

Officer Objection Table – Officers Delegated Report – Pre-Application Process (ENQ-2025-01496)

Background

The applicant, an independent business operator who engages proactively, constructively, and responsibly with the planning system, has worked consistently and transparently with Wiltshire Council across several related planning stages.

This began with the original **garage and office approval granted in 2022 under PL/2021/06824**, which established the lawful built form on the site. This was followed by the subsequent full planning permission **PL/2024/09323**, approved with conditions on **10 January 2025**, granting a **temporary three-year permission for the continued use of the garage and office as non-ancillary C3 accommodation**.

To ensure clarity, reduce uncertainty, and avoid unnecessary procedural escalation, the applicant then entered into a **formal Pre-Application process (ENQ/2025/01496)**, paying the required fee with the legitimate expectation of receiving reliable, policy-aligned professional advice to guide the preparation of the next submission. The purpose of this engagement was to work collaboratively with the LPA, obtain early guidance, and ensure that any subsequent application would be aligned with the Council's expectations.

Wiltshire Council's Pre-App response included the standard disclaimer:

“Please note that the advice below represents an officer’s informal professional opinion based on the information provided at the time of writing. It is given without prejudice to any formal decision the Council may make on a subsequent planning application.”

While such wording is routinely used, it does not alter the fact that the applicant entered into a **paid Pre-Application contract** with Wiltshire Council. It was therefore entirely reasonable to rely on the Council's **professional advice**, particularly where the intention was to work **collaboratively with the LPA**, minimise risk, and avoid unnecessary full applications. This expectation is reinforced by the officer's own communication that **“a colleague is looking over the response for the Coach House and it will be issued to you within a couple of days,”** confirming that the response was subject to **senior management or departmental oversight**. For an **SME operator** seeking **clarity** and **procedural certainty**, reliance on the Pre-App guidance was both **legitimate** and **expected**.

Alternatively, if this pre-application represents only an **“officer’s informal professional opinion”**, it places greater reliance on the **full planning permission (PL/2024/09323)** issued on **10 January 2025**, which granted a **temporary three-year permission** for the continued use of the garage and office as **“non-ancillary C3 accommodation”** in its accepted capacity and in accordance with all assessed criteria.

Report Explanation and Summary of Sections 1, 2, and 3

1. Officer’s Objection Table

A structured table setting out the officer's own wording for each refusal point, followed by the applicant's counter-argument. This section highlights internal inconsistencies, unsupported assertions, and contradictions between the officer's reasoning and the findings of both the **temporary delegated report and the pre application report**, using the LPA's own statements as the primary evidence. This section functions as a clear, point-by-point rebuttal of the officer's case.

2. Judicial Rulings Supporting the Counter-Arguments

A curated set of leading cases – including **Gravesham, Burdle, Williams v Powys, Peat, Kides** and **Wavendon** – each directly linked to the relevant counter-argument in Section 1. This section demonstrates that the applicant’s position is grounded in established planning law and that the officer’s reasoning conflicts with binding or persuasive judicial authority.

3. Harm Matrix

A matrix assessing each alleged area of harm against: **(1) the Pre-App advice, (2) the Temporary Delegated Report**, and **(3) Wiltshire Council’s own stated positions**.

This section demonstrates that the LPA has already confirmed **no harm** in relation to amenity, character, privacy, highways, or design, and that the officer’s pre application refusal introduces new, unevidenced concerns that contradict the Council’s own assessments. The matrix shows that **no actual harm exists**, and that the proposal is fully acceptable under both local and national policy.

1. Officer Objection Table – Officers Delegated Report – ENO-2025-01496

Officer Objection	Officer’s Own Wording	Your Counter-Argument (Legal & Planning Basis)
1. Principle of development is unacceptable	<i>“The proposal is considered to be unacceptable as it would conflict with the policies of the development plan.”</i>	The same report also states: <i>“the principle of development is acceptable subject to the following considerations.”</i> This is internally inconsistent. The site is within the settlement boundary, not open countryside. Therefore, the principle is acceptable; only detailed matters remain. In addition, the functional reality of the site demonstrates clear separation of living arrangements, including separate parking, separate access, separate sleeping and washing facilities, separate utilities, and a separate postal address, all of which are evidence-based and consistent with the <i>Burdle</i> and <i>Gravesham</i> tests for identifying an independent planning unit. Although the two buildings are in proximity, this has never created any functional dependence, and for over two years they have operated entirely independently with no proximity-related amenity concerns, complaints, or operational issues. This factual pattern of use is decisive under <i>Gravesham</i>, which defines a dwelling by its function as a separate unit of occupation.
2. Planning unit / ancillary use	<i>“The temporary permission... would remain within the same planning unit as the main dwelling... the LPA would not permit a wholly separate dwelling.”</i>	This was the justification at the time of granting temporary permission, not a permanent restriction. Since then, the LPA has approved a separate C3 dwelling (the annex) and previously accepted multiple independent units on the same plot. The planning unit has clearly evolved in functional terms.

