

PROFESSIONAL SUPPORTING PLANNING STATEMENT

Regularisation of Existing C3 Residential Use (Two-Bedroom Dwelling) – The Coach House, 489A Semington Road, Melksham, SN12 6DR

Prepared for: Mr Paul Williams, Applicant – The Coach House, 489A Semington Road, Melksham

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Submitted in Support of Planning Reference: PP-15192589

1. Purpose of this Statement

This statement is submitted in support of the application seeking permission for the continued permanent use of The Coach House as an independent Class C3 dwelling.

The principal purpose of this statement is to address the key issue identified within the Council's pre-application response, namely the historic reliance upon the temporary planning permission granted under PL/2024/09323 and the associated position that a wholly separate dwelling would not normally be permitted in this location.

This statement considers that issue in the context of established planning principles, relevant case law, persuasive appeal decisions and, most importantly, the factual operation of the development following implementation of the temporary permission.

2. The Principal Planning Issue

Whilst the temporary permission and the associated requirement for the accommodation to remain within the same planning unit are material considerations, they are not the principal matters requiring determination under the current application.

The key planning question is whether the continued use of The Coach House as an independent dwelling would give rise to demonstrable planning harm sufficient to justify the refusal of permanent planning permission.

Planning decisions are required to consider the actual planning consequences of development proposals and the material considerations existing at the time the decision is made.

The temporary permission represented a planning judgement made at a particular point in time.

Since that decision, the residential use has been implemented and occupied, providing direct evidence regarding the way in which the development functions in practice.

The current assessment should therefore have regard not only to the original reasoning supporting the temporary permission, but also to the actual evidence now available following occupation of the building.

3. Functional Reality and Planning Status

A consistent principle running through planning case law is that the planning status of land and buildings is informed by the reality of occupation and use rather than solely by historic descriptions or planning intentions.

3.1 Burdle v Secretary of State for the Environment

[1972] 1 WLR 1207

The Court confirmed that the correct planning unit is determined by the factual and functional reality of occupation.

The judgment recognised that where a physically distinct area functions independently and serves a separate purpose, it may properly constitute a separate planning unit.

Relevance to The Coach House

The Coach House:

- contains all facilities necessary for independent living;
- functions separately from 489A;
- accommodates independent day-to-day residential activity;
- operates as a self-contained residential unit.

The functional reality of occupation is therefore a significant material consideration.

3.2 Gravesham Borough Council v Secretary of State

[1984] 47 P&CR 142

The High Court confirmed that a dwellinghouse is characterised by its ability to provide the facilities necessary for day-to-day domestic existence.

The Court further held that whether a building functions as a dwelling is primarily a question of fact.

Relevance to The Coach House

The Coach House contains all facilities required for independent residential occupation and functions as a complete dwelling unit.

The factual character of the building as occupied is therefore an important consideration when assessing the application.

3.3 Impey v Secretary of State

[1984] JPL 363

The High Court confirmed that the existence of a temporary planning permission does not necessarily demonstrate that permanent permission would be unacceptable.

A temporary permission may instead indicate that the use was considered acceptable for the purpose assessed at the time.

Relevance to The Coach House

Wiltshire Council has already accepted residential occupation of The Coach House through the grant of planning permission PL/2024/09323. The officer's delegated report concluded that the use would not result in unacceptable impacts relating to design, visual appearance, overlooking, privacy, overshadowing, loss of light or highway safety.

The temporary nature of the permission reflected the particular circumstances advanced at that time and should not be interpreted as evidence that the residential use itself was harmful.

4. Subsequent Evidence and Real-World Experience

A particularly important consideration in the present case is that the Council's earlier assessment can now be tested against actual experience.

When granting temporary permission, the Council concluded that residential occupation could occur without unacceptable impacts upon neighbouring amenity, design quality, visual appearance or highway safety.

The subsequent occupation of The Coach House has provided an opportunity to assess those conclusions in practice.

The available evidence demonstrates:

- successful independent occupation;
- absence of identified neighbour complaints;
- absence of amenity conflicts;
- absence of parking difficulties;
- absence of highway concerns;
- absence of visual impacts;
- continued satisfactory operation of the site.

The development has therefore now been assessed both theoretically through the planning process and practically through actual occupation.

