in this instance the revised terrace proposals, and the introducing the proposed screening (which could be the subject of a condition prohibiting the creation of the terrace unless it is accompanied by such privacy screens), are considered sufficient to mitigate unacceptable overlooking into the neighbouring property. The application dwelling has no windows on the south east elevation.

It is not considered that there would be any harm in terms of loss of daylight or sunlight as a result of the proposed works, due to the positioning of the application dwelling and neighbouring properties, and comparative heights of buildings. On the previous application the residents of Borderlands raised concern in respect of loss of light due to planting of trees. The planting of trees would not require planning permission. However, it is unlikely trees would be of a size that causes a harmful impact on light and amenity.

Accordingly, it is considered that, subject to the imposition of a condition requiring the installation of the privacy screens, the proposed development would not cause an unacceptable impact upon the amenity and living conditions of the neighbouring occupiers and would comply with policy CP57 of the Wiltshire Core Strategy.

Highways and parking

There are no proposed changes to the existing access arrangement. The proposals would comply with the Wiltshire Council parking standards. No concerns in relation to highway safety of parking provision has been raised. The Council's Highways Engineer has no comment on the proposals.

Concerns were previously raised on the 2024 application by neighbours in terms of whether the parking dimensions meet the Wiltshire standards. The comments raised are valid in that the plan may not show 3 dedicated spaces that measure 2.4 m by 4.8 m and garage space may be less than that quoted from Wiltshire's LTP. However, the historic parking pre-dates the publication of the LTP. Consequently, it would be difficult to object to and subsequently defend at appeal. In this case, the Highway Engineer confirmed that they were comfortable that the parking of cars can be achieved free of the public highway, and that the existing highway network will not be over-burdened by the possibility of a third car being parked at the proposal site. The proposal is considered to be acceptable in terms of CP61 and CP64 of the WCS.

Ecology and biodiversity

There was no objection from the Council Ecologist subject to informatives on application reference 18/02372/FUL. The previous Ecology Survey and Assessment concluded that the previous building was not being used by bats. This was the only concern previously raised and an informative was added that works should not take place that will harm nesting birds, and biodiversity enhancements were welcomed. The application was submitted prior to April 2024 before Biodiversity Net Gain requirements were introduced so this is not required as part of this application. There are no ecological concerns in respect of the application in accordance with CP50 of the WCS.

Land stability

Paragraph 196 of the NPPF states that planning decisions should contribute to and enhance the natural environment by a number of means, including preventing new and existing development from contributing to, being put at risk from, or being adversely affected by, unacceptable levels of land instability.

Concerns have been raised by neighbouring occupiers regarding the potential for land instability as a result of the excavation works associated with the basement level and the deposition of soil within the site. In particular, objections refer to the potential for increased loading, changes to ground conditions, and risks associated with the underlying geology.

The development involves a greater degree of excavation than the previously approved replacement dwelling, and it is acknowledged that this has altered the ground profile of the site. The application is supported by a Preliminary Geotechnical Slope Stability Assessment, which considers the characteristics of the site and identifies potential foundation solutions – with and without a basement level. This assessment acknowledges that the site is underlain by landslipped Fullers' Earth strata and confirms that the area is sensitive to ground movement. The report identifies that factors of safety may be close to critical levels in certain scenarios and that engineering interventions, such as piled foundations and retaining structures, would be required to ensure stability.

Whilst the concerns of the objectors are understood, but the submitted report appears to have been prepared by an appropriate professional and concludes that the development can be constructed safely through the use of appropriate engineering solutions. Accordingly there is nothing beyond the anecdotal that suggests a different conclusion should be reached.

Regardless, paragraph 197 to the NPPF confirms that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The Party Wall Act may also be referred to in respect of works along boundaries between properties.

Flood risk and drainage

Paragraphs 170–182 of the National Planning Policy Framework (NPPF) and Core Policy 67 of the Wiltshire Core Strategy require that development avoids increasing flood risk and ensures surface water is managed in a sustainable manner.

The application is supported by a Site-Specific Flood Risk Assessment (FRA) and Drainage Strategy. The site is located within Flood Zone 1, and the FRA confirms that the risk of flooding from all sources is low.

Surface water drainage is proposed via a sustainable drainage system (SuDS) utilising an on-site soakaway. Infiltration testing has been undertaken in accordance with BRE365 methodology at two locations within the site, which demonstrates that the underlying soils are capable of accommodating infiltration. The testing results indicate that soakaways are feasible within the site.

The proposed drainage strategy incorporates a soakaway system designed to accommodate a 1 in 100 year storm event plus an allowance for climate change, with no discharge of surface water off site.

It is acknowledged that the site has undergone earthworks associated with the construction of the dwelling, which have the potential to influence local drainage characteristics. Public representations have raised concerns regarding the accuracy of existing ground levels and the location of infiltration testing.

