

**REPORT OUTLINE FOR SOUTHERN AREA PLANNING  
COMMITTEES**

**Report No.**

<b>Date of Meeting</b>	2 <sup>ND</sup> March 2023
<b>Application Number</b>	PL/2022/09311
<b>Site Address</b>	4 The Flood, Middle Winterslow
<b>Proposal</b>	Erection of a dwelling house, associated access, hard and soft landscaping and associated works (Resubmission of 21/00943/FUL)
<b>Applicant</b>	Mr Paul Martin
<b>Town/Parish Council</b>	Winterslow
<b>Electoral Division</b>	Winterslow and Upper Bourne Valley – Cllr Rich Rogers
<b>Grid Ref</b>	423681 133115
<b>Type of application</b>	Full
<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
- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design – bulk, height, general appearance
- Environmental/highway impact
- Other – Whilst the proposed dwelling has been modified from the previous application (21/00943/FUL) I do not believe sufficient changes have been made to warrant approval. In particular, the relationship with adjoining properties on the Western side of the Flood which are predominantly single storey dwellings, such that this proposed dwelling would be incongruent with the street-scene. The property would still overlook the neighbouring Middleton House, a previous reason for refusal which was upheld when the matter was taken to appeal. I am also deeply concerned with the location of vehicular access to the property. The Flood is a substandard lane with no dedicated pedestrian facilities, and the access is in close proximity to the Clough Lane junction. With a mix of road users including pedestrians, horses and vehicles, there will be an increased highway safety issue due to these constraints and the inadequacy of visibility splays.

**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

**1. 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

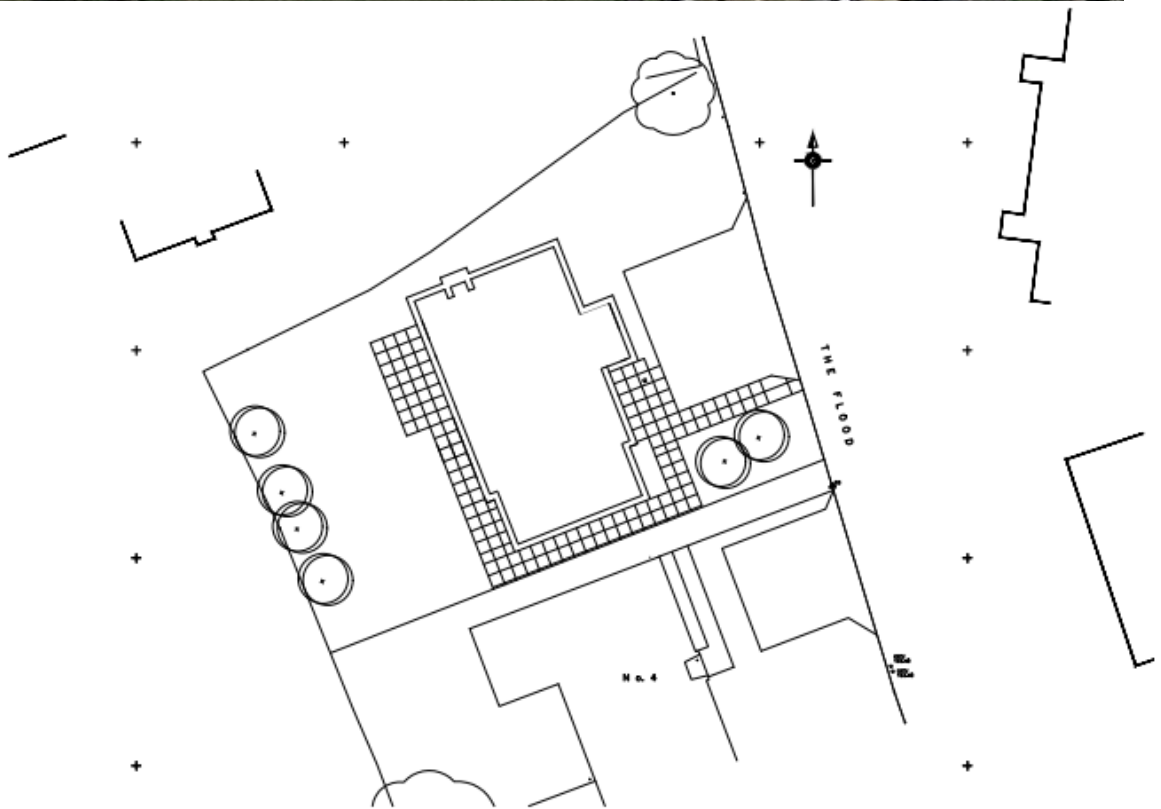
The application has generated an objection from Winterslow Parish Council and 14 letters of objection from third parties.

## 2. Site Description

The application site is on land adjacent to 4 The Flood, and was until recently garden land associated with that property. The adjoining dwelling and the application site are now in two separate ownerships. 4 The Flood is a semi-detached single storey dwelling situated within an established residential area in Winterslow and the application site lies within the village settlement boundary. It consists of the overgrown former garden area, with an open frontage to The Flood and some existing vegetation within the site and along the northern boundary, some of which would be removed as part of the development.



Site location plan, with aerial photo below.



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).

### **3. Planning History**

21/00943/FUL – 4 bedroom detached house- Refused 19/07/2021, appeal dismissed 16/08/2022

It should be noted that the above appeal was dismissed on the impact of overlooking from first floor rear windows on a neighbouring property and the grounds 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 and the revised application now removed the overlooking from the rear first floor windows.

### **4. The Proposal**

The application is in full for the construction of a three bedroomed two-storey dwelling, with parking and landscaping. The dwelling proposes rooms within the roofspace with dormer windows to the front elevation.

