

<b>Date of Meeting</b>	2 <sup>ND</sup> February 2023
<b>Application Number</b>	PL/2022/07116
<b>Site Address</b>	Land to the south of 1 Witt Road  Winterslow
<b>Proposal</b>	Erection of 3 detached dwellings, garages, parking and access following demolition of 3 existing buildings (Outline application relating to access and layout)
<b>Applicant</b>	Mr L Fairlie
<b>Town/Parish Council</b>	Winterslow
<b>Electoral Division</b>	Winterslow and Upper Bourne Valley – Cllr Rich Rogers
<b>Grid Ref</b>	424723 132582
<b>Type of application</b>	Outline Planning
<b>Case Officer</b>	Lynda King

**Reason for the application being considered by Committee**

This application is brought to committee at the request of Councillor Rogers, for the following reasons:

- Scale of development
- Relationship to adjoining properties
- Environmental/highway impact
- Other - The site is unsuitable for this scale of development. Witt Road is a narrow country lane which cannot safely support additional housing, particularly given the proposed access to the site and the close proximity to the road junction onto Middleton Road. It is also worth noting that there are no pavements on Witt Road which is frequently used by walkers as it provides access to Bentley Woods. The scale of the development would be totally out of keeping with the adjacent properties and the streetscene, and therefore have a detrimental impact.

**1. Purpose of Report**

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be APPROVED

**2. Report Summary**

The main issues which are considered to be material to the determination of this application are listed below:

- Principle and planning history
- Neighbouring amenities
- Highway safety
- Ecology

- CIL/S106

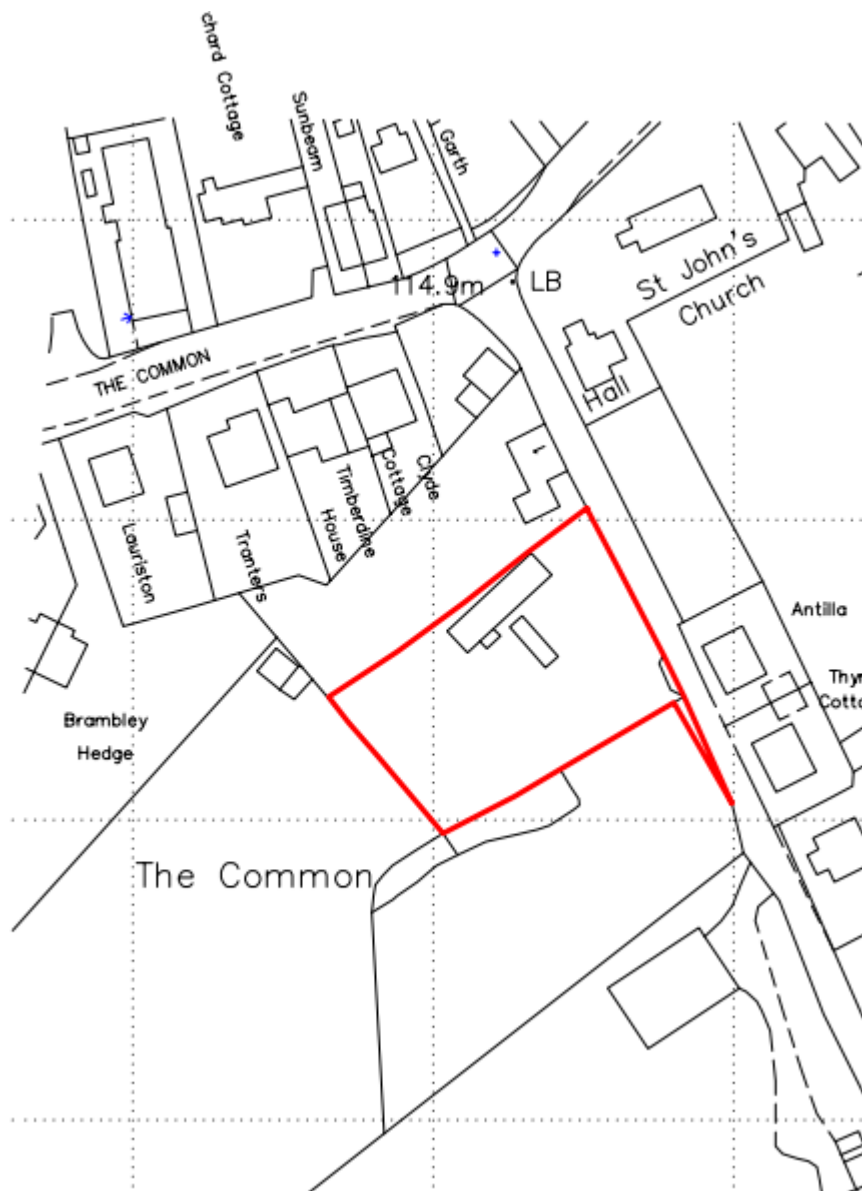
The application has generated an objection from Winterslow Parish Council and 25 letters of objection from third parties.

