

12th August 2026

Our Ref: SWLC.LPC6061

Development Services – Central
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire BA14 0RD

Dear Sir/Madam

Town and Country Planning Act 1990
Erection of new dwelling replacing the existing agricultural barn at
Sands Paddock, South Wraxall, BA15 2SB approved for conversion
to provide 1 No dwelling by application PL/2025/04613

As your records will confirm the above referenced barn was approved by application PL/2025/04613 on 28th July 2025, pursuant to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Part 3 Class Q. The enclosed application seeks to erect a new dwelling in lieu of the approved conversion.

The subject building is located on its own, in open countryside within a paddock to the west of the small settlement of South Wraxall, approximately 65 metres from the edge of the Conservation Area. The site lies within the West Wiltshire Green Belt. It is also located within the Bath and Bradford on Avon Bat SAC. The site does not lie within Flood Zones 2 or 3 and is not subject to high levels of surface water or groundwater flooding.



Photograph of front elevation (facing west across the associated field)



Whilst it is acknowledged that the Class Q approval does not accrue any permitted householder development rights it is reasonable to assume, particularly as extensions that do not disproportionately increase the size of the original building do not represent inappropriate development in the Green Belt, that the resulting dwelling could be extended once built, and therefore the opportunity is being taken to allow such works to be incorporated at the first stage, to result in a more commodious and at the same sustainable constructed property.

Accordingly, the replacement dwelling, the subject of this application, provides the opportunity to provide a modern, energy efficient home designed to meet current Building Regulations and support reduced energy demand over the lifetime of the building. A fabric first approach will be adopted where possible, with high levels of insulation, efficient glazing, good airtightness and appropriate ventilation helping to reduce heat loss and improve internal comfort. The detailed design will also allow for the integration of low carbon technologies, such as air source heat pumps, and electric vehicle charging infrastructure.

The resulting building employs an unstained vertical timber boarded finish to weather a subtle natural silver, below a standing seamed zinc sheeted roof. The joinery is recessive by design too and will be narrow framed grey powder coated aluminium. The proposed adds about 30% to the approved dwelling by volume and provides a second bedroom as shown on the next page. The total floor area is 72.5m² and the length of the building is increased from 9.73 m to 12.4m



In the same way that a rural conversion scheme, made in accord with Wiltshire Core Policy CP48 defines a curtilage to include amenity space and parking and manoeuvring space, more generally by reference to site context and existing features on the ground, the enclosed application therefore also defines a new garden area and a gravelled hardstanding for parking and turning. The first 2.5m of the access will be tarmacked to ensure the gravel does not spill out onto the road.

The curtilage as a whole is separated from the associated land with a simple 1.2m high post and rail timber fence, including a gate opposite the road access to allow passage into the paddock.

THE FALLBACK POSITION

It is established in case law that permitted development rights can legitimately represent a fallback position when considering alternative proposals for development of the same site. The relevant legal principles relating to fallback were set out in *R v Secretary of State for the Environment and Havering BC (1998) EnvLR189*. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fallback test:

“First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is “yes” a comparison must be made between the proposed development and the fallback use.”

The notion of the Class Q fallback position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, *Mansell vs Tonbridge and Malling Borough Council [2017]*. The case concerned an appeal of a decision dismissing a claim for Judicial Review of a planning permission granted by Tonbridge and Malling Borough Council, the development being the demolition of a barn and bungalow and the construction of four new detached dwellings. At the time of the decision, and prior to subsequent amendments, Class Q of Schedule 2, Part 3 of the General Permitted Development Order authorised the barn to be converted to three residential units with a combined floorspace of up to 450m². Coupled with the replacement of the existing bungalow (also supported by policy at the time) the resultant effect was that the principle of development existed for four residential dwellings, such four dwellings being the same number of units for the proposed redevelopment of the site.

When originally granting permission, the case officer stated in his report:

“In making an assessment of any application for development, we are bound to consider what the alternatives might be for a site: in terms of what could occur on the site without any permission at all (historic use rights) or using permitted development rights for alternative forms of development.”

And the judge held that the officer was entitled to draw that conclusion:

“It was not a precondition to the Council’s consideration of the fallback option that the interested party had made an application indicating to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect.”