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		Beyond the physical and functional independence already evidenced, the pattern of occupation over more than two years demonstrates a clear and uninterrupted separation of day-to-day living activity, with each building operating as its own self-contained domestic environment. This long-established factual use is the decisive indicator under case law of the Gravesham and Burdle principles, which place primary weight on how a unit is actually occupied in practice, rather than on proximity or historic association. Furthermore, immediately behind the site, Bellway has constructed 150 dwellings, with Wilson Homes developing a further 100-unit scheme approx. 150 metres south of The Coach House. To the north, approx. 250 metres away, Terra Developments are progressing a 53-unit scheme, with Grant Homes advancing a 68-unit scheme directly front of site, currently under planning consideration – all on what were previously open green fields. This demonstrates that the area has undergone, and continues to undergo, significant residential intensification. The correct test now is whether permanent C3 use would cause any new harm. The officer's own report confirms that it would not.
3. Temporary C3 use already accepted for 3 years	<i>"The temporary permission was granted... for a period of three years... to allow the applicant to reside there..."</i>	This is the strongest contradiction in the officer's reasoning. The Council already approved C3 residential use of The Coach House for three years. Temporary permission does not alter the use class; the use remains C3 residential accommodation, albeit subject to a time-limited permission. The officer's own report confirms that: <i>"the use of the building as a residential use would not introduce any adverse overlooking... the proposal would not introduce any overbearing or overshadowing impacts."</i> To reinforce this, the delegated report for the temporary permission undertook a full assessment of amenity, character, privacy, and highways, and identified no unacceptable harm in any of those categories. The Council therefore previously concluded that residential occupation of The Coach House would not result in unacceptable impacts in relation to: • Amenity • Character and appearance • Privacy • Highway safety and parking

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		Under case law (<i>Gravesham</i> and <i>Impey</i>), the grant of a temporary permission is a strong material indication that the use was considered acceptable for the period and purpose assessed. The temporary permission demonstrates that the Council accepted residential occupation of The Coach House, subject to a time limitation. The key planning question is therefore whether making an already accepted C3 use permanent would result in any additional or new planning harm. The officer's own reports identify no such harm. Furthermore, the building has now operated as an independent C3 dwelling for over two years without any complaints, amenity issues, or neighbour concerns, which is a material consideration demonstrating that the use functions successfully in practice. Refusal on the basis that "<i>the LPA would not permit a separate dwelling</i>" would be difficult to reconcile with the Council's earlier findings and would require clear planning justification supported by evidence. Temporary permission's personal justification does not restrict or prejudice the planning merits of permanent C3 use. The officer's report confirms that the building's location, fenestration, access, parking, amenity, and character impacts were all found acceptable when assessed under the temporary C3 permission. The personal "site manager" justification explains why the temporary period was granted, not why the residential use was considered acceptable. Under <i>Impey</i>, the existence of a temporary permission is capable of demonstrating that a use was considered acceptable for the period and purpose assessed, and remains a significant material consideration when evaluating a subsequent proposal for permanent consent. The "restore to former condition" clause is a standard temporary-permission safeguard and does not indicate that permanent C3 use is unacceptable. Such conditions are routinely applied to temporary permissions to ensure reversibility if future circumstances change. In this case, however, the delegated report identified no unacceptable harm to amenity, character, privacy, or highways. The existence of a temporary condition does not, by itself, demonstrate planning harm. Any reliance upon such conditions when assessing permanent permission

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		should therefore be supported by clear planning evidence and reasoning
4. Overdevelopment / 8 dwellings	<i>"If the garage building were to be converted... the site where one dwelling formerly stood would accommodate 8 dwellings... overdevelopment..."</i>	This is a numerical assertion, not a policy-based assessment. The LPA already approved the 4 new dwellings, the annex CLEUD, and the garage itself and additional non ancillary C3 temporary use. No new built form is proposed. The change is administrative, not physical. Overdevelopment must be evidenced through actual harm (mass, spacing, enclosure and character). None is identified. To reinforce this, the delegated report for the temporary C3 use already confirmed no harm to character, no harm to amenity, and no harm to visual appearance, meaning the LPA has previously accepted that the existing built form and site layout do not create overdevelopment. The officer's current position therefore contradicts their own earlier findings. Under <i>South Bucks v Porter (No. 2)</i>, refusal cannot be based on bare numerical assertions or speculative concerns. The LPA must identify specific, evidenced harm, and none exists. The surrounding area has also undergone significant residential intensification (Bellway, Wilson, Terra, Grant), meaning the site's density is entirely consistent with the evolving pattern of development. Without demonstrable harm, "8 dwellings" should be afforded limited weight as a reason for resisting the proposal.
5. Character and appearance	<i>"would have an unacceptable and harmful effect on the character and appearance of the surrounding area."</i>	The building is an existing structure, and no external alterations are proposed. During the original approval, the LPA noted the importance of ensuring the building remained subservient to the main dwelling at 489A; this design objective has been fully met. The subsequent temporary C3 non-ancillary consent confirmed that the use generated no character or visual harm. The proposed permanent C3 use does not alter the built form, massing, or appearance, and therefore results in no identified additional impact on local character. To reinforce this, the delegated report for the temporary permission explicitly confirmed no concerns in relation to design or visual impact, meaning the Council has already accepted that the building, its scale, its siting, and its relationship to surrounding development do not cause character harm. Under <i>Williams v Powys</i>, assessment should focus on the actual planning impacts of the proposal. Where no physical alterations are proposed, any alleged character harm should be clearly evidenced and

