

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

- **Appeal Site:** Land to the South of Farfield Lane, Cricklade, SN6 6HZ
 - **Planning Inspectorate Appeal Reference:** 6012702
 - **LPA Application Reference:** PL/2026/00450
 - **Appellants:** Mr Stuart and Mrs Jerilynn Emms
-

APPELLANTS' FINAL COMMENTS REBUTTAL STATEMENT

1. Introduction

1.1 This statement provides the Appellants' final comments in response to the Local Planning Authority's (LPA) appeal statement and the representations submitted by Cricklade Town Council (CTC). The Appellants maintain that the principle of residential development is established by a realistic Class Q fallback position under application PL/2025/07492. The statements from the LPA and CTC do not introduce any material planning grounds to override this consideration.

2. Summary of LPA and CTC Objections & Misdirection of Scope

2.1 The LPA and CTC seek to challenge the underlying residential conversion framework by relying on separate, highly localised technical parameters.

2.2 The LPA's case relies almost exclusively on the appeal precedent of *McCabe* (APP/P1045/W/24/3357582), asserting that a land title transfer in 2018 severed the historical connectivity of the agricultural unit. Conversely, CTC focuses its objection on a minor variance in construction finishes, arguing under Class Q.1(g) that a difference in the lower wall cladding materials invalidates the building's realistic permitted development fallback.

2.3 Both authorities err fundamentally by evaluating this appeal as a hypothetical, unexecuted scheme rather than a minor material alteration to a structurally completed building that is already physically present. By focusing on restrictive Class Q technicalities, the comments treat the proposal as an application for a fresh, open-market residential dwelling in an isolated wilderness. In reality, the building stands permanently on an established rural lane characterised by an existing residential presence. The scope of assessment must be confined to the real physical alteration—the external flue pipe—rather than retroactively debating a locked-in structural presence.

3. The Fallback Position & Deemed Approval

3.1 The LPA notes in its assessment that a prior approval decision was not issued within the 56-day statutory determination period for application PL/2025/07492. They accept that "*prior approval can be deemed as being 'approved' by default*".

3.2 Pursuant to Paragraph W(11) of the GPDO, the activation of deemed approval operates by law. Having not issued a refusal notice within the statutory 56 days, the Class Q fallback is active, realistic, and remains a significant material consideration, in line with *Mansell v Tonbridge and Malling BC* EWCA Civ 1314.

4. The McCabe Precedent (APP/P1045/W/24/3357582)

4.1 The LPA's reliance on the *McCabe* appeal decision involves fundamentally different facts and timelines.

4.2 In *McCabe*, the building was a historical structure built long before the application, and the appellant provided very little evidence of active agricultural use following their acquisition of the site. Local objections in that case also cited a total lack of agricultural activity post-purchase. This lack of agricultural use of the building and land formed the central reason for refusal.

4.3 In contrast, the current appeal site features a documented timeline of agricultural continuity.

Prior to the Appellants' purchase in 2018, the land formed part of an established cattle farming enterprise. Following the purchase, the Appellants established a standalone unit backed by a registered DEFRA County Parish Holding (CPH) number (45/053/0307) and continuous livestock records. Having firmly established and confirmed this active agricultural land use, the Appellants then applied for and secured full planning permission for the construction of the barn.

4.4 Crucially, Wiltshire Council granted Full Planning Permission (19/11916/FUL) for the erection of this specific barn on 2 April 2020. By granting this permission, the LPA formally recognised the agricultural status of the holding under the Appellants' ownership. Since its construction, the barn has been used continuously for agricultural purposes—primarily for essential forage and hay storage, alongside temporary livestock shelter and essential farm equipment storage.

5. Consistency in Local Planning Decisions

5.1 The LPA asserts at paragraph 5.5 that the relationship between the holding and the original unit was broken when the land was purchased in 2018, arguing that a change in land ownership invalidates Class Q compliance. However, planning uses and units run with the land, rather than individual title holders.

5.2 Paragraph X of Part 3, Schedule 2 of the GPDO qualifies land that was used for agriculture on or before 20 March 2013 *OR "for 10 years before the date the development begins"*. A change of ownership does not restart this agricultural timeline.

5.3 The LPA's interpretation in this case is inconsistent with its approach to other local applications. In Application Reference PL/2025/00242 (Four Acre Farm, Flaxlands, Royal Wootton Bassett), the LPA assessed an identical sequence: a land purchase, the subsequent full planning approval and construction of a new agricultural barn under the new owner, followed by a Class Q application.