The height and design of the proposed dwelling, other than the rear elevation, which is referred to in more detail below, is very similar to that considered at the previous appeal on the site, which was dismissed in August last year.

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.

### **5. 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:*

## 6. 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, restricted access/ highways and flood risk.

WC Highways - I refer to the above planning application for the erection of a dwellinghouse, associated access, hard and soft landscaping and associated works (Resubmission of 21/00943/FUL).

This application is for a 3 bed dwelling rather than a 4 bed dwelling and as such adequate off street parking is proposed to meet Wiltshire's current parking standards.

The comments from the previous application are still relevant and I therefore reiterate these.

I note that some local concern has been raised about the location of the access for the new dwelling and that this may cause highway safety issues with vehicles turning in to The Flood from the North. However, it seems clear that there is an existing access already present in this broad location, which could be used regularly. The proposal actually appears to move this access slightly further South and as such, I do not believe the access location presents any detriment to highway safety over and above what already exists.

Whilst The Flood is considered substandard in terms of width and its lack of dedicated pedestrian facilities, the rural location is noted and vehicle speeds are generally low in the vicinity. As such, I do not believe that this proposal would result in a severe highway capacity issue, nor would it create an unacceptable highway safety issue.

The parking area for the existing dwelling has already been created.

I wish to raise no highway objection providing conditions are imposed.

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

## 7. Publicity

The application was publicised by letters to neighbouring properties. 14 letters of objection were received in respect of the application, raising the following points:-

- The Flood is not adequate to take additional traffic
- The junction with Roman Road is inadequate and has blind spots for both vehicles and pedestrians
- The design and appearance of the dwelling is out of character with the area
- Impact on the local electricity grid

- Loss of vegetation
- Impact on amenities of neighbours
- Lack of storage space within the dwelling
- Surface water issues on The Flood following periods of heavy rain
- Affect of the dwelling on daylight to neighbouring properties
- The dwelling is too large for the small plot
- Loss of privacy from living rooms at the front of the dwelling
- Impact on overhead power cables
- Should be single storey, like other dwellings in the road.

## 8. 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.

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 2021 for the erection of a 4 bedroomed dwelling on the site (21/00943/FUL) on the grounds that the dwelling would overlook the neighbouring property, Middleton House, to the detriment of the amenities of the occupiers of this dwelling, and that the development failed to mitigate for the impact of nitrates on the Solent Special Areas of Conservation. This application proposed three first floor windows in the rear elevation serving two bedrooms and a bathroom. It should be noted that no reasons for refusal related to the access to the site, as no objection was raised by the Highway Authority, nor was there a reason relating to the size and scale of the proposed dwelling in this location. The Parish Council did not object to the proposal either.

This application went to appeal, and the Inspector dismissed the appeal in August last year on 2 grounds, namely overlooking from first floor rear windows to the conservatory to the rear of Middleton House, and lack of mitigation for nitrates. He commented in paragraphs 10 – 12 of his decision letter as follows:-

*10. The side of the original Middleton House has a blank wall which would not lead to overlooking to those first-floor rooms.*

*11. However, the windows of the first-floor rooms on the rear elevation of the proposed house would face, albeit indirectly, the conservatory on the corner of Middleton House. This conservatory has a transparent roof and would be visible above the existing boundary hedge. As I observed on my site visit it is used as a sitting room by the occupants.*

*12. The intended occupants of the new dwelling would overlook the conservatory of Middleton House. In addition, the occupants of Middleton House would have the perception of being overlooked by the new dwelling which would be unsettling. Whilst this overlooking would not be direct and more tangential, it would nonetheless be very close and from elevated positions, and thus would be significant. Consequently, the proposal would harm the living conditions of the occupants of Middleton House.*

He went on to comment in para 14 that:-

*14. The windows would overlook part of the garden of Middleton House which is used as a sitting out area. However, the rear garden does extend away from the appeal site which would allow an alternative private area. Consequently, in terms of the impact on the outdoor space, I do not find that the proposal would be significant.*

The Inspector addressed the issue of the scale of the dwelling relative to the area as follows:-

*15. The appeal site follows the alignment and the plot sizes of existing properties along The Flood. It is large enough to accommodate the proposed dwelling without any significant overbearing or overshadowing implications.*

Therefore the appeal considered the impact of development on the amenities of the neighbouring property and the European protected sites only, and no other matters.

The Inspector raised no objection to the proposed development on grounds of highway safety or the adequacy of the highway network in this location, or the scale of the two storey dwelling on the site, or any of the other matters raised by local residents, many of which are repeated in respect of the current application .

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

*21. The Council, similar to others in the area has a mitigation scheme. This would permanently change an intensively managed, high nitrogen producing dairy farm to chalk grassland, lowland meadow and woodland. Using the latest Natural England methodology a nitrogen burden of 3.16 kg/N/yr would result from the proposal and mitigation is required to ensure there are no adverse effects on the integrity of these protected sites. This necessitates a financial payment to cover the cost of changing the land. The Council advise that the*

*cost equates to £7900. A unilateral undertaking is therefore required.*

*22. As the undertaking has not been provided, the proposal would harm protected species and would not accord with the Council's mitigation strategy agreed with Natural England. The proposal would be contrary to Wiltshire Core Strategy Policy 50 and paragraph 181 of the Framework and the Conservation of Habitats and Species Regulations 2017*

On that basis the principle of development on this site, the form of the dwelling 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. Guidance on Cost Claims contained within the National Planning Practise Guidance document make it clear that planning decisions should be reached on a consistent basis, and that objections should not be raised to a scheme or elements of a scheme where the Secretary of State or an Inspector has previously indicated to be acceptable.

### **9.3 Neighbouring Amenities**