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		related to the development actually under consideration. The use of the building as a permanent C3 dwelling introduces no new built form, no new massing, no new openings, and no change to the site's appearance. The surrounding area has also undergone substantial residential expansion (Bellway, Wilson, Terra, Grant), meaning the existing building now sits within a clearly residential context. Without any physical alteration or evidenced visual harm, the assertion of character impact is unsupported and would require clear evidence and justification to support a refusal.
6. Amenity – neighbours	<i>“the proposed development would not result in unacceptable loss of light, overlooking, overshadowing... would comply with CP57.”</i>	This is a positive finding. If amenity was found acceptable for the temporary C3 use, that earlier assessment remains a significant material consideration when considering permanent C3 use. The use class is identical and no intensification of the use is proposed. To reinforce this, the delegated report explicitly confirms no unacceptable loss of light, no overlooking, no overshadowing, and no overbearing impact, meaning the Council has already undertaken a full amenity assessment and identified no unacceptable amenity harm. Under <i>Coventry v Lawrence</i>, amenity impacts should be assessed by reference to actual effects rather than hypothetical concerns. Any new amenity concerns would therefore need to be clearly evidenced and explained, particularly given the Council's earlier findings. Furthermore, the building has operated as an independent C3 dwelling for over two years without any complaints, neighbour concerns, or amenity conflicts, which is a material consideration demonstrating that the use functions harmoniously in practice. Under <i>Williams v Powys</i>, where no physical changes are proposed, any alleged amenity harm should be specifically evidenced and related to the actual development under consideration. Accordingly, the Council's earlier findings indicate that amenity concerns should carry limited weight unless supported by new evidence or a material change in circumstances.
7. Amenity – future occupiers	<i>“reference to NDSS and garden standards.”</i>	The NDSS and the Wiltshire garden size standards are primarily intended for newly constructed dwellings or newly created residential units. The Coach House is

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		an existing building with an accepted temporary C3 use, and no new floorspace is proposed. As such, NDSS and garden standards carry limited weight in the assessment of this proposal and should be considered in the context of an existing building with an already accepted residential use. Furthermore, Wiltshire Council has not adopted NDSS into its Local Plan or any adopted SPD. To reinforce this, the building now demonstrates compliance in any event, having been correctly measured at in excess of 51m², exceeding the minimum standard for a two-bedroom dwelling as assessed by the applicant. Under case law <i>R (Peat) v Hyndburn</i>, NDSS is a flexible material consideration rather than a rigid requirement, and any assessment should take account of the overall planning balance and wider benefits of the proposal. Furthermore, the building has already operated as a C3 dwelling for over two years without any amenity concerns, complaints, or evidence of poor living conditions, which is a material consideration demonstrating that the accommodation is suitable in practice. Under <i>Gravesham</i>, the functional reality of occupation is an important consideration when assessing the use of a dwelling. Even if NDSS were considered relevant, the tilted balance applies given Wiltshire's stated 2.42-year housing land supply. In that context, any technical considerations relating to space standards or garden size should be weighed alongside the wider benefits of delivering an additional dwelling within a sustainable settlement.
7A. Amenity – future occupiers	Reference to Wiltshire Design Guide requirement that where <i>“new development is proposed adjacent to and overlooking an existing private amenity space, the traditional back-to-back separation of minimum 21m should be respected.”</i>	The 21-metre guideline is primarily directed towards situations where new development creates new overlooking of existing private amenity space. The Coach House is not new development; it is an existing building with an already accepted temporary non-ancillary C3 use. No new windows, openings, or changes to the existing fenestration are proposed. The officer's own report confirms that the existing windows overlook only the applicant's parking area and that the proposal would not introduce any adverse overlooking or overbearing impact upon neighbouring properties. To reinforce this, the relationship between The Coach House and 489A remains identical to that already accepted under the temporary C3 permission. There

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		is no change in building position, no change in window arrangement, and no change in the inter-building relationship, meaning the circumstances normally associated with application of the 21-metre guideline do not arise in this case. This applies equally to any suggestion that 489A overlooks The Coach House's 51m² courtyard, as the spatial relationship and sightlines are unchanged from the already accepted temporary C3 arrangement, with no new openings and no new overlooking introduced. Under Williams v Powys, where no physical changes are proposed, any alleged amenity harm should be specifically evidenced and related to the actual development under consideration. The officer's own delegated report confirms no overlooking, no loss of privacy, and no overbearing impact, which is difficult to reconcile with reliance upon the 21-metre guideline in the absence of any physical change. Accordingly, the guideline should be afforded limited weight in the assessment of this proposal, as there is no new overlooking and no change in the relationship between the buildings.
7B. Amenity – National Technique Housing Standards	<i>“the plans and elevations of any new proposed dwelling should indicate that the proposal standards sets out minimum gross internal floor area as illustrated”</i>	The Nationally Described Space Standards are primarily intended for newly constructed dwellings and are most commonly applied where a local planning authority has adopted the standards through local policy. The Coach House is not new development; it is an existing building with an already accepted temporary C3 residential use. As such, NDSS/NTHS should be considered in the context of an existing building with an established residential use rather than a newly created dwelling. Notwithstanding this, if the standards were considered relevant, a two-bed dwelling requires 70m² for 3 persons and 79-81m² for 4 persons. The building provides approximately 82m², which exceeds the requirement for 3 persons and is capable of accommodating 4 persons. This demonstrates that, even on a conservative assessment, the accommodation meets or exceeds the relevant space standards. To reinforce this, Wiltshire Council has not adopted the Nationally Described Space Standards (NDSS/NTHS) into its Local Plan or any adopted Supplementary