5.4 In the *Four Acre Farm* case, the LPA accepted the timeline of acquisition, building construction, and the validity of the established agricultural unit. Furthermore, the *Four Acre Farm* Officer's Report noted that the barn was constructed with a different roof profile (*mono-pitch instead of a permitted gabled roof*) and was technically "*in the absence of a planning permission*". Despite this, the council and the Inspectorate accepted that because the building functionally operates as an agricultural asset, minor design variances do not block the engagement of Class Q rights. The Class Q prior approval application was only rejected by the LPA on technical structural performance grounds. That appeal was subsequently allowed by the Planning Inspectorate (Appeal Ref: 6001988).

5.5 The point raised by CTC regarding the lower wall finishes is a minor visual matter, not a statutory breach of Class Q.1(g). The initial Class Q application was submitted reflecting the building exactly as it currently stands. However, to be flexible and planning considerate, the Appellants explicitly stated a willingness to execute the lower wall sections in blockwork if the planning authority preferred it. This would be a simple, standard finishing operation and does not alter the fact that the barn is a structurally complete, valid agricultural building erected under full planning permission and therefore outside the scope of paragraph Q.1(g). For the sake of consistency and fairness, the same broad principles regarding purchase timelines and minor construction variances should be applied to the Appellants' site.

5.6 For the avoidance of doubt, the proposal is advanced as an open-market dwelling supported by a realistic Class Q fallback position; it is not advanced as an agricultural worker's dwelling and no essential-need case is made. Separately, the barn was erected pursuant to full planning permission 19/11916/FUL and not under Part 6 agricultural permitted development rights. Consequently, paragraph Q.1(g) of the GPDO (which only restricts development where Class A or B of Part 6 works have been carried out) has no application to this building.

6. Scope of Assessment and Technical Planning Rebuttals

6.1 The 2026 Framework and "Tilted Balance" (LPA 2.3 & 4.1): While the specific terminology may have been updated in the emerging 2026 Framework, the core principle of sustainable development remains unchanged. Reusing a structurally sound, existing building to create housing in a council

area with a severe housing supply deficit (2.8 years) is the literal definition of sustainable development. The council explicitly accepts in their own report that this building is structurally sound and requires no major reconstruction. Therefore, under both national policy and emerging local policy, the reuse of this structure is inherently sustainable and should be supported.

6.2 The Appellants acknowledge the changes introduced by the 2026 Framework, including the revised expression of the presumption in favour of sustainable development under Policies S3–S5 and the guidance on policy weight in Annex A. Even applying that framework, the proposal benefits from the realistic Class Q fallback and the acute housing land supply shortfall (2.8 years). These factors constitute the exceptional circumstances required under S5(4) and ensure that the benefits substantially outweigh any residual adverse effects.

6.3 Core Policy 48 and Supporting Rural Life: The council is misinterpreting the true purpose of Core Policy 48 by claiming the building is not "redundant or disused". The policy explicitly states its objective is to support rural life and the rural economy. The Appellants currently commute over 6,000 miles a year to manage the sheep flock. Allowing an on-site residential presence directly supports the operational sustainability of the smallholding—especially during critical lambing windows—thereby fulfilling the exact intent of Core Policy 48.

6.4 Isolation and Policy S5(1)(c) (LPA 4.4 & 4.6): The site is factually not isolated. Under established UK planning case law (*Braintree DC v Secretary of State*), "isolated" means a dwelling that is entirely far away from any other physical structures. Farfield Lane already contains a clear group of existing residential properties, including the recently approved Class Q scheme under reference *PL/2026/01073*. Because there is an established cluster of development along the lane, the home cannot be classed as isolated. It perfectly satisfies Policy S5(1)(c), which expressly permits the reuse, extension, or alteration of permanent and substantial existing buildings outside settlement boundaries.

6.5 Policy HO11 and Redundancy (LPA 4.7): The council argues that because the building is capable of continuing in agricultural use, it is not "redundant." This is a circular and contradictory argument. It is entirely artificial for the council to argue that a building cannot be converted because it is "too well-constructed" to be called redundant, as this penalises applicants for maintaining high-quality rural structures.

6.6 Reason for Refusal 3 and Landscape Character (LPA 4.9): The proposed conversion has been designed with extreme sensitivity to its rural context. The barn is significantly set back from Farfield Lane. Crucially, the most publicly visible elevations of the structure have been kept completely solid—with no new window or door openings added—precisely to preserve the clean, traditional architectural character of a working agricultural barn. Any domestic elements will be generally screened from public view, causing zero harm to the character of the area.

