

STATEMENT OF CASE

APPEAL UNDER SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990

- **Appeal Site:** Land to the South of Farfield Lane, Cricklade, SN6 6HZ
 - **LPA Application Reference:** PL/2026/00450
 - **Proposal:** Residential conversion of former agricultural building to one dwelling (Full Planning Application incorporating a minor material amendment further to an established Class Q fallback position – PL/2025/07492).
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GROUND'S OF APPEAL SUMMARY

The Appellants appeal under Section 78 of the Town and Country Planning Act 1990 against Wiltshire Council's refusal of full planning permission for application reference PL/2026/00450. The appeal is advanced on three primary grounds:

Ground 1: The Principle of Residential Use is Unilaterally Established by a Lawful, Irrevocable Class Q Fallback Position

- **The Fact:** Prior Approval application PL/2025/07492 was validly made on 17 September 2025. The Local Planning Authority (LPA) failed to issue a decision notice within the 56-day statutory timeframe.
- **The Law:** Pursuant to Paragraph W(11) of Schedule 2, Part 3 of the GPDO, deemed approval was granted by operation of law on 12 November 2025.
- **The Consequence:** The residential fallback position is secure, immutable, and carries substantial weight (*Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314* applied). The Council cannot use a subsequent full planning application to retrospectively re-adjudicate or strip a permitted development right already secured by default. The scope of assessment must be strictly confined to the minor material variation (the external flue).

Ground 2: Erroneous Interpretation of the Statutory Definition of an "Established Agricultural Unit"

- **The Error:** The LPA has erred in law by asserting that a 2018 land ownership change "reset" the agricultural unit status.
- **The Law:** Planning uses and units run with the land, not the individual title holder. The site has an unbroken, documented history of agricultural activity spanning over 10 years (pre-2018 cattle farming and post-2018 livestock breeding/hay production), fully satisfying Paragraph X of the GPDO.

- **The Threshold:** The GPDO contains no statutory holding-size thresholds or commercial viability/profit tests. The holding operates under an active DEFRA CPH number (45/053/0307) and satisfies all statutory criteria.

Ground 3: Misapplication of Development Plan Policy and Engagement of the NPPF "Tilted Balance"

- **The Shortfall:** Wiltshire Council is strictly unable to demonstrate a five-year supply of deliverable housing land, with the current position sitting at an acute 2.8 years.
- **The Presumption:** In accordance with Paragraph 11(d)(ii) of the NPPF, the presumption in favour of sustainable development is fully engaged.
- **The Balance:** The proposal complies with Core Policy 48 of the Wiltshire Core Strategy through the sustainable re-use of a structurally sound rural building. The adverse impacts of a minor external flue do not significantly and demonstrably outweigh the profound benefits of delivering a new dwelling against a severe housing shortfall.

FULL STATEMENT OF CASE

1. Introduction

1.1 This Statement of Case is submitted on behalf of the Appellants in support of an appeal against Wiltshire Council's refusal of full planning permission for application PL/2026/00450. The development sought comprises the conversion of a modern agricultural building into a single three-bedroom dwellinghouse.

1.2 The appeal building was constructed pursuant to a full planning permission granted by Wiltshire Council on 2 April 2020 under reference 19/11916/FUL. A binding, lawful, and realistic residential fallback position was subsequently established on this building under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") via the operation of statutory non-determination under application PL/2025/07492.

1.3 The Local Planning Authority's ("the LPA") decision to refuse permission is fundamentally flawed in fact and bad in law. The reasons for refusal rest upon three unsustainable errors:

- **First:** The LPA has misdirected itself on the statutory definition of an "established agricultural unit" under Paragraph X of Part 3, Schedule 2 of the GPDO, introducing non-statutory tests regarding ownership and size.
- **Second:** The LPA has failed to afford proper material weight to a legally secured Class Q fallback position, contrary to established Court of Appeal authority (*Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314*).

- **Third:** The LPA has failed to apply the presumption in favour of sustainable development (the "tilted balance") under Paragraph 11(d) of the National Planning Policy Framework ("the NPPF"), in circumstances where the policies most important for determining the application are out-of-date due to a demonstrable deficiency in deliverable housing land supply.