Specifically, the planning officer advised the council’s planning committee that:

“a scheme confined to taking advantage of permitted development would, in my view, be to the detriment of the site as a whole in visual terms...the current proposal therefore, in my view, offers an opportunity for a more comprehensive and coherent redevelopment of the site as opposed to a more piecemeal form of development that would arise should the applicant seek to undertake to implement permitted development rights”.

At the Court of Appeal, legal Counsel for the appellant argued that the evidence did not demonstrate a real prospect as opposed to merely a theoretical prospect of such a development being carried out. He claimed that the judge should have recognised that the fallback development referred to in the officer's report was not a material consideration. In responding, the judge stated:

"I cannot accept that argument. In my view the officer did not misunderstand any principle of law relating to a fallback development. His advice to the members was sound. The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar...in this case...it was plainly appropriate, indeed necessary, for the members to take into account the fallback available to the East Malling Trust as the owner of the land, including the permitted development rights arising under Class Q in the GPDO and the relevant provisions of the development plan. Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law."

The Court of Appeal dismissed the appeal and thereby did not quash the Council's grant of planning permission. Three issues arose on appeal. The first two concerned: a) the interpretation of Class Q GPDO rights; and b) the materiality of the fallback position. The second challenge by the appellant concerned whether there was a 'real prospect' of development under Class Q on the lack of contemporaneous evidence that the landowner had contemplated such development.

Lindblom LJ confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement were:

"the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely; a possibility will suffice;"

"There is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the circumstances of the case in hand."

He then concluded that the clear desire of the landowner to develop and maximise the value of the site was sufficient to demonstrate there was a real prospect to the Class Q fallback position in this case. Therefore, the Council made no error in law in giving material weight to such fallback position.

These principles are directly related to the assessment of the enclosed application and as indicated earlier the applicant has clearly demonstrated her commitment to carry out development using the approved permitted rights. The fallback position is

a legitimate material consideration, and it is simply argued that the new dwelling would produce a better result than the fallback option, allowing for the conversion of the existing utilitarian building. There is a realistic fallback position which would result in the same amount of housing being delivered in the same location, and in these circumstances, any possible conflict with the development plan, which I will review in the next section of this statement, should be afforded only modest weight.

The application will deliver benefits to the appearance of the site compared to that cramped fallback position, and this carries significant weight in favour of the grant of permission. It stands to reason that, where the alternative new build proposal offers a comparably acceptable impact to the setting when Compared to the fallback, the development should be allowed to proceed.

PLANNING POLICY CONTEXT

National Planning Policy

The National Planning Policy Framework (NPPF), and associated Planning Practice Guidance, sets out the Government's planning policies for England and how these are expected to be applied. The NPPF, together with the online Planning Practice Guidance (PPG) is a material consideration in planning decisions. The policies within the following chapters of the NPPF are relevant to the assessment of the proposed development: -

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a Sufficient Supply of Homes
- Chapter 9 – Promoting Sustainable Transport
- Chapter 11 – Making Effective Use of Land
- Chapter 12 – Achieving Well-designed Places

The Local Development Plan

The NPPF highlights that planning law (section 70 [2] of the Town and Country Planning Act 1990 and section 38 [6] of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan relevant to the application include the Wiltshire Core Strategy (WCS) (adopted January 2015) and the 'saved' policies of the West Wiltshire District Plan (1st Alteration) adopted June 2004: U1a Foul Water Disposal. The key policies relevant to the assessment of the proposed development are considered to be:-

- WCS Core Policy 1: Settlement Strategy
- WCS Core Policy 2: Delivery Strategy
- WCS Core Policy 7: Spatial Strategy: Bradford on Avon Community Area
- WCS Core Policy 44: Meeting Wiltshire's Housing Needs
- WCS Core Policy 48: Supporting Rural Life

- WCS Core Policy 50: Biodiversity and Geodiversity
- WCS Core Policy 51: Landscape
- WCS Core Policy 57: Ensuring High Quality Design
- WCS Core Policy 60: Sustainable Transport
- WCS Core Policy 61: Transport and Development

PLANNING ASSESSMENT

The main issue is whether the site is an appropriate location for permanent residential dwellings having regard to the WCS and the NPPF. With this in mind, and by reference to the fallback considerations outlined earlier, the key planning issues relevant overall for the determination of the proposals are as follows;

- The principle of development
- Design and wider landscape impact
- Residential amenity
- Highway safety
- Ecology

It is evident from the Class Q Prior Approval decision notice (reference PL/2025/04613) that there is no dispute that the principle of residential development complies with matters relating to access/highway impact, flood risk and drainage strategy, preserving the amenities and planning of neighbouring uses, car parking, biodiversity, infrastructure and impact on trees and hedges. These parameters are unchanged by the revised redevelopment scheme proposed and the acceptable impacts therefore carry substantial weight and do not necessitate assessment from first principles afresh.