6.7 Travel Movements and Local Sustainability (LPA 4.14 & 4.15): The council's claim that the location is unsustainable due to private car reliance is completely contradicted by the council's own Highways Officer comments from the Class Q application file:

"It is stated that the proposals would enable the applicant to live on site with the agricultural use remaining and this would also reduce the vehicle trips that the site requires between the current applicant's home and site. The proposals would see a slight alteration in trip generation... this would not be considered a significant impact."

Furthermore, the site sits directly next to a National Cycle Route that goes straight into Cricklade town centre. The town's local services are within an easy, flat 25-minute walk or a 6-minute bicycle ride, usable all year round. Total traffic movements will actually decrease or remain neutral, as the Appellants will no longer need to commute daily (and multiple times a day during lambing) to tend to the livestock.

7. Minor Material Amendments under Full Planning Application

7.1 The current proposal (*PL/2026/00450*) introduces a Full Planning Application to facilitate a minor material amendment—the addition of an external flue for a wood-burning stove—to a

residential conversion envelope that is subject to a realistic Class Q fallback position. Crucially, because the required dimension of a standard domestic flue pipe exceeds the strict 200mm external projection limit permitted under Class Q legislation, the Appellants were legally required to seek Full Planning Permission for this element. CTC's assertion that this application is an attempt to "legitimise" an invalid fallback reflects a misunderstanding of statutory planning mechanics. The Appellants are simply using standard, lawful planning procedures to secure a necessary domestic feature that sits outside the scope of baseline permitted development rights.

7.2 The physical footprint, layout, and parking remain identical to the scheme submitted under the prior approval mechanism. The addition of a minor external flue causes no landscape harm.

8. Housing Land Supply Shortfall

8.1 The LPA explicitly admits in its statement that it cannot demonstrate a five-year supply of deliverable housing land, with the current position sitting at an acute shortfall of just 2.8 years.

8.2 Consequently, under Paragraph 11(d)(ii) of the NPPF, the presumption in favour of sustainable development is fully engaged. The delivery of a three-bedroom dwelling provides a direct, necessary contribution to an acute localised housing shortfall, which should be afforded significant weight in the planning balance.

9. Special Area of Conservation (SAC) Mitigation

9.1 The Appellants accept the clarification provided by the LPA in Section 6 of their appeal statement regarding the North Meadows Special Area of Conservation (SAC) catchment zone.

9.2 To clarify, the requirement for an ecological mitigation contribution was not raised during the initial application determination period, and no documentation or agreement templates were sent to the Appellants prior to this appeal.

9.3 To ensure this technical requirement is fully resolved for the Inspectorate, the Appellants have completed and signed the standard Wiltshire Council Section 111 Agreement issued by the LPA, securing the recreational mitigation contribution in the sum of £331.75 plus the standard legal charge of £275.00. This signed agreement is submitted concurrently with these Final Comments.

10. LPA's Proposed Draft Conditions

10.1 Without prejudice, should the Inspector be minded to allow the appeal, the Appellants note several errors and disproportionate demands within the LPA's draft conditions in Section 8.

10.2 Condition 2 (Plan References): The LPA states that the development should be carried out in accordance with plan prefixes *FLCQ-LP1*, *FLCQ-SP1*, *FLCQ-PE1*, and *FLCQ-PF1*. As confirmed by the council's own list on Page 26, the "FLCQ" drawings represent the original Class Q application files which exclude the external flue. The correct plans subject to this appeal are the "FLFP" series (*FLFP-LP1*, *FLFP-SP1*, *FLFP-PF1*, *FLFP-PE1*). Condition 2 as drafted is incorrect and unexecutable.

10.3 Conditions 4 & 5 (Stripping of PD Rights): The council attempts to strip baseline householder permitted development rights for any future ancillary buildings or roof alterations. Stripping these rights over the minor insertion of an external flue fails the national planning tests of necessity and reasonableness.

10.4 Conditions 6, 7, 8, & 9 (Proportionality and Parity): The LPA has introduced several highly restrictive pre-occupancy clauses requiring detailed submissions for boundary treatments, bird/bat boxes, ecological lighting, and cycle parking schemes. Imposing these extensive, standalone requirements simply due to the addition of an external flue pipe is entirely disproportionate. To clarify, only the requirement for cycle parking was raised by the relevant technical consultees during the original Class Q prior approval stage, and as stated in document "*APP 2K - Applicant Comments 1 to PL_2025_07492.pdf*", the Appellants remain completely willing to install this feature if it is required. None of the other listed ecological or boundary requirements were previously raised during the prior approval process. Imposing these onerous hurdles on a minor flue alteration is

unjustified, particularly when they were not required for the neighbouring barn conversion approved on the same lane at the same time under *PL/2026/01073*.