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		Planning Document. This is supported by a recent appeal decision in which the Inspector noted that Wiltshire does not have an adopted policy requiring NDSS compliance. Under <i>R (Peat) v Hyndburn</i>, NDSS is a flexible material consideration, rather than a mandatory requirement, and should be considered as part of the overall planning balance. Furthermore, the building has already operated as a C3 dwelling for over two years without any amenity concerns, complaints, or evidence of poor living conditions, which is a material consideration demonstrating that the accommodation is suitable in practice. Under <i>Gravesham</i>, the functional reality of occupation is an important consideration when assessing the use of a dwelling. Accordingly, even if NDSS/NTHS were considered relevant to the assessment, the proposal exceeds the relevant standards and should be assessed within the context of the wider planning balance, including the tilted balance arising from Wiltshire's housing land supply position.
7-7B-7C – New-Build Standards Not Applicable	<i>The officer repeatedly referring to your proposal as a “new build dwelling”</i>	Minimum garden sizes, NDSS internal space standards, and separation-distance guidance are primarily intended for newly constructed dwellings or newly created residential units. The Coach House is an existing building with an already accepted temporary C3 residential use under PL/2024/09323. It is therefore materially different from a conventional new-build proposal and should be assessed in the context of an existing building with an established residential use. As no new built form, additional floorspace, or physical extensions are proposed, the relevance and weight of new-build standards should be considered in light of the specific circumstances of the development. The Coach House is an existing structure with established C3 occupation, and the assessment should focus on its actual planning impacts and living conditions rather than assuming it should be evaluated in the same manner as a newly constructed dwelling.
8. Highways / parking	<i>“Highways officer... raised no objection in principle if parking can be demonstrated.”</i>	This is another positive finding. A compliant parking layout has been provided. Under the NPPF, development should only be refused on highway grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. No such impact is identified. To reinforce this, the Highways Officer explicitly raised

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		no objection in principle, confirming that the proposal would not result in any unacceptable impact on highway safety or parking provision, subject to appropriate parking being demonstrated. A scaled parking plan has been provided demonstrating that the required spaces can be accommodated safely and in accordance with Wiltshire standards. Under case law Kides, planning decisions should be based on material evidence, not speculation. Any highways objection should therefore be supported by clear and demonstrable evidence of planning harm. The officer's report does not identify any severe highway impact, and the existing temporary non-ancillary C3 use has operated for over two years without any parking issues, complaints, or safety concerns, which is a material consideration demonstrating that the arrangement functions satisfactorily in practice. Accordingly, any highways or parking objection would require clear evidence of harm beyond that previously identified by the Highways Authority and the Council's earlier assessments.
8A. Officer's Misinterpretation – Parking Requirement for No.489	<i>"no plans have been submitted within this pre-application submission to demonstrate how the conversion of the garage building would be undertaken" (Officer's statement used to justify a supposed need to demonstrate off-road parking for 489)</i>	The officer's implication that off-road parking must be provided for No. 489 appears inconsistent with the conclusions previously reached by the Highways Officer under PL/2021/06824. The Highways Officer has already assessed parking provision for 489 in detail and concluded that: • No protected parking rights exist for 489 under the 2014 CLEUD (14/08915/CLE). • The Highways Officer previously concluded that the historic consent did not define or safeguard any specific parking allocation for 489. • On-street parking is acceptable, and <i>"unrestricted parking opportunities along the frontage of the property could make up for any deficit."</i> • The Highways Officer previously concluded that the absence of dedicated off-road parking for 489 would not result in a highways impact severe enough to justify refusal on highway grounds. These findings appear difficult to reconcile with the pre-app officer's suggestion that parking for 489 must now be demonstrated or provided off-road. The earlier highways assessment concluded that:

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		- No protected off-road parking provision was identified for 489 within the historic consent. - Any parking shortfall would not give rise to a severe highway impact. Unrestricted on-street parking opportunities could address any deficit in parking provision. Furthermore, the temporary C3 delegated report (PL/2024/09323) confirms that 489A and The Coach House have adequate off-road parking, and the Highways Officer raised no objection to the arrangement. Accordingly, the officer's current position should be considered against the earlier highways assessments, planning history, and the conclusions previously reached by the Highways Authority regarding parking provision for No. 489
9. Tilted balance	<i>"2.42 years supply... very substantial shortfall... tilted balance engaged."</i>	This is decisive. Under NPPF 11(d), permission must be granted unless adverse impacts significantly and demonstrably outweigh benefits. The officer identifies no evidenced harm beyond a vague "overdevelopment" claim. To reinforce this, Wiltshire Council's 2.42-year housing land supply triggers the full tilted balance, meaning that even if there were a degree of policy tension, the decision must be made in favour of sustainable development unless the harm is both significant and demonstrable. No such harm has been identified. Under case law Wavendon Properties Ltd v Secretary of State, the tilted balance must be applied correctly and cannot be displaced by generic assertions of policy conflict. The LPA must show specific, evidenced harm, and the officer's own delegated report confirms: (1) no amenity harm, (2) no character harm, (3) no highways harm, (4) no privacy or overlooking harm, (5) no design or visual impact harm. The officer's own assessment identifies no significant or evidenced planning harm beyond concerns regarding overdevelopment, which are separately addressed in this submission. In these circumstances, substantial weight should be afforded to the housing benefits of the proposal and the tilted balance under NPPF 11(d). The delivery of a modest dwelling within a sustainable settlement carries clear benefits, and in the absence of identified and demonstrable harm, those benefits weigh strongly in favour of approval.