### 3. Site Description

The application site is a parcel of land that is understood to have formerly formed part of the curtilage of number 1 Witt Road, but has been severed by the sale of the house.

The site is located on the South side of Middle Winterslow, towards the Northern end of Witt Road close to its junction with The Common.

The application site is substantially enclosed by an existing evergreen fir hedge. Within the site there is further evergreen hedging and some storage buildings. It is understood that the buildings were originally used for agricultural purposes and have been used for general storage in recent years. The remainder of the site is laid to grass.



Site location plan



Proposed site layout

The site lies within the Settlement boundary for Winterslow, as revised in the Wiltshire Housing Site Allocations Plan 2020 and lies within the designated Special Landscape Area (saved local plan policy C6 applies).

#### 4. Planning History

18/02580/OUT – Erection of 4 houses, parking and access following demolition of existing buildings (outline relating to access and layout) - Refused 21/09/2018

19/03930/OUT – Erection of 3 detached dwellings, garages, parking and access following demolition of 3 existing buildings (outline application relating to access and layout – re-submission of 18/02580/OUT) – Refused and Appeal Dismissed 03/09/2020

It should be noted that the above appeal was only dismissed on the ground that the applicants could not mitigate the impact of the development on the Solent and Southampton Water European Sites due to the increase in nutrients entering the rivers from developments. This matter has now been addressed through the Council's agreed mitigation strategy.

## **5. The Proposal**

The application is for outline planning consent with all matters reserved save for access and layout. The application proposes the erection of 3 detached dwellings with garages, parking and access following the demolition of the existing buildings on the site.

The three dwellings would be served by a private drive, which is positioned in the approximate position of an existing field access. The other existing access at the northern end of the site will be closed.

It is proposed that the three dwellings will face towards the private drive with their rear gardens facing northwest. The applicant's agent has commented that two properties are large enough to be 4 bedroom dwellings and one would be for three bedrooms.

The submitted application site plan is the same plan that the Inspector found to be acceptable in the appeal decision referred to above.

The application has been accompanied by a Nutrient budget, which complies with the Council's nitrate mitigation scheme, which is referred to in more detail below.

## **6. Local Planning Policy**

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

National Design Guide (January 2021) (NDG)

*Salisbury District Local Plan policies (Saved by Wiltshire Core Strategy) (SDLP):*  
R2 – Public Open Space Provision

*Wiltshire Core Strategy (January 2015) (WCS):*

CP1 (Settlement Strategy)

CP2 (Delivery Strategy)

CP3 (Infrastructure Requirements)

CP23 (Southern Wiltshire Community Area)

CP50 (Biodiversity and Geodiversity)

CP51 (Landscape)

CP57 (Ensuring High Quality Design & Space Shaping)

CP60 (Sustainable Transport)

CP61 (Transport & Development)

CP62 (Development Impacts on the Transport Network)

Wiltshire Housing Site Allocations Plan (February 2020) (WHSAP)

*Supplementary Planning Documents:*

Wiltshire Local Transport Plan – Car Parking Strategy

## **7. Summary of consultation responses**

Winterslow Parish Council - objects to the application on the grounds of overdevelopment on the site and the proposals are not in keeping with the surrounding properties.

WC Highways - I am familiar with this site having dealt with previous proposals for residential developments in this location, and I am aware of a general lack of support from Highways. Concern has been raised with regards to the suitability of the junction of Witt Road with Gunville Road, together with a lack of pedestrian facilities in terms of footways and street lighting. The previous application ref: 19/03930/OUT was considered at appeal and the inspector was of the view that the proposal would NOT have an unacceptable impact on highway safety, nor have residual cumulative impacts on the road network which would be severe. I therefore do not wish to pursue an adverse highway recommendation in this instance. Recommends conditions.