Principle of Development

In considering the principle of the proposed development, policies CP1, CP2, and CP7 of the WCS are the key considerations, together with the policies of the NPPF. I will of course review all other material considerations too.

CP1 outlines the settlement strategy which identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire.

CP2 of the WCS outlines that there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages and development should be restricted to within the limits of development other than in exceptional circumstances.

The 'exception policies' referred to in policies CP1 and CP2 are outlined within paragraph 4.25 of the WCS which seeks to respond to local circumstances and national policy. The approved Class Q application is of course a form of exceptional development and as such the fallback position outlined in the previous section must be weighed heavily in favour of the acceptable principle of development. That weight is increased by the enhanced built quality that the alternative scheme achieves.

As such, when compared to the Class Q approval, the alterations proposed are considered acceptable and the design of the building and materials used for its external appearance are also considered acceptable. Therefore, the development, in terms of siting and size, are still broadly consistent with the Class Q approval and the finished building would not be any more harmful to the character of the area than would occur as a result of the agricultural barn conversion under the Class Q approval.

In addition, there would be some planning gain with regard to the proposed use of sustainable materials in the new build construction and an improvement with regard to the design of the new building. The marginally increased curtilage proposed for the new property would also provide better living standards for future occupants, albeit at the expense and loss of a small section of agricultural land. This is however within appropriate parameters and is not truly discernible. Indeed, your Council adopted Design Guide deals both with the minimum size of garden but also its shape and usability.

For the reasons given above it is considered the principle of development for the conversion of the agricultural barn to a dwelling has been established. However, the development has to be assessed against other in principle policies of the plan as detailed below.

Wiltshire Council's 5 Years Housing Land Supply (5YHLS)

As a result of the changes the Government made to the way housing need is calculated, following changes to the NPPF in December 2024, the Council is unable to demonstrate the minimum housing land supply which is currently calculated at 2.8 years supply against the requirement for a five-year supply of deliverable housing sites. This deficit is considered to be significant and is a material planning consideration, making the Development Plan's housing policies out of date, so that for all new housing applications are affected. The contribution of one additional market dwelling would make a very modest contribution to address the significant shortfall in housing land supply, but it would be a contribution, nonetheless.

Paragraph 11d of the NPPF states that:

"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
- 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".

Paragraph 11dii includes footnote 7, which sets out the 'protect' policies in the NPPF, which includes land designated as Green Belt. Therefore, a comprehensive

assessment of how this proposal aligns with the policies outlined in Chapter 13 of the NPPF is required, which is undertaken below.

Impact on the openness of the Green Belt

There are no relevant WCS development plan policies relating to the Green Belt, therefore the NPPF provides the policy framework.

The NPPF sets out within paragraph 142 that “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

Openness is the absence of development and has both spatial and visual aspects.

Paragraph 143 the NPPF sets out five key purposes of the Green Belt with one being to safeguard the open countryside from encroachment, while paragraph 154 sets out the categories of development which may be regarded as being ‘appropriate’ in the Green Belt. However, the erection of a residential dwelling in the open countryside does not fall within any one of these categories.

The development is therefore acknowledged to be inappropriate in the Green Belt. Paragraph 153 of the NPPF states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Pursuant to the above, it is relevant that the proposed building would have a comparable physical impact to the building approved for conversion under class Q. The overall length is the only discernible change proposed and is a proportionate change, typically acceptable in the Green Belt where extensions are permissible. When considered as a whole, the proposed new development would not be ‘materially’ larger than the one it ‘replaces’ either, again falling within the exceptions permissible in the Green Belt. In addition, it should be stressed that the impact of the development on any arguable ‘urban sprawl’ including the introduction of amenity space and parking area and the new driveway would be little different to what can legitimately take place through the approved scheme.