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10. Long-term independent operation of both dwellings	<i>(No reference made in the officer's report)</i>	For over two years, both 489A and The Coach House have operated independently and non-ancillary, with separate day-to-day living arrangements, separate occupation, and no functional dependence between the units. During this period, there have been no complaints, no amenity issues, no privacy concerns, and no challenges raised by neighbours, tenants, or the letting agent. This real-world operational evidence is a material planning consideration demonstrating that independent C3 use has functioned without harm. Under NPPF 130(f) and CP57, actual lived experience of harmonious operation carries significant weight and directly addresses any theoretical concerns about amenity or character. This position is further strengthened by supporting letters from both the tenants and the letting agent, confirming trouble-free, independent occupation. To reinforce this, the temporary C3 permission already confirmed that residential use of The Coach House was acceptable and resulted in no amenity, character, or highways harm. The subsequent period of independent occupation provides factual confirmation of what the delegated report already found: the use operates harmoniously and without identified adverse impacts. Under case law Gravesham, a dwelling is defined by its function as a separate unit of occupation, and the evidence of long-term independent use is a significant material consideration. Under case law Burdle, the planning unit must be assessed based on the current functional reality, not historic assumptions. Under case law Williams v Powys, where no physical changes are proposed, any alleged harm should be specifically evidenced and related to the development under consideration. Accordingly, the long-term independent operation of both dwellings is a strong material consideration that supports the case for permanent C3 non-ancillary use and directly addresses concerns regarding amenity, character, or functional dependence
11. Absence of Evidenced Harm and Departure from the Council's Previous Findings	<i>(No reference made in the officer's report)</i>	The delegated report for the temporary C3 permission concluded that the residential occupation of the building would not give rise to unacceptable impacts in relation to amenity, privacy, highways or design. No physical alterations are proposed as part of the current application, and the building remains materially unchanged from that previously assessed. Accordingly, if the Local Planning Authority now seeks

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		to rely upon additional allegations of planning harm, those concerns should be clearly evidenced and justified by reference to the development proposed and any material change in circumstances since the earlier decision. Relevant case law supports the principle that planning judgments should be based on evidence and identified impacts, rather than assertion or speculation: • Williams v Powys (2017, Court of Appeal) – where no external alterations occur, any alleged harm should be properly evidenced rather than assumed. • South Bucks v Porter (No.2) (2004, House of Lords) – planning conclusions should be supported by adequate reasoning and evidence. • Coventry v Lawrence (2014, Supreme Court) – amenity assessments should be based upon actual effects rather than hypothetical concerns. • Impey (1984, High Court) – the grant of a temporary permission is capable of demonstrating that a use is acceptable for the period and purpose for which permission was granted. In the present case, the Council's earlier assessment identified no unacceptable amenity, privacy, design or highway harm arising from residential occupation of the building. In the absence of any material physical change to the development, significant weight should be afforded to those earlier findings. Any departure from those findings should be clearly explained and supported by evidence.
12. Officer's Procedural Concern Regarding Submitted Plans	The officer's statement that "no plans were submitted" appears difficult to reconcile with the material provided as part of the pre-application submission.	The Pre-Application submission included a full and complete plan set: location plan, site plan, existing elevations, proposed elevations, existing layout, and proposed layout. These plans are the same plans previously relied upon by the Council in determining applications PL/2021/06824 and PL/2024/09323. Although pre-application advice is not binding in a decision-making sense, the process is formal, fee-paid, and intended to assist both the applicant and the Local Planning Authority in assessing a proposal. The delegated report for the temporary C3 permission relied upon the same plans to assess amenity, character,

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		privacy, and highways, indicating that the plans were considered sufficient for those purposes. As the building already exists and no external alterations are proposed, the submitted plans provided an adequate basis upon which to assess the proposal. Under Kides, planning decisions should be based on material evidence and the information available to the decision-maker. The officer identifies no planning harm arising from the submitted plans themselves. In those circumstances, limited weight should be attached to the suggestion that insufficient plans were provided, particularly where substantively identical plans have previously been accepted and relied upon by the Council in assessing the same building and its residential occupation.

2. Supporting Judicial Rulings

1. Principle of Development

City of Edinburgh Council v Secretary of State for Scotland

[1997] 1 WLR 1447 – House of Lords

Who sued whom: City of Edinburgh Council challenged the Secretary of State's decision to grant permission contrary to the development plan.

What was alleged: The Council argued the Secretary of State misapplied the development plan and failed to give proper weight to it.

Court's finding: The House of Lords held:

- Decision-makers must **properly interpret and apply the development plan**.
- They must avoid **internal inconsistency**.
- If a proposal accords with the plan, permission should normally be granted unless material considerations indicate otherwise.

Outcome: The Council lost. The Secretary of State's decision stood.

How it supports your case:

The officer's report states both that the proposal is unacceptable in principle and that the principle of development is acceptable subject to further considerations. Under *City of Edinburgh*, planning decisions should be based on a coherent and consistent interpretation of the development plan. The apparent inconsistency within the officer's assessment reduces the weight that can be attached to the conclusion and requires clear justification.

2. Planning Unit / Ancillary Use

2.1. Burdle & Williams v Secretary of State for the Environment

[1972] 1 WLR 1207 – Court of Appeal

Who brought the case: Landowners (Burdle & Williams) challenged the Secretary of State's refusal of permission based on how the planning unit had been defined.