WC Ecology – confirm that the applicant’s nutrient mitigation calculations meet WC requirements

WC Drainage – No comment received

Wessex Water – No objections

## **8. Publicity**

The application was publicised by letters to neighbouring properties. 25 letters of objection were received in respect of the application, raising the following points:-

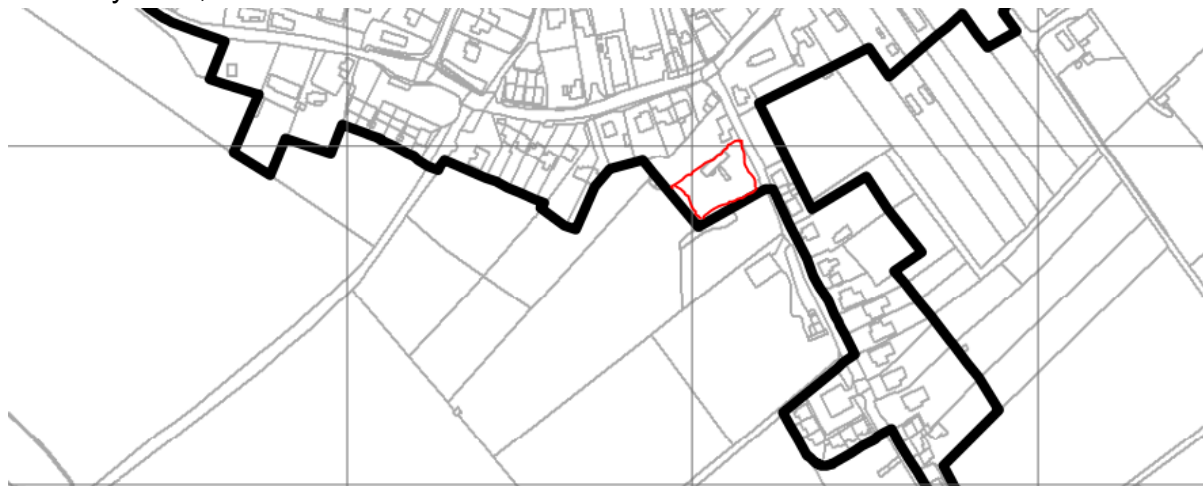
- Witt Road is a single track road, no through road with no turning facilities
- The road is frequently used by pedestrians, cyclists and horse riders visiting Bentley Wood at the end of the road
- The junction of Witt Road is substandard, leading to a risk of accidents
- Drainage issues
- Outside the settlement boundary
- Witt Road cannot accommodate any more traffic – there are existing problems with delivery vehicles on the road now adding to congestion
- The development would not be affordable to young people in the village
- Village sewer system is not adequate
- Problems with vehicles reaching the sewage pumping station at the end of Witt Road, which will be exacerbated with additional traffic
- Problems with vehicles currently parked near the junction of Witt Road
- Degrades the rural nature of the area
- Impact of the development on the amenities of nearby dwellings
- The site has repeatedly been refused planning permission and the previous objections all still stand
- Village facilities are about a mile from the site and the bus service is very infrequent
- The village has met its quota of new development and no more is needed
- Layout of the scheme out of character with the prevailing development in the area.

## **9. Planning Considerations**

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

## 9.1 Principle of development

As has been set out above, the site lies within the settlement boundary of Winterslow. It was included in the settlement boundary as part of the review of such boundaries as part of the preparation of the Wiltshire Housing Site Allocations Plan, which was adopted in February 2020, as can be seen on the extract of that document set out below:



Site area outlined in red

Core Policy 2 (Delivery Strategy) states that:

***“Within the defined limits of development***

*Within the limits of development, as defined on the policies maps accompanying the Core Strategy, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns (including Westbury), Local Service Centres and Large Villages.*

CP23 defines Winterslow as being a Large Village and therefore the principle of residential development in this location is acceptable. There is currently no adopted Neighbourhood Plan for the village, nor is one in the process of preparation, that could amend the settlement boundary in the short term.

## 9.2 Relevant Planning History

Planning permission was refused in outline for 4 dwellings on the site in 2018 (18/02580/OUT), and a similar application was submitted in 2019 reducing the number of units to 3 (19/03930/OUT). The second application was also refused, for 4 reasons. The first related to the consideration that Witt Road was inadequate to accommodate additional traffic due to its narrow width and substandard junction with The Common, and the remaining three related to the drainage of the site.

This application went to appeal, and during the process of the appeal the applicant submitted additional information to overcome the three reasons for refusal regarding the drainage of the site which enabled the planning authority to withdraw these reasons for

refusal. Therefore the appeal was determined initially solely on the matter of the adequacy or not of the access to the site. It did not consider the principle of development on the site or the impact on neighbouring properties as no reasons for refusal were stated in respect of these issues by the planning authority, in effect the planning authority considered the principle of the development and the layout proposed to be acceptable as layout was one of the matters for consideration as part of the application.