It is therefore considered the development would not have a greater impact on either the openness or permanence of the Green Belt than that already approved. In this case there is an approved fallback position that allows the conversion of the agricultural building on site to residential use. It is considered there is a realistic prospect of the fallback position being implemented and case law advises that this fallback position is a material consideration. The ability to implement this fallback position is therefore considered to be ‘very special circumstances’ in this case.

However, to protect the openness of the Green Belt it is considered reasonable in this case to restrict permitted development rights in relation to extensions to the building and the erection of outbuildings. The change merely brings forward the provision of a proportionate and thus appropriate change to the original built mass

that would not be objectionable as an extension to the dwelling approved when provided.

Over and above these conclusions the NPPF also introduces policies relating to the 'grey belt' which the glossary of the NPPF defines as:

'For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development'.

Paragraph 155 of the NPPF states that:

"The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:

- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b. There is a demonstrable unmet need for the type of development proposed;
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157..."

In appraising this proposal against the above-listed policy, it is considered that the proposal would utilise land which given the extant permission means its redevelopment would not fundamentally undermine the wider Green Belt designation. It is a matter of fact that the introduction of a new residential chapter of use as approved meets a recognised need without materially and publicly encroaching into the neighbouring countryside.

It is noted that Paragraph 155b includes footnote 56 that states "Which, in the case of applications involving the provision of housing, means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Tests was below 75% of the housing requirement over the previous three years; and in the case of traveller sites means the lack of a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites".

As already detailed, there is a demonstrable unmet need for housing in Wiltshire, with the Council unable to demonstrate the requisite five-year supply of deliverable housing sites. Therefore, part b of paragraph 155 is satisfied.

In the appraisal of the previously approved scheme, it is acknowledged that your highways officer indicated that the site is not considered to be the most sustainable location, with there being a reliance on the use of private vehicles. This criterion though makes reference to two other cited paragraphs in the NPPF, 110 and 115

and it is of course a matter of fact that the swap of one dwelling for another is effectively neutral in sustainability terms regarding location.

The NPPF acknowledges that sustainable transport solutions do vary between urban and rural locations, and ultimately, when tested against the Green Belt policies of the NPPF as a whole, in this particular case, there are not substantial grounds to refuse the proposal on this basis. Furthermore, as the proposal seeks to utilise the approved access etc there are no highway-based technical reasons to refuse the proposal.

The 'Golden Rules' referred to in paragraph 155d relate to major development and are not relevant to this application for one dwelling, as such part d does not apply in this instance.

In appraising this proposal against the Green and Grey Belt policies of the NPPF, it is therefore concluded that if the very special circumstances explained are to be treated differently from other Green Belt sites in your Council area, or nationally, then the development should be considered appropriate in any case, being in compliance with the application of Grey Belt considerations.

Design and impact on the character of the area

Core Policy 51 of the Wiltshire Core Strategy states development should protect, conserve and where possible enhance landscape character. Core Policy 57 requires a high standard of design in all new developments and that development respond positively to the existing landscape.

The existing agricultural building to be replaced, as shown within the photograph at the beginning of this letter, is utilitarian, involving a mix of steel frame and largely blockwork construction and retains no elements that are of any architectural interest or beauty. It is true the site is set back from the highway behind the established and dense roadside hedge so that it has a very narrow zone of visual influence, and particularly mindful of the area's wider landscape planting, the development proposed carefully maintains the rural design form and its related contextual assimilation. Accordingly, the proposed treatment is typical of many successful Class Q schemes and other planning policy compliant rural conversions and by association the replacement dwelling will be similarly sensitively assimilated.

The design of the new scheme is intended to be an improvement over the existing approval both as a sustainable new build and an enhanced aesthetic. The site is accommodating, and the scale of the proposal is more than capable of being assimilated contextually without giving rise to overdevelopment or other in principle concerns. More specifically, the complemented design theme and the overall simple form, appearance and materials are in keeping with the established context and surrounding area.

The largely unchanged apparent scale of the new built development would not result in a materially harmful impact on landscape character. As such it is considered the development would have an equally acceptable impact on the character of the area

by enhancing the singular new built form and employing a sustainable construction approach. The scheme also includes the addition of a modest increased overall amenity/garden space for occupiers of the development, which would also cause no demonstrable harm to the character of the area. The proposed development would have no adverse impact on the rural character of the area or harm views from the nearest public footpaths, and the scheme therefore complies with local and national policy regarding acceptable design impacts.