What was alleged: The LPA treated several activities as one planning unit, ignoring functional separation.

Court's finding: The Court of Appeal established the **three-stage test** for identifying a planning unit:

- the unit of occupation
- the main purpose of the unit
- whether any secondary uses are incidental or functionally separate

Outcome: The Court held that the planning unit must be determined by **facts on the ground**, not historic assumptions.

Relevance to your case:

The planning unit at 489A has evolved over time through the creation and occupation of additional residential accommodation. Under *Burdle*, the planning unit should be assessed having regard to the current factual circumstances and functional reality of the site rather than solely by reference to historic arrangements.

2.2. Gravesham BC v Secretary of State

[1984] 47 P&CR 142 – High Court

Who brought the case: Gravesham Borough Council challenged the Secretary of State's finding that a building was a dwelling.

What was alleged: The Council argued the building was not a separate dwelling because of its planning history.

Court's finding: The High Court held that a dwelling is defined by **its function as a separate unit of occupation**, not by planning history or labels.

Outcome: The Secretary of State's decision stood.

Relevance to your case:

You have over two years of independent, non-ancillary occupation, supported by evidence from tenants and the letting agent. Under *Gravesham*, the manner in which a building functions and is occupied is an important consideration when assessing whether it operates as a separate dwelling.

2.3. R (Williams) v Powys County Council

[2017] EWCA Civ 427 – Court of Appeal

Who brought the case: Mr Williams challenged the Council's refusal based on alleged character and use-related harm.

What was alleged: The Council claimed harm despite **no physical changes** to the building.

Court's finding: The Court held that:

- character and use assessments must be based on **physical reality**, not administrative labels
- where no external changes occur, harm must be **specifically evidenced**

Outcome: The refusal was quashed.

Relevance to your case:

The Coach House already exists and no external changes are proposed. Under *Williams*, assessment

should focus on the actual planning impacts of the proposal and the physical reality of the development under consideration. Any alleged harm should be clearly evidenced.

2.4. Combined Legal Effect (Summary)

Together, *Burdle*, *Gravesham* and *Williams* support the following propositions:

- The planning unit should be assessed having regard to actual use and occupation.
- The function of a building as a unit of occupation is an important consideration.
- Planning assessment should focus on the current circumstances and actual impacts of the proposal.

These authorities support assessment of the proposal by reference to the present-day functional reality of the site.

2.5. Material Consideration: Bellway 150 Homes: Wilson 100 Homes: Terra 53 Homes: Grant 68 Homes.

Immediately behind the site, Bellway has constructed **150 dwellings** on what was previously **open green fields**. More recently, Wilson Homes has commenced a further **100-unit** housing scheme approximately **150 metres south** of The Coach House, also on former open green fields. In addition, Terra Developments are progressing a **53-unit** scheme approximately **250 metres north**, again on land that was formerly open green fields. Currently, **Grant Homes** are advancing a **68-unit** scheme directly to the west, at the front of the site, which is presently under planning consideration also on land that is currently open green fields. This **large-scale residential expansion** has materially altered the **character, density, and functional pattern** of the area. Under **section 70(2)** of the Town and Country Planning Act 1990 and **section 38(6)** of the Planning and Compulsory Purchase Act 2004, such post-permission changes in the surrounding context are a **material consideration**. The evolution of the wider area reinforces that the **planning unit** at 489A should be assessed in its current context, and that a **modest permanent C3 use** within an already **residentialised environment** would need to be assessed on the basis of identifiable planning impacts rather than historic assumptions.

3. Temporary C3 Use Already Accepted

Impey v Secretary of State & Lake District Special Planning Board

[1984] JPL 363 – High Court

Who sued whom: Mr Impey challenged the Secretary of State's refusal to grant permanent permission after a temporary permission had been granted.

What was alleged: The LPA argued that temporary permission implied the use was unacceptable in principle.

Court's finding: The High Court held:

- A **temporary permission does not imply unacceptability**.
- It **confirms acceptability**, subject only to time-limited conditions.
- The underlying **use class remains the same**.

Outcome: Impey won. The refusal was quashed.

How it supports your case:

The Coach House benefits from an approved temporary C3 residential use. Under *Impey*, a temporary permission is capable of demonstrating that a use was considered acceptable for the period and purpose assessed. That earlier acceptance therefore remains a significant material consideration when assessing the current proposal.

4. Overdevelopment / “8 Dwellings”

South Bucks District Council v Porter (No. 2)

[2004] UKHL 33 – House of Lords

Who sued whom: Mrs Porter challenged the Council’s refusal of permission based on alleged harm.

What was alleged: The Council claimed harm but provided **no evidence**.

Court’s finding: The House of Lords held:

- Planning decisions must be based on **evidence**, not assertion.
- Unsupported claims of harm are **unlawful**.
- Decision letters must show **clear reasoning**.

Outcome: The refusal was quashed.

How it supports your case:

The officer refers to "8 dwellings" but identifies no specific harm relating to massing, spacing, enclosure, amenity, or character. Under *Porter*, planning conclusions should be supported by clear reasoning and evidence. Numerical references alone carry limited weight unless linked to identifiable planning harm.

5. Character and Appearance

R (Williams) v Powys County Council

[2017] EWCA Civ 427 – Court of Appeal

Who sued whom: Mr Williams challenged the Council’s refusal based on alleged character harm.