The evidence indicates that the concerns originally underpinning the temporary restriction have not materialised.

5. Persuasive Appeal Decisions

Whilst not binding judicial authorities, a number of Planning Inspectorate decisions provide persuasive support for the proposition that actual occupation can assume greater significance than historic planning intentions.

5.1 The Annexe, 57 Bloomsbury Way, Blackwater

APP/N1730/X/18/3212108

The annexe was originally subject to restrictions preventing occupation as a separate dwelling.

The Inspector nevertheless concluded that the building functioned as a separate dwellinghouse based upon the reality of occupation and evidence of long-term independent residential use.

Particular weight was attached to:

- independent occupation;
- self-contained accommodation;
- day-to-day residential use;

- actual operational circumstances.

Relevance

The circumstances are directly comparable to The Coach House, where independent occupation and self-contained residential use have also been established through actual operation.

5.2 Cherry Ash Annex, Worcestershire

APP/J1860/X/18/3219273

The Inspector accepted that occupation had evolved beyond the original ancillary relationship and that the annex had become a separate dwellinghouse.

Particular significance was given to the factual occupation and use of the building over time.

The Inspector referred to a "new chapter in the planning history" created through the established pattern of occupation.

Relevance

The temporary permission for The Coach House reflected a planning judgement made at a particular point in time.

The subsequent operation of the dwelling has created a new factual planning context which can now be assessed using direct evidence rather than assumptions regarding future impacts.

5.3 Elmleaze Farm, Keevil, Wiltshire

APP/Y3940/W/23/3329735

The appeal concerned a building subject to a planning restriction limiting occupation to holiday accommodation. Wiltshire Council refused planning permission for unrestricted residential occupation as an independent Class C3 dwelling.

The Planning Inspector allowed the appeal and granted planning permission for use as a dwellinghouse. In reaching that conclusion, the Inspector considered the actual circumstances of occupation and the practical operation of the property rather than relying solely upon the historic planning restriction. Particular significance was attached to the existing residential use of the building and the planning merits of the proposal at the time of determination.

Relevance

The decision demonstrates that historic occupancy restrictions do not necessarily carry determinative weight where subsequent evidence is available regarding the actual operation of a residential use. It further illustrates that planning decisions should have regard to the factual circumstances existing at the date of determination and the planning consequences arising in practice.

The circumstances are relevant to The Coach House because the temporary permission granted under PL/2024/09323 has now been implemented and tested through actual occupation. As at Elmleaze Farm, the current application can be assessed not merely by reference to the historic basis of the restriction, but also by reference to the evidence now available regarding the successful operation of the dwelling and the absence of demonstrable planning harm.

6. Absence of Demonstrable Planning Harm

The pre-application response identifies concerns relating primarily to overdevelopment and character under Core Policy 57.

However, neither the delegated report for the temporary permission nor the subsequent pre-application response identifies specific and demonstrable harm arising from:

- residential amenity;
- privacy;
- overlooking;
- overshadowing;
- highway safety;
- parking provision;
- living conditions;
- visual impact.

In professional planning terms, this is a significant distinction.

The proposal does not involve additional built form, additional site coverage, increases in height, external alterations or physical intensification of development.

The issue is therefore not whether a new building should be introduced, but whether continued use of an existing building as a dwelling would result in planning harm.

No such harm has been clearly identified.

Whilst overdevelopment remains a matter of planning judgement, it is normally expected that any allegation of overdevelopment should be linked to identifiable consequences or adverse effects.

In this case, those consequences have not been demonstrated.

7. The Predictive Assessment Has Now Been Tested

The temporary permission granted under PL/2024/09323 was based upon a predictive planning judgement that a wholly separate dwelling would not normally be permitted in this location and that the accommodation should remain within the same planning unit as 489A Semington Road. However, that judgement was made before the benefit of actual operational experience was available.

The position today is materially different.

The Coach House has now operated as an independent residential unit in real-world conditions over an extended period. During that period the building has functioned as a self-contained dwelling with separate day-to-day living arrangements and independent residential occupation.

Importantly, the occupation has not given rise to any identified planning harm.

Wiltshire Council's own assessments have repeatedly confirmed the absence of material concerns relating to:

- overlooking;

- privacy;
- overshadowing;
- overbearing impact;
- loss of light;
- highway safety;
- design quality;
- visual impact.