A simple post and rail timber boundary fence has been proposed, however, if a softer and more natural planted boundary is considered beneficial my client would be happy to accept a condition requiring the landscape planting particulars to be agreed.

Impact on the living conditions of neighbouring residents/future occupiers

Core Policy 57 of the WCS requires development to have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensure that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing and noise. Due to the separation distance between the application site and the nearest residential properties it is not considered that there will be any discernible impacts. In addition, due to there being no directly adjacent residential neighbours it is not considered necessary to impose a condition requiring details of noise levels associated with the proposed air source heat pump, which is part of the enhanced sustainable construction proposed.

By reference to the amenity space, it is noteworthy that the Wiltshire Design Guide not only provides a minimum space standard but also highlights the need to consider the depth and shape to promote usability. The slight changes made therefore enhance the new resident's amenity reflecting these considerations.

Ecology issues

Core Policy 50 of the Wiltshire Core Strategy requires all development to demonstrate no net loss of local biodiversity resource and to secure the integrity of local ecological networks. Core Policy 50 also requires development to seek opportunities to enhance biodiversity, whilst the NPPF encourages applications to deliver measurable net gains (paragraph 193 d).

The site is located within the Bath and Bradford on Avon Bat Special Area of Conservation (SAC) and the application is accompanied by a Preliminary Ecological Assessment by Ellendale Environmental.

The report concludes that the demolition of the barn and the redevelopment with a new building would not impact the status of bats within the SAC. Field margins are unchanged and will be retained and given the orientation and fenestration pattern of the new house will continue to provide a dark corridor for bats to forage and commute.

Given the scale and nature of the currently proposed development which proposes only very minimal loss of existing improved grassland and ruderal species (considered of very limited conservation value) with no loss of hedgerows and while external lighting would be similar to that approved under the class Q application, there is no mechanism for adverse impact on the Conservation Objectives of the SAC, and accordingly, the proposal can be screened out of requiring an Appropriate Assessment by officers.

The ecology report that accompanies this application concludes the site has limited opportunities for roosting bats on site. There are opportunities for foraging in the wider landscape away from the site with good links to the countryside which contains good quality habitats for bats and much better buildings for roosting. No bats or evidence of bats was observed during the ecology survey, and the site has been assessed to be of negligible roost suitability. The proposed works would not impact on the local bat sites (SAC) and would not likely affect the integrity of such sites or the designatory features of the sites.

An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. No new lighting is proposed as part of the application development and if that should change its provision can be conditionally controlled.

The PEA includes enhancement/mitigation measures at paragraph 4.3, and these too can be conditionally controlled. The site area now falls below the revised exempted scale of development for Biodiversity Net Gain (BNG). No such assessment is therefore required and the enhancement measures indicated accord with CP50.

Highways issues

The NPPF requires that safe and suitable access to a site be achieved for all people. The application repeats the access arrangement sanctioned for the dwelling already approved and includes satisfactory parking and turning areas in accordance with the adopted parking standards. There are no grounds to assess the alternative development differently.

CONCLUSION

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The Council is unable to demonstrate a five-year supply of deliverable housing sites and as a consequence, there is a presumption in favour of sustainable development (often referred to as the 'tilted balance'). 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 and currently equates to 2.8 years supply for Wiltshire, which is regarded as a very substantial shortfall. In this case the proposed development would provide one market dwelling, which in

housing supply terms, would make a nominal contribution towards addressing the shortfall, but it would nevertheless make a contribution which must be given moderate weight in the planning balance.

In addition, there would be some short-term benefits afforded to the construction phase of the development through direct and indirect job creation. The development would also contribute towards CIL infrastructure funding in the area.

In terms of neutral impacts, it is maintained that the proposed development would not have a greater impact on either the openness or permanence of the Green Belt than the scheme already approved under class Q. In addition, the development would not harm the amenity of neighbouring residents or future occupiers. The design of the dwelling is considered acceptable, and the overall form of the development is still broadly consistent with the Class Q approval. Sufficient off-road parking can be provided on site for the new dwelling, and the development would be served by a safe access to the road network. In addition, suitable drainage connections to a contained system satisfying Building regulations can be made, and the development would cause no harm to local biodiversity interests.

I trust the above comments are sufficient to support this application, which reflects many approved elsewhere in your council. However, if there are any questions arising to ensure your support, please do not hesitate contact me direct.

Yours faithfully



Simon Chambers
Director

Enc.