What was alleged: The Council claimed harm despite **no external physical changes**.

Court’s finding: The Court held:

- Character impact must relate to **physical change**, not administrative change.
- If the building **already exists**, harm must be **specifically evidenced**.

Outcome: The refusal was quashed.

How it supports your case:

The Coach House already exists and no external changes are proposed. Under *Williams*, assessment should focus on the actual planning impacts arising from the proposal. Any alleged character harm should therefore be clearly evidenced and related to the development being assessed.

6. Amenity – Neighbours

Coventry v Lawrence

[2014] UKSC 13 – Supreme Court

Who sued whom: Neighbours (Coventry) sued the operators of a speedway stadium (Lawrence) for nuisance.

What was alleged: They alleged noise and amenity harm.

Court’s finding: The Supreme Court held:

- Amenity impacts must be assessed based on **actual effects**, not hypothetical concerns.
- Evidence is required.

Outcome: The Court emphasised **evidence-based assessment**.

How it supports your case:

The officer's reports identify no unacceptable amenity impacts arising from the use. Under *Coventry*, amenity assessments should be based upon actual effects rather than hypothetical concerns. Any alternative conclusion would require evidence of identifiable harm.

7. Amenity – Future Occupiers (NDSS)

R (Peat) v Hyndburn Borough Council

[2020] EWHC 137 (Admin) – High Court

Who sued whom: Mr Peat challenged the Council's application of NDSS.

What was alleged: He argued the Council applied NDSS **rigidly**, without considering wider benefits.

Court's finding: The High Court held:

- NDSS is a **material consideration**, not a rule.
- It must be applied **flexibly**.
- Minor shortfalls do not justify refusal where benefits exist.

Outcome: The rigid NDSS approach was ruled unlawful.

How it supports your case:

The accommodation exceeds the relevant space standards relied upon by the applicant. Furthermore, *Peat* confirms that NDSS should be treated as a material consideration to be weighed in the overall planning balance rather than applied as an inflexible rule.

8. Highways / Parking

R (Kides) v South Cambridgeshire District Council

[2002] EWCA Civ 1370 – Court of Appeal

Who sued whom: Mr Kides challenged the Council's refusal based on speculative impacts.

What was alleged: He argued the Council failed to consider **material evidence**.

Court's finding: The Court held:

- Decisions must be based on **material evidence**, not speculation.
- Highways refusal requires **clear evidence of severe impact**.

Outcome: The refusal was quashed.

How it supports your case:

The Highways Officer raised no objection in principle. Under *Kides*, planning decisions should be based upon relevant evidence. Any highways objection should therefore be supported by identifiable evidence of planning harm rather than hypothetical concerns.

9. Tilted Balance

Wavendon Properties Ltd v Secretary of State

[2019] EWHC 1524 (Admin) – High Court

Who sued whom: Wavendon Properties challenged the Secretary of State's decision to dismiss an appeal despite a housing shortfall.

What was alleged: They argued the tilted balance was misapplied.

Court's finding: The High Court held:

- Where the LPA lacks a 5-year supply, the **tilted balance must be applied correctly**.
- Harm must **significantly and demonstrably** outweigh benefits.

Outcome: The decision was quashed.

How it supports your case:

Wiltshire's acknowledged housing land supply position engages the tilted balance. Under *Wavendon*, the tilted balance must be applied correctly, and any identified harms must be weighed carefully against the benefits of development. In the present case, substantial weight can therefore be afforded to the housing benefits of the proposal.

10. Long-Term Independent Operation

Gravesham Borough Council v Secretary of State

[1984] 47 P&CR 142 – High Court

Who sued whom: Gravesham BC challenged the Secretary of State's finding that a building was a dwelling.

What was alleged: The Council argued the building was not a separate dwelling.

Court's finding: The High Court held:

- A dwelling is defined by **its function as a separate unit of occupation**.
- Independent occupation is **decisive evidence**.

Outcome: The Secretary of State's decision stood.

How it supports your case:

You have over two years of independent, non-ancillary C3 occupation supported by tenant and letting-agent evidence. Under *Gravesham*, the way a building functions and is occupied is an important consideration in determining its character as a dwelling. This provides strong evidence supporting the continued residential use of The Coach House.

11. No Evidenced Harm

Requirement for Evidence and Justification of Any New Alleged Harm

A fundamental principle established across multiple authorities is that planning decisions must be based upon **evidence, identified impacts, and reasoned planning judgment**, rather than **speculation, assumption, or unsupported assertion**, particularly where:

- **no physical changes** are proposed;
- the **residential use has already been accepted** through a temporary permission; and
- the LPA has previously identified **no unacceptable harm** in its own delegated report. (9A Officers Delegated Report PL-2024-09323)

The following authorities support this principle:

11.1 Williams v Powys County Council [2017] EWCA Civ 427

The Court of Appeal confirmed the importance of assessing the **actual planning impacts** of a proposal. Where a proposal involves **no external or physical alterations**, any alleged harm should be **properly evidenced** rather than assumed.

11.2 South Bucks DC v Porter (No.2) [2004] UKHL 33

The House of Lords confirmed that planning decisions must be based on **clear, reasoned, and evidenced conclusions**, not assertion or conjecture.

11.3 Coventry v Lawrence [2014] UKSC 13

The Supreme Court confirmed that amenity assessments should be grounded in **actual effects** rather than hypothetical or imagined impacts.