The appeal was therefore determined on the basis of the proposed site layout, which is identical to that submitted with the current application.

During the consideration of the appeal the Inspector was made aware of the objections raised by Natural England to any additional residential development within the catchment of the rivers that feed into the Solent, which is an internationally designated Special Protection Area and Special Area of Conservation, due to the high levels of nutrients in those rivers. This became a main issue at the appeal.

Therefore the appeal considered the access to the site and the impact of development on the European protected sites only, and no other matters.

The Inspector concluded that:-

*Witt Road is not to ideal highway standards, being narrow with no street lights for example, but this is not uncommon in rural villages. Furthermore, the lack of accidents recorded in recent years, together with the relatively low level of vehicular or pedestrian trips along Witt Road as demonstrated with the appellant's evidence and my own observations, indicates that this is not a busy or dangerous stretch of highway. It is my conclusion that the low level of additional vehicles likely as a result of the development would not result in this road becoming dangerous or indeed having any discernible impact to highway safety.*

And

*Overall, the proposal would not have an unacceptable impact on highway safety, nor have residual cumulative impacts on the road network which would be severe. The proposal is therefore in accordance with the advice within the National Planning Policy Framework (the Framework). The proposal is also in accordance with Core Policy CP61 of the adopted Wiltshire Core Strategy, which requires development to be served by safe access to the highway network, amongst other things.*

Therefore no objection was raised to the proposed development on grounds of highway safety or the adequacy of the highway network in this location.

The Inspector then went on to consider the nutrients issue and concluded that:-

*Without detail of the mitigation package at this stage, there is a considerable amount of uncertainty as to the potential effectiveness of the mitigation available for this proposed development. There is no clear mitigation that is being proposed at this time by the appellant, though it is accepted that mitigation is required. Furthermore, whilst a Grampian condition could potentially prevent development occurring until suitable mitigation was*

*confirmed, an appropriate assessment must consider detailed mitigation proposals at the decision stage.*

*28. There are no firm detailed proposals for mitigation before me and as such, following appropriate assessment, I cannot conclude that adverse effects on the integrity of these European Sites would not arise from the development, in combination with other developments within the Solent catchment areas.*

*29. For this reason, the proposal would therefore conflict with Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity), which requires that development demonstrates how it will protect features of nature conservation, to maintain ecological value in the long term.*

He went on to dismiss the appeal due to the potential adverse impacts to nature conservation areas, and this was his only reason for dismissing the appeal in September 2020.

On that basis the principle of development on this site, the number of units proposed, the layout of the site and the means of access to the scheme have all been considered by an Inspector in recent times, and as there have been no material changes in circumstances that would allow the Council to re-consider any of these issues, it should be noted that reasons for refusal related to any of the above would be at considerable risk of costs at any subsequent appeal.

### **9.3 Neighbouring Amenities**

Neighbours have raised concerns about the impact of the development on their residential amenities, and similar concerns were raised in respect of the previous, identical, application that went to appeal. The Inspector commented in his decision letter in respect of the amended plans which overcame the Council's objections on drainage grounds to the 2019 outline application that:-

*Moreover, whilst I note the concern that the occupants at No 1 has with overlooking impact, the scale and internal layout of the proposed dwellings are not part of this outline stage of the proposal, so it cannot be fully considered as to the potential living condition impact based on either the original or amended Plot 3 house position. Furthermore, the amended position of the carport is to the boundary with a field/paddock and would have little or no impact to interested parties in the area. On this basis, considering all aspects of the proposed amendments, I have accepted the revised layout plan as it would not prejudice the interests of any other party including those who live in the area in doing so.*

On that basis the impact of the development on the amenities of neighbouring properties did not become an issue at the previous appeal and as the plan is identical to that considered by the Inspector, no additional consideration can be given to this matter in respect of this application.

### **9.4 Highways**

The Council's Highway Authority raised significant objection to the previous application on the impact of the development on highway safety in the vicinity of the application site, but the Inspector, in dismissing the appeal, concluded that:-



*Overall, the proposal would not have an unacceptable impact on highway safety, nor have residual cumulative impacts on the road network which would be severe. The proposal is therefore in accordance with the advice within the National Planning Policy Framework (the Framework). The proposal is also in accordance with Core Policy CP61 of the adopted Wiltshire Core Strategy, which requires development to be served by safe access to the highway network, amongst other things.*

On that basis, and as there are no new material considerations to be taken into account between the above appeal decision and the current application, your Highways Officer raises no objection to the application, subject to conditions.