2. Submitted Appendices and Supporting Documents

The following appendices are submitted to directly counter the LPA's reasons for refusal and provide empirical proof of compliance:

- **Appendix 1 – Full Planning Decision Notice (19/11916/FUL):** Confirms the unconditional acceptance by the Council of the site's agricultural status as of 2020. Crucially, as the building was approved under Part III of the Act (Full Planning) and not via Part 6 permitted development rights, the 10-year development lock-out under Class Q(a)(i) is legally inapplicable.
- **Appendix 2 – Prior Approval Class Q Fallback Pack (PL/2025/07492):** The complete application submission suite, including plans, structural data, and the LPA's formal validation/acknowledgement email dated 22 September 2025. This letter formally confirms the valid date of receipt as 17 September 2025, establishing that the 56-day statutory determination period expired on 12 November 2025 without a decision notice being issued, thereby securing deemed approval by operation of law.
- **Appendix 3 – Evidence of Established Agricultural Unit (2013 to Present):** Comprehensive documentary, photographic and regulatory evidence (Figures 1–22) submitted as part of this appeal to conclusively prove continuous agricultural occupation. This includes livestock records, County Parish Holding (CPH) allocations, market invoices, and third-party testimonies confirming sheep breeding and hay production spanning pre- and post-2018 periods.
- **Appendix 4 – Wiltshire LPA Permitted Development Checklist Consistency Audit:** Appellants' completion of the standard LPA Class Q statutory assessment checklist. This objective audit applies the evidence contained in Appendix 3 directly against the statutory criteria, demonstrating full compliance and proving that a lawful deemed approval stands.
- **Appendix 5 – Delegated Officer Report for PL/2026/00450.**

Additional documents submitted with this appeal (namely the planning application files and decision notice relating to PL/2026/00450):

- Application Form
- FLFP-CL1 (Planning Statement).pdf
- FLFP-LP1 (Location Plan).pdf
- FLFP-SP1 (Site Plan).pdf
- FLFP-PE1 (Proposed Elevations).pdf

- FLFP-PF1 (Proposed Floorplan).pdf
- FLCQ-EE1 (Existing Elevations).pdf
- FLCQ-EF1 (Existing Floorplan).pdf
- FLCQ-PE1 (Previously Approved Elevations).pdf
- FLCQ-PF1 (Previously Approved Floorplan).pdf
- Decision Notice

3. Established Agricultural Unit – Continuous Use Pre- and Post-2018

3.1 The application site has formed part of a continuous agricultural holding for well over the 10-year period required by Paragraph X of Schedule 2, Part 3 of the GPDO. Prior to the applicants' purchase in October 2018, the land was part of Ox House Farm, a substantial cattle farming enterprise operated by Mr P Jones. The specific field subject to this application was actively used for hay production and cattle grazing, as clearly delineated on the historical agricultural unit map submitted at Appendix 3 (Figure 2).

3.2 A formal Local Authority Search undertaken by Mulberry House Law at the time of purchase explicitly confirmed uninterrupted agricultural use “for as long as information is available”, proving a baseline of continuous use prior to the Appellants' acquisition of the land (Appendix 3, Figure 1). The applicants acquired the 4-acre parcel to diversify and expand their existing enterprise, this included the introduction of sheep breeding for the food chain and continued hay production, transitioning the land into the current standalone holding layout established from October 2018 (Appendix 3, Figure 3).

3.3 Documentary and photographic evidence verifies the continuous agricultural operation of the holding, satisfying the requirements of Paragraph X of the GPDO in relation to the relevant statutory dates:

- **Holding Registration:** The Rural Payments Agency allocated County Parish Holding (CPH) number 45/053/0307 and an active Single Business Identifier (SBI) to the holding in August 2019 (Appendix 3, Figures 5 and 6).
- **Livestock Records:** Statutory Livestock Information Service records document the sheep enterprise on the holding from 2019 to 2026 (Appendix 3, Figures 7, 8, 9 & 10).
- **On Site Infrastructure:** Livestock occupation is evidenced by photographs of sheep utilizing mobile field shelters (Appendix 3, Figures 15, 17, & 19) and on-site husbandry interventions (Appendix 3, Figure 21).
- **Market Output:** An invoice from Voyce Pullin Markets Ltd confirms the sale of lambs from the holding to Cirencester Sheep Market (Appendix 3, Figure 11), consistent with the statutory livestock movement logs spanning 2022 to 2026 (Appendix 3, Figure 10).
- **Forage Production:** Agricultural use of the land is documented via photographs of hay cutting in July 2019 (Appendix 3, Figure 12), July 2020 (Appendix 3, Figure 14), and

September 2023 (Appendix 3, Figure 22). This activity is supported by a local advertisement for surplus hay bales that could not be stored on-site (Appendix 3, Figure 13).

- **Third-Party Representation:** A formal representation submitted to Wiltshire Council by an established local agricultural operator (Mrs Julia Hill) confirms collaborative lambing periods and livestock trading from the application site (Appendix 3, Figure 4).

3.4 Crucially, the barn itself has been used solely and continuously for agricultural purposes—including livestock shelter, feed storage, and farming equipment—since its construction (Appendix 3, Figures 16 and 20). There has been no period of non-agricultural use or abandonment.