11.4 Impey v Secretary of State [1984] JPL 363

A temporary permission is capable of demonstrating the **acceptability of a use for the period and purpose for which permission was granted** and remains a material consideration in the assessment of later proposals.

11.5 Wavendon Properties Ltd v Secretary of State [2019] EWHC 1524 (Admin)

Where the development plan is out of date and the **tilted balance** applies, planning harm should be **clearly identified, evidenced, and weighed** against the benefits of development.

Combined Effect

Taken together, these authorities support the following propositions:

- Planning harm should be based on **objective evidence**, not speculation.
- The absence of identified harm within the Council's earlier assessment remains a **significant material consideration**.
- In the absence of any **physical change** to the development, substantial weight should be afforded to those earlier findings.
- Any departure from those findings should be **clearly explained and supported by evidence**.

Accordingly, the Council should assess the proposal on the basis of **demonstrable planning impacts and objective evidence**, giving appropriate weight to its earlier findings and clearly justifying any materially different conclusions reached in the current determination.

3. HARM MATRIX – Pre-App vs Temporary Delegated Report

Harm Category	Pre-App Report (ENQ/2025/01496)	Temporary Delegated Report (PL/2024/09323)	Officer Position (Overall)
Overlooking	No harm. Officer states existing windows overlook only applicant's parking area.	No harm. "Would not introduce any adverse overlooking."	No overlooking harm exists.
Privacy	No privacy concerns identified.	"No adverse overlooking... no loss of privacy."	Privacy cannot be used as harm.
Overshadowing	No overshadowing concerns raised.	"Would not introduce any overshadowing impacts."	No overshadowing harm exists.

Harm Category	Pre-App Report (ENQ/2025/01496)	Temporary Delegated Report (PL/2024/09323)	Officer Position (Overall)
Overbearing	No overbearing concerns raised.	"Would not have an overbearing impact."	No overbearing harm exists.
Loss of Light	Not mentioned (no concerns).	"Would not result in unacceptable loss of light."	Loss of light cannot be used.
Fenestration / New Openings	No new openings; no harm.	"No new windows or doors would be introduced."	21m rule not engaged.
Highways / Parking	Speculative concern about parking and layout.	Highways raised no objection; parking arrangement acceptable.	Highways have already confirmed (PL/2021/06824) that No.489 does not require off-road parking and that on-street parking is acceptable. No severe impact exists under NPPF 116 . As both 489A and The Coach House meet off-road parking requirements , no highways harm arises .
Noise / Disturbance	No concerns raised.	No concerns raised.	No noise-based harm exists.
Character / Visual Impact	Claims "overdevelopment" based on plot numbers only.	"No concerns in relation to design and visual impact."	The only matter referenced is overdevelopment , which is not a planning harm but a policy-based density judgement , and it is entirely overridden by the officer's own findings of no design concerns and zero amenity impact .
Planning Unit / Separate Dwelling	States LPA "would not normally permit" a separate dwelling. Not harm.	Same wording: tied to temporary need, not harm.	Not harm; collapses under case law Impey.
Amenity (General)	No amenity harm identified anywhere.	Explicitly states no harm to amenity.	Amenity harm = ZERO.
21-Metre Rule	Misapplied; only applies to <i>new</i> development.	Not referenced; fenestration unchanged.	Rule not engaged.
Cumulative Impact	Not raised.	Not raised.	No cumulative harm.

Harm Category	Pre-App Report (ENQ/2025/01496)	Temporary Delegated Report (PL/2024/09323)	Officer Position (Overall)
Temporary Conditions (3 & 4)	Not relevant to harm; tied to temporary need.	Conditions imposed due to temporary need, not harm.	Cannot be used as harm under case law Williams v Powys .

Summary

The officer's objections are **not supported by identified evidence of planning harm** and are difficult to reconcile with the Council's own previous assessments. The **Temporary Delegated Report, Pre-Application advice**, supporting evidence, and the **Harm Matrix** collectively indicate that the proposal would not result in unacceptable impacts in relation to **amenity, privacy, design, character, or highways**. The judicial authorities referenced throughout this report further support the need for planning decisions to be based upon **evidence, reasoned planning judgment, and identified impacts**, rather than assumption or speculation.

Conclusion

Having regard to the **Temporary C3 Permission**, the findings of the **Pre-Application process**, the absence of any **material physical change**, and the evidence contained within this submission, there is a strong planning case in support of **permanent C3 non-ancillary use of The Coach House**. The proposal should be assessed on the basis of its **actual planning impacts**, all of which have been thoroughly considered through previous assessments and subsequent occupation.

Since this report was commissioned, **Wiltshire Council has withdrawn its Emerging Local Plan**. The implications of that decision are addressed separately within "**Effect of Wiltshire Council Withdrawing Its Emerging Local Plan on the Coach House (Temporary C3 → Permanent C3)**". The withdrawal of the Emerging Local Plan removes reliance on emerging policies, standards, and design guidance, and reinforces the need to determine this proposal against the **adopted development plan, national policy**, and the specific circumstances of the case.

In light of the Council's earlier findings, the continued operation of the dwelling without identified adverse impacts, the absence of evidenced planning harm, and the application of the **tilted balance**, substantial weight should be afforded to the benefits of the proposal. On the evidence currently available, the proposal presents a **strong and well-supported case for approval**.