11. Response to Cricklade Town Council Representations

11.1 The Appellants note the comments from Cricklade Town Council (CTC) dated 20 August 2026, along with their appended CTC planning minutes from the Class Q application (*PL/2025/07492*) and a historic comment made by [REDACTED] from the approved barn planning application (*19/11916/FUL*). The Appellants' submission file "*APP 2K - Applicant Comments 1 to PL_2025_07492.pdf*", which was submitted as a return comment for the Class Q application addressing the initial public and relevant technical consultees, already covers most of the points raised by the CTC.

11.2 Selective and Inconsistent Policy Enforcement: Evidence shows that CTC has been selective and inconsistent in its application of policy enforcement regarding visual impact and spatial policies along Farfield Lane. A number of applications along the lane have been supported by CTC, including the Appellants' initial barn application (*19/06952/FUL*), which was substantially larger before being voluntarily withdrawn. Only after the introduction of the comment from [REDACTED] has CTC changed its stance and since remained in objection to any planning at the Appellants' site. CTC cannot logically claim the current building is inherently an oversized or undesirable precedent when they officially supported a larger version of it.

11.3 Wall Cladding and Design Flexibility: CTC argues that the building does not comply with Class Q of the GPDO because of the lower wall materials. As detailed in "*APP 2K - Applicant Comments 1 to PL_2025_07492.pdf*", the initial Class Q application showed the building as it stands. The current full-length timbers were simply a temporary weatherproofing measure during active construction. As proven by the *Four Acre Farm* precedent (*PL/2025/00242*) covered in Section 5.4, minor visual construction details do not stop a completed barn from qualifying for conversion.

11.4 Factual Inaccuracies in the Historic Comment of [REDACTED] CTC asks the Inspector to look at a 2019 comment from [REDACTED] regarding the approved barn planning application. This historic comment introduces speculation and should be disregarded, as it provides no conclusive evidence. Any historic concerns raised in 2019 were fully evaluated by the LPA and its consultants, and ultimately dismissed when Wiltshire Council granted Full Planning Permission for the barn on 2 April 2020 (*19/11916/FUL*). For the avoidance of doubt, the Appellants draw attention to the following factual verifications:

- **Farmer Status:** The statement by CTC that [REDACTED] is a neighbouring farmer is wildly incorrect. She neither lives locally nor is she a farmer.
- **Commercial Viability:** Comments regarding the commercial viability of the holding made without true knowledge or empirical evidence constitute mere speculation.
- **Equine Grazing:** A couple of ponies were historically allowed grazing only on the land, but they were removed several years ago once the sheep flock was established. Short-term equine grazing historically utilised on-site is a protected agricultural use under Section 336 of the Town and Country Planning Act 1990.
- **Infrastructure:** The mobile field shelter was utilised to store hay prior to the barn application. The small timber shed houses sheep husbandry gear, feed, minerals, and essential welfare facilities (a portaloo). This provides a visually sympathetic solution in the open countryside compared to parking a standard site caravan on the holding.
- **Land Drainage:** Historical comments on land drainage were fully resolved when the Appellants cleared out the blocked boundary ditch left by the previous owner, ensuring the pasture drained properly thereafter.

11.5 Refutation of CTC's Commercial "Hobby" Classification: CTC's characterisation of the smallholding as a non-commercial "hobby" lacks any basis. The business has been actively trading, holding a fully registered DEFRA CPH number (*45/053/0307*) and continuous livestock records.

11.6 Contribution to Housing Shortfall: CTC claims that "*the creation of a single isolated domestic*

residence in the middle of otherwise open countryside does not make such a significant contribution towards the housing supply deficit that it outweighs the planning harm which would be created."

This claim is entirely incorrect. Farfield Lane is not isolated; it contains several existing houses and sits directly next to a National Cycle Route. The spatial parameters of this site and the absence of isolation are already conclusively established under Section 6.4 and Section 6.7 of this statement.

12. Conclusion

12.1 The LPA and the Town Council have not presented any sustainable planning harms that significantly or demonstrably outweigh the profound benefits of housing delivery in a council area with a critical 2.8-year land supply shortfall.

12.2 The Inspector is respectfully requested to afford full material weight to the realistic and established Class Q fallback position on this site. The underlying principle of residential conversion and the structural footprint of the dwelling are secure. Restricting the addition of a necessary external flue pipe introduces an unjustified barrier that serves no practical planning purpose. Accordingly, the Inspector is respectfully requested to allow the appeal and grant planning permission.