3.5 The evidence compiles extensive official records satisfying the GPDO definition of an “established agricultural unit”. The LPA’s assertion that the 2018 ownership change “reset” the agricultural unit status is an error of law. The GPDO contains no minimum size threshold, acreage requirement, or commercial profit test; the sole statutory criterion is whether the land is occupied as a unit for the purposes of agriculture.

3.6 The officer’s reference to the Biggin Hay Barn Appeal (APP/P1045/W/24/3357582) is legally irrelevant. In Biggin, the appellant failed to demonstrate any functional agricultural use of the barn or land following purchase. In contrast, the applicants purchased bare agricultural land that was already part of an active cattle enterprise and have since operated it continuously as a viable smallholding, securing full planning permission for the barn on that precise basis.

4. The Barn and Full Planning Permission

4.1 On 2 April 2020, Wiltshire Council granted full planning permission (19/11916/FUL) for the erection of the agricultural barn. The decision constituted a formal, binding recognition by the LPA that the land was in active agricultural use and that a functional agricultural need for built development was justified on the holding.

4.2 The building was constructed in late 2021/early 2022 and has been used strictly and exclusively for agricultural purposes (livestock shelter, feed storage, and machinery housing). No non-agricultural or intervening uses have ever taken place. The applicants now seek to convert it for residential occupation to support more effective on-site management of the sheep flock, particularly during lambing and periods of animal illness.

4.3 Because the barn was brought into existence via a Full Planning Permission (Part III of the 1990 Act) and not via agricultural permitted development rights under Part 6 (Schedule 2 of the GPDO), the restrictive 10-year development lock-out period detailed in Class Q.1(a)(ii) is legally irrelevant. The building became an eligible candidate for Class Q conversion immediately upon its completion and subsequent agricultural occupation.

4.4 This full planning permission forms a critical foundation for the Class Q fallback. It demonstrates that the Council has already accepted the principle of built development on

the site for agricultural purposes and provides a clear, lawful baseline from which the conversion can proceed. The current proposal (PL/2026/00450) introduces only a minor material amendment (an external flue for a woodburner) to the previously accepted Class Q scheme and does not alter the fundamental agricultural context of the building.

5. Class Q Fallback Position (PL/2025/07492)

5.1 The Class Q prior approval application (PL/2025/07492) was validly submitted and received by the Council on 17 September 2025. The statutory determination period of 56 days expired on 12 November 2025 without any decision notice being issued. Under the mandatory provisions of Paragraph W(11) of Schedule 2, Part 3 of the GPDO, this non-determination results in deemed approval as a matter of law. The Council's formal acknowledgement letter and subsequent handling of the application fee confirm that the application was validly made (Appendix 2, APP 2L).

5.2 During the 56-day period, the LPA did not request any further evidence or issue a determination notice. The applicants nevertheless proactively submitted additional supporting information via their comments document (Appendix 2, APP 2K), reinforcing the site's continuous agricultural use. If the LPA considered the proposal did not meet Class Q qualifying criteria, it was legally obliged to issue a refusal notice within the 56-day timeframe. It failed to do so.

5.3 The current appeal proposal (PL/2026/00450) represents a standalone Full Planning Application. While it introduces an external flue, an element outside the scope of Class Q operational development, the underlying residential change of use remains a locked-in, fallback position.

5.4 It is trite planning law that a fallback position is a material consideration. In line with the Court of Appeal judgment in *Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314*, there is a clear, realistic prospect of the Class Q scheme being implemented if this appeal is dismissed. The fallback scheme shares an identical residential use and an almost identical built footprint.

5.5 Therefore, the LPA's attempt to re-examine the principle of the residential use under this application is a conflation of planning mechanics and is bad in law. The evaluation of this application must be strictly confined to the planning merits of the minor material variations (the external flue) against the baseline of the fallback scheme.

A direct consistency review of how the statutory criteria should be applied, utilizing the Appellants' completed checklist (Appendix 4) alongside a comparative review of a concurrent Class Q approval on Farfield Lane (PL/2026/01073), highlights critical procedural inconsistencies in the LPA's approach:

- **The Evidentiary Threshold for the Agricultural Unit:** In application PL/2026/01073 on the same lane, the public planning register contains no visible supporting evidence or verification to substantiate the 'Yes' declaration on the internal checklist regarding the

status of the established agricultural unit. To eliminate any ambiguity for this appeal, the Appellants have provided a verifiable, multi-year historical paper trail (Appendix 3). When cross-referenced against the standard checklist layout (Appendix 4), this data confirms that the statutory tests under Paragraph X are completely satisfied.

