

Thursday, 01 October 2026

Objection to Planning Application PL/2026/05564

Site Address: 133 Cloatley Crescent, Royal Wootton Bassett, Swindon, SN4 7FX

Description: Retrospective planning application for the retention of a single-storey side extension, including the part of the extension constructed on land owned by the Local Authority

Introduction

This representation has been submitted on behalf of the local community in objection to application PL/2026/05564, which seeks retrospective planning permission for a single storey side extension at 133 Cloatley Crescent. The description of development confirms, in the applicant's own terms, that part of the extension stands on land owned by Wiltshire Council.

The same extension was the subject of application PL/2026/04390, withdrawn by the applicant before determination.

Background

- The extension has been in situ for approximately three and a half years.
- The application description confirms that part of the extension was built on land owned by Wiltshire Council, beyond the lawful residential curtilage of 133 Cloatley Crescent.
- Before the works, this land was heavily planted, with an established hedgerow and other soft landscaping separating the property from the wider countryside and public land.
- The occupiers used an excavator to remove approximately 20 metres of this hedgerow, entirely outside their legal property boundary, to make way for the extension and the enlarged garden.
- After the hedgerow was removed, the occupiers moved their boundary fence approximately 7 metres outward, enclosing the Council's land within their private garden and building the extension on it.
- No ecological survey was carried out before the works, and it is reported that the cleared area supported an active badger sett.
- Wiltshire Council's records show no Hedgerow Removal Notice was submitted for this hedgerow.

Grounds of Objection

Ground 1: The unauthorised development was intentional

Policy DM8(2) of the National Planning Policy Framework (August 2026) states: "In cases of unauthorised development where consideration is being given to an application for retrospective planning permission (or through an enforcement appeal, whether to grant planning permission in

respect of a breach of planning control), if it is concluded based on evidence that the unauthorised development was intentional, that fact should be given substantial weight in considering whether to grant planning permission."

The evidence of intent here is clear. The occupiers cleared some 20 metres of established hedgerow from land they did not own using an excavator, moved their boundary fence approximately 7 metres outward to enclose that land, and then built the extension across the new line. Each step required a separate and deliberate decision, and the sequence as a whole could only have been carried out in the knowledge that the land lay outside the property. The application now describes the land as owned by the Local Authority, which confirms the applicant's awareness of its ownership.

Application PL/2026/05564 is precisely the kind of retrospective application to which policy DM8(2) is directed. The intentional nature of the breach should carry substantial weight against the grant of permission, in addition to the planning harm set out under Grounds 3 and 4.

Ground 2: Ownership and the scope of the application

The Council holds a dual role in this case, as local planning authority and as owner of the encroached land. A grant of planning permission confers no right to build on or occupy another party's land, and the Council's position as landowner bears directly on whether the development could ever lawfully remain. The case officer should confirm that the Council's estates or property function has been formally notified of the application and given the opportunity to comment.

The description of development is also incomplete. It seeks retention of the extension alone. Removing the hedgerow and relocating the fence to enclose Council land within a private garden amounts to a material change of use of that land to residential curtilage, a breach separate from the building operation. The application seeks permission for neither the change of use nor the relocated boundary. A grant of permission would regularise the building while leaving the enclosure of the surrounding land unauthorised, an outcome that fragments the Council's control over a single, connected course of unauthorised development. At the very least, the application should be amended to describe the development in full and re-consulted.

Ground 3: Loss of the hedgerow and harm to biodiversity

The Hedgerows Regulations 1997 require 42 days' written notice to the local planning authority before all or part of a qualifying countryside hedgerow is removed, and the right to give that notice rests with the owner of the land. This hedgerow stood entirely outside the lawful curtilage of 133 Cloatley Crescent, on Council-owned land, and extended for approximately 20 metres. It formed no part of a private garden boundary and fell outside the garden exemption. The occupiers held no ownership of the land and no entitlement to remove the hedgerow at all.