## **9.5 Ecology**

This application is accompanied by an Ecological Impact Assessment, including an updated Ecological Appraisal and phase 1 and 2 bat surveys, and the assessment concludes that the development would give rise to a net biodiversity gain as required under Planning Policy CP50. A condition is therefore proposed (number XXX) which will require details of the Biodiversity Net Gain to be set out and agreed as part of the Reserved Matters process.

As has been noted above in the Planning History section, the appeal into the previous refusal of planning permission was dismissed purely as the applicants could not demonstrate that they could mitigate the harm from the development of additional nutrients, in this case nitrates, into the Solent protected wildlife sites.

As Members will be aware, since the date of that appeal, in September 2020, the Council, in concert with Natural England, have agreed a mitigation strategy to enable developers to enter into a legal agreement with the authority to ensure that their development provides the necessary mitigation and that the application can proceed. The applicants have confirmed their willingness to enter into the necessary agreement and the Council's ecologists have confirmed that there is capacity for the nutrient mitigation required for this scheme. The necessary legal agreement is in the process of being drawn up, and this matter will be reported on further at the Committee meeting.

## **10. S106 contributions**

As has been mentioned above, this site is subject to a legal agreement to secure the necessary mitigation in respect of nitrates generated from the development. This document is in the process of preparation in accordance with the agreed Council mitigation scheme and payment system.

As of May 2015, Wiltshire Council adopted the Community Infrastructure Levy (CIL). Therefore this proposal may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A note highlighting this requirement to the applicant is therefore imposed on the recommendation.

## 11. Conclusion

Planning law requires that applications for planning permission be determined in accordance

with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions. Planning decisions should apply a presumption in favour of sustainable development and this means approving development proposals that accord with an up-to-date development plan without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The Wiltshire Core Strategy and the NPPF set out the policy considerations for the application and the LPA cannot currently demonstrate a 5 year housing land supply. Irrespective of the extent of such shortfall, this means that the WCS policies relating to the delivery of housing are out of date. Paragraph 11(d) of the NPPF is therefore engaged, which says planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

An identical application was considered by a Planning Inspector in September 2020 and was only refused, when considering objections on highway safety and objections from local residents about the impacts of the development on their amenity and those of the locality, on the grounds of lack of mitigation for the acknowledged issue of additional nutrients from development on the Solent areas of nature conservation protection. This mitigation is now in place and the applicants are in the process of entering into a legal agreement with the Council to secure the necessary mitigation for the site.

On that basis, officers consider that the objections to the 2019 application have been overcome and the previous objections, many of which have been repeated by local objectors to the scheme, cannot be re-visited and therefore the application should be granted, and that the issuing of the decision should be delegated to the Head of Development Management to enable the necessary legal agreement to be completed.

### **RECOMMENDATION: APPROVE, subject to the prior completion of the S106 Agreement and the following conditions:-**

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan – Drawing no Wilts/11/2022.11.15/LP, received on 16<sup>th</sup> November 2022

Site Plan – Drawing no. Wilts11/07.08.19/Rev G, received on 22<sup>nd</sup> September 2022

REASON: For the avoidance of doubt and in the interests of proper planning.

3. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:
  - (a) The scale of the development;
  - (c) The external appearance of the development;
  - (d) The landscaping of the site;The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

5. The development hereby permitted shall not be first until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

6. Full details of the layby area to the site frontage with Witt Road, as shown on plan reference Wilts11/07.08.19/Rev G, shall be submitted to and approved in writing by the Local Planning Authority. The layby shall be completed as per the agreed details prior to the occupation of any of the dwellings hereby approved.

REASON: In the interests of highway safety.

7. No part of the development hereby permitted shall be occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

8. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- h) measures for the protection of the natural environment.
- i) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

9. No dwelling hereby permitted shall be occupied until foul and surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

REASON: in the interests of ensuring that the site is adequately drained.

10. The mitigation measures under Section 7.0 detailed in the approved Ecological Assessment dated August 2022, prepared by Lindsay Carrington Ecological Services shall be carried out in full prior to the first bringing into use/ occupation of the development and/or in accordance with the approved timetable detailed in the Ecological Assessment.

REASON: To mitigate against the loss of existing biodiversity and nature habitats.

11. No materials shall be burnt on the development site during the demolition/construction phase of the development.

REASON: In the interests of residential amenity.

12. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: In the interests of residential amenity.

## **INFORMATIVES**

1) The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:

[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).

2) The grant of the planning permission should be read in conjunction with the S106 legal agreement dated XXX entered into by XXX