Concerns have also been raised regarding the accuracy of submitted plans in representing existing ground levels. Whilst this is noted, the Local Planning Authority is satisfied that there is sufficient information available to assess the application, and the matters raised do not alter the overall planning conclusions reached.

The Lead Local Flood Authority (LLFA) has reviewed the submitted information and raises no objection to the proposal, subject to conditions. The LLFA has requested further detail in respect of exceedance flow routing following completion of works, and confirmation that the performance of the installed soakaway is consistent with the infiltration testing undertaken.

These matters relate to the performance and verification of the drainage system and can be appropriately addressed through planning conditions. Subject to the imposition of conditions to secure these details and ensure appropriate implementation, it is considered that the development would not result in an increased risk of flooding on-site or elsewhere.

5 Year Housing Land Supply (HLS)

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. However, as the site lies within the Green Belt, where policies specified in Footnote 7 of the NPPF apply, the presumption in favour of sustainable development under paragraph 11(d) is not engaged. Consequently, the housing land supply shortfall attracts limited weight in the assessment of this proposal, which is instead determined principally against Green Belt policy and other relevant development plan considerations.

PLANNING BALANCE AND CONCLUSION

Benefits of the proposal

The proposal would result in the delivery of a single market dwelling. In the context of the current housing land supply shortfall, the contribution is very limited and therefore this attracts limited weight in favour of the development.

The proposal would have given rise to some limited economic benefits during the construction phase (the application is predominantly retrospective). These are afforded limited weight.

The site is previously developed land and has a lawful residential use. The redevelopment of such land attracts limited weight in favour of the proposal.

It is also acknowledged that the development seeks to accommodate the specific medical needs of an occupant, including accessible accommodation and provision for care. This is afforded significant weight as a material consideration.

Neutral impacts

The proposal is considered acceptable in respect of highway safety, drainage and flood risk (subject to conditions), ecology, and land stability. These matters are afforded neutral weight in the planning balance.

Identified harms

The proposal constitutes inappropriate development within the Green Belt and is, by definition, harmful. Substantial weight must be given to this harm.

The development results in additional harm to the openness of the Green Belt through the increased scale, massing and extent of built form, including the basement level and associated engineering operations. This also attracts substantial weight.

The proposal fails to comply with the criteria for replacement dwellings within Saved Policy H4, by virtue of being materially larger than the dwelling it replaces. This conflict with the development plan attracts significant weight.

Whilst the Council's spatial strategy policies are out-of-date in the context of housing land supply, they remain important in directing development to sustainable locations. The proposal represents development outside of defined settlement boundaries and therefore conflicts with the spatial strategy. However it is acknowledged that the site was previously occupied by a dwelling and the proposal relates to a replacement of an existing dwelling. As such, this degree of conflict attracts limited weight.

None of the exceptions set out in paragraphs 154 or 155 of the NPPF are applicable to the proposal. Whilst it is acknowledged that the applicant has engaged with the Local Planning Authority and sought to amend the scheme, including changes to the basement and external areas, these amendments do not materially reduce the scale of the development or bring it within policy compliance.

Furthermore, whilst the medical needs of the occupant are accepted and carry significant weight, insufficient evidence has been provided to demonstrate how the extent and configuration of the basement accommodation is directly and proportionately related to those needs. As such, the quantum of development remains unjustified in Green Belt terms.

Overall Conclusion

The Council is currently unable to demonstrate a five-year housing land supply. However, the proposal conflicts with Green Belt policy, which is a policy that protects areas of particular importance. In this instance, the impacts to the Green belt are considered to constitute a strong reason for refusing the development, and the so called *tilted balance* is not engaged.

Substantial weight is afforded to the harm to the Green Belt arising from inappropriate development and the associated harm to openness in accordance with paragraph 153 of the NPPF.

Whilst significant weight is afforded to the medical needs of the occupant and there are other benefits of limited weight, these considerations do not constitute very special circumstances which would outweigh the identified harm to the Green Belt.

The proposal also conflicts with Saved Policy H4 and the spatial strategy for development in the countryside.

Accordingly, the proposal is considered to conflict with the development plan, and there are no material considerations that indicate a decision other than refusal.

RECOMMENDATION: That Planning Permission be REFUSED.

1. The proposed development, by reason of its location would be contrary to the settlement, delivery and community area strategies and residential development in the open countryside policy and is unacceptable in principle. The proposal fails to accord with Core Policy 1, 2 and 11 of the adopted Wiltshire Core Strategy (Jan 2015), and Saved Policy H4 of the North Wiltshire Local Plan 2011
2. The proposed new dwelling is inappropriate development within the Green Belt which is, by definition, harmful. The new dwelling does not comply with any of the exceptions within paragraph 154 to the National Planning Policy Framework. The application fails to demonstrate that there are any material considerations or very special circumstances that exist to outweigh this harm and overcome the presumption against such development. The proposal is contrary to Section 13, Paragraphs 142, 143, 152, 153, and 154 of the National Planning Policy Framework.