No Hedgerow Removal Notice was submitted before the hedgerow was destroyed. That failure is an offence under the Regulations regardless of whether the hedgerow would ultimately have been assessed as important under Schedule 1, since the notification requirement applies before any such assessment. Given its established character, age and evident wildlife value, including its role in supporting an active badger sett, the hedgerow appears likely to have met the wildlife and landscape criteria in Schedule 1.

Section 3 of the Protection of Badgers Act 1992 makes it an offence, intentionally or recklessly, to damage or destroy a badger sett or to obstruct access to one. The hedgerow bank removed by excavator is reported to have supported an active sett, and no ecological survey was carried out before the works. The Council should require a protected species survey establishing the status of

the sett and the effect of the works on it before the application is determined. Absent that evidence, the Council has no proper basis on which to discharge its biodiversity duty under section 40 of the Natural Environment and Rural Communities Act 2006.

Policy DM7(1) of the Framework states that "Matters which are controlled by separate regulatory regimes may, in the context of a particular development proposal, be a material consideration where they have land-use implications. Decision-makers should assume, unless there is clear evidence to the contrary, that those separate regimes will operate effectively." In this case there is clear evidence to the contrary: both the hedgerow notification regime and the protection afforded to the badger sett were bypassed entirely, and the resulting harm occupies the very land on which the extension stands. These matters are therefore material to this application.

Wiltshire Core Strategy Core Policy 50 (Biodiversity and Geodiversity) states that "Development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale." Core Policy 51 (Landscape) states that "Development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character." Policy N2 of the Framework addresses the retention of existing landscape features in development proposals. The extension occupies part of the hedgerow's former line, so its retention would make reinstatement of that feature impossible and would fix the harm permanently. The Royal Wootton Bassett Neighbourhood Plan, adopted in April 2018, also forms part of the statutory development plan for the site.

Ground 4: Harm to the character of the area

Building across land outside the true curtilage has produced a materially larger extension, and one less subservient to the host dwelling, than the property boundary would otherwise have supported. Wiltshire Core Strategy Core Policy 57 (Ensuring High Quality Design and Place Shaping) states that "A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings." Policy DP3 of the Framework sets out the design principles against which development proposals are assessed. An extension whose footprint depends on appropriated public land fails to respond to its context in any meaningful sense.

The hedgerow's removal compounds this harm. It marked the transition between the private garden and the public and countryside land beyond. Its loss, together with the relocation of the fence, has shifted that boundary outward and eroded the previous balance between public and private space along this stretch of Cloatley Crescent. Core Policy 51 applies with equal force to this harm.

Ground 5: Enforcement time limits

Before 25 April 2024, section 171B(1) of the 1990 Act set a four-year time limit, running from substantial completion, for enforcement action against operational development in England. The Levelling-up and Regeneration Act 2023 replaced this with a ten-year limit for breaches completed on or after that date, while operations substantially completed before it remain subject to the four-year period. The extension has reportedly been in place for around three and a half years, which places substantial completion before the change in the law. On that basis the four-year period for the building operation may expire within months.

The submission of a retrospective application leaves that period running. The Council should determine this application promptly and, on refusal, serve an enforcement notice without delay, or serve a notice in parallel with the application if determination is likely to approach the expiry date. Wiltshire's Planning Enforcement Strategy lists "unauthorised development where it is possible that

the time for taking enforcement action could expire within the next 6 months" as a priority category, and this case falls within it. The change of use of the Council's land to residential garden is subject to the ten-year period and remains enforceable in any event.

Conclusion

Application PL/2026/05564 seeks to regularise an extension built partly on land the applicant does not own, following the deliberate clearance of an established countryside hedgerow without the required notice and the apparent destruction of an active badger sett. Policy DM8(2) of the Framework requires substantial weight to be given to that intentional conduct. The application also raises unresolved questions over the ownership certificate, omits the change of use of the enclosed land, and would permanently fix harm to biodiversity, landscape and the character of the area, contrary to Core Policies 50, 51 and 57 of the Wiltshire Core Strategy. Accordingly, the application should be refused.