- **The Technical and SAC Constraint Test:** The Council treated the Special Area of Conservation (SAC) catchment as a definitive block to refuse our application. However, on the concurrent Farfield Lane application (PL/2026/01073), the Council pragmatically treated this exact same environmental constraint as a standard matter to be resolved through simple planning conditions or standard legal agreements. The LPA has applied an entirely inconsistent threshold to the appeal site.

5.6 Furthermore, the officer's citation of the *McCabe* appeal is entirely inapplicable due to fundamental differences in facts, procedure, and evidence:

- **First:** The *McCabe* precedent confirms that for a fallback position to carry weight, there must be a real prospect of it being implemented if permission is refused. The Appellants in this case satisfy this threshold directly. The underlying Class Q development (PL/2025/07492) is a secured, legally binding right. The Appellants explicitly state their clear, un-extinguished intention to execute this layout and construct the dwelling immediately if this appeal is dismissed. Because the physical structure and residential use will come forward regardless of the outcome of this application, the fallback is a certain reality, distinguishing this case entirely from the theoretical scenario in *McCabe*.
- **Second:** In *McCabe*, the site lacked a verified agricultural unit baseline. In sharp contrast, the Appellants have submitted a meticulous multi-year background paper trail (Appendix 3) proving an active, CPH-registered livestock holding that completely satisfies Paragraph X of the GPDO.

Because the legal fallback mechanism in this case is secured and active as a matter of law, the *McCabe* precedent has no bearing on this determination. The binding principles established by the Court of Appeal in *Mansell v Tonbridge and Malling BC* must prevail.

6. Compliance with Core Policy 48 and Other Policies

6.1 The proposal accords with Core Policy 48 (Supporting Rural Life) of the Wiltshire Core Strategy. This policy supports the conversion and re-use of rural buildings for residential purposes where preferential employment, tourism, or cultural uses are not practical propositions and there is no reasonable prospect of an alternative commercial use.

6.2 The barn is structurally sound and capable of conversion without substantial reconstruction, thereby meeting the structural thresholds established in *R (on the application of Hibbitt) v Secretary of State for Communities and Local Government [2016] EWHC 2853 (Admin)*.

6.3 Requiring a structurally sound building to remain in commercial agricultural use in perpetuity simply because it is relatively modern would be unduly restrictive, particularly in the context of Wiltshire's acknowledged shortfall in housing land supply and the clear national imperative to boost housing delivery. The conversion involves only building operations reasonably necessary to facilitate residential use, with minimal external changes that preserve the barn's agricultural character. The proposed residential use is compatible with the surrounding rural landscape and does not result in significant harm.

6.4 The site is not isolated. It is situated along Farfield Lane, where there are already other existing dwellings and a recent successful Class Q conversion (PL/2026/01073). Cricklade town centre, with its range of services and facilities, is approximately 25 minutes' walk or 6 minutes by bicycle via the adjacent national cycle route. The development would therefore support sustainable travel options.

6.5 The Council's sustainability concerns are further mitigated by the fact that the applicants currently drive over 6,000 miles per year to and from the site to manage the flock. On-site residence would significantly reduce this vehicle movement, resulting in a net environmental benefit.

6.6 With regard to design and landscape impact, any domestic paraphernalia associated with the dwelling would be modest in scale and no different from that already present at the other residential properties along Farfield Lane. The barn is set back from the road, and the minimal external alterations (including the woodburner flue) would not result in material harm to the character or appearance of the area, in accordance with Core Policies 51 and 57 and the Wiltshire Design Guide.

6.7 The scheme satisfies other relevant policies, including CP51 (Landscape), CP57 (Design), and highways/ecology requirements. Any technical matters, such as Special Area of Conservation (SAC) mitigation, can be secured by condition or legal agreement, consistent with the approach taken in the recent successful Class Q approval also on Farfield Lane (PL/2026/01073).

7. Planning Balance and Conclusion

7.1 Wiltshire Council is strictly unable to demonstrate a five-year supply of deliverable housing land, with the current position hovering at an acute 2.03 to 2.42 years. Furthermore, the emerging Wiltshire Local Plan Review was formally withdrawn from independent examination on 19 May 2026 following finding of unsoundness by the Planning Inspectors.

As the current Wiltshire Core Strategy period concludes this year with no replacement framework in place, a severe policy vacuum exists. Consequently, the policies most important for determining this application are fundamentally out-of-date, fully engaging the presumption in favour of sustainable development and the "tilted balance" under Paragraph 11(d)(ii) of the NPPF.

Planning permission should therefore be granted unless any localized adverse impacts significantly and demonstrably outweigh the profound benefits of housing delivery.

Stuart and Jerilynn Emms

Appellants

11/07/2026