The central question therefore becomes whether the historic wording of the temporary condition should outweigh the actual evidence now available.

In professional planning terms, significant weight should be afforded to the demonstrable planning outcomes that have arisen from the implemented development.

The planning system is concerned with the use and development of land and the consequences arising from that use.

In this case the development has already been implemented, occupied and tested in practice.

The anticipated concerns underlying the temporary restriction have not materialised.

Consequently, the current assessment should be informed by the factual evidence of how the development actually functions rather than solely by assumptions made before that evidence existed.

8. Professional Planning Conclusion

The proposal does not involve the construction of a new building, an extension to an existing building, or any physical intensification of development.

The building already exists.

The residential use already exists.

The residential occupation has already been accepted by the Local Planning Authority through the grant of temporary planning permission under PL/2024/09323. The Council's own assessment concluded that the use would not result in unacceptable impacts in relation to residential amenity, privacy, overlooking, overshadowing, design, visual impact or highway safety.

The principal issue raised within the Council's pre-application response is therefore not whether residential occupation is capable of occurring on the site, but whether the temporary permission should now become permanent and whether The Coach House should continue to operate as an independent dwelling.

In considering that question, substantial weight should be afforded to the fact that the development has now moved beyond a purely theoretical planning assessment.

The temporary permission was granted based upon a prediction as to how the development would function.

That prediction has now been tested through actual occupation.

For an extended period, The Coach House has operated as an independent residential unit with separate day-to-day living arrangements, separate occupation and all facilities necessary to support independent residential use.

Importantly, that occupation has occurred without any identified evidence of planning harm.

No evidence has been presented to demonstrate unacceptable impacts relating to:

- residential amenity;
- privacy;
- overlooking;
- overshadowing;
- visual impact;
- design quality;
- highway safety;
- parking provision; or
- living conditions.

The Council's current concerns therefore rest primarily upon a planning judgement concerning overdevelopment, character and the historic intention that the accommodation remain temporary.

Whilst these are legitimate planning considerations, they must be weighed against the substantial body of evidence now available regarding the actual operation of the dwelling.

The planning history demonstrates that residential occupation has already been accepted, implemented and successfully established on the site. The subsequent period of occupation has provided direct evidence that the anticipated adverse impacts have not materialised.

The principles established in *Burdle*, *Gravesham* and *Impey* support the proposition that planning decisions should have regard to functional reality, actual occupation and the practical consequences of development, rather than relying solely upon historic assumptions or planning labels. The appeal decisions at Blackwater, Cherry Ash and Keevil, further illustrate that the factual circumstances created through occupation can become a significant material consideration in their own right.

In professional planning terms, the most compelling feature of this proposal is that it has already been tested under real-world conditions. The evidence demonstrates a functioning, self-contained dwelling that has operated successfully and harmoniously within its surroundings, without giving rise to identifiable planning harm.

It is also a material consideration that Wiltshire Council presently acknowledges a significant housing land supply shortfall, with the tilted balance under paragraph 11(d) of the National Planning Policy Framework engaged. Whilst the provision of a single dwelling represents a modest contribution in quantitative terms, the proposal nevertheless contributes towards housing delivery within an established and sustainable residential location and should attract positive weight in the overall planning balance.

Accordingly, the balance of planning considerations now differs materially from that which existed at the time the temporary permission was granted.

Having regard to:

- the implemented development;
- the Council's previous acceptance of residential occupation;
- the successful operation of the dwelling in practice;
- the absence of demonstrated planning harm;
- the established residential nature of the surrounding area; and
- the factual reality of the site as it exists today.

It is my professional opinion that the continued permanent use of The Coach House as an independent Class C3 dwelling represents an appropriate and sustainable form of development which accords with the objectives of the development plan when read as a whole.

The temporary permission represented a prediction. The subsequent occupation has provided evidence. The evidence demonstrates that the predicted harm has not materialised.

It also demonstrates that independent residential occupation can occur on the site without giving rise to the adverse impacts originally anticipated. In these circumstances, substantial weight should be afforded to the proven planning reality of the development, and there is, in my professional opinion, a clear and compelling planning basis for granting permanent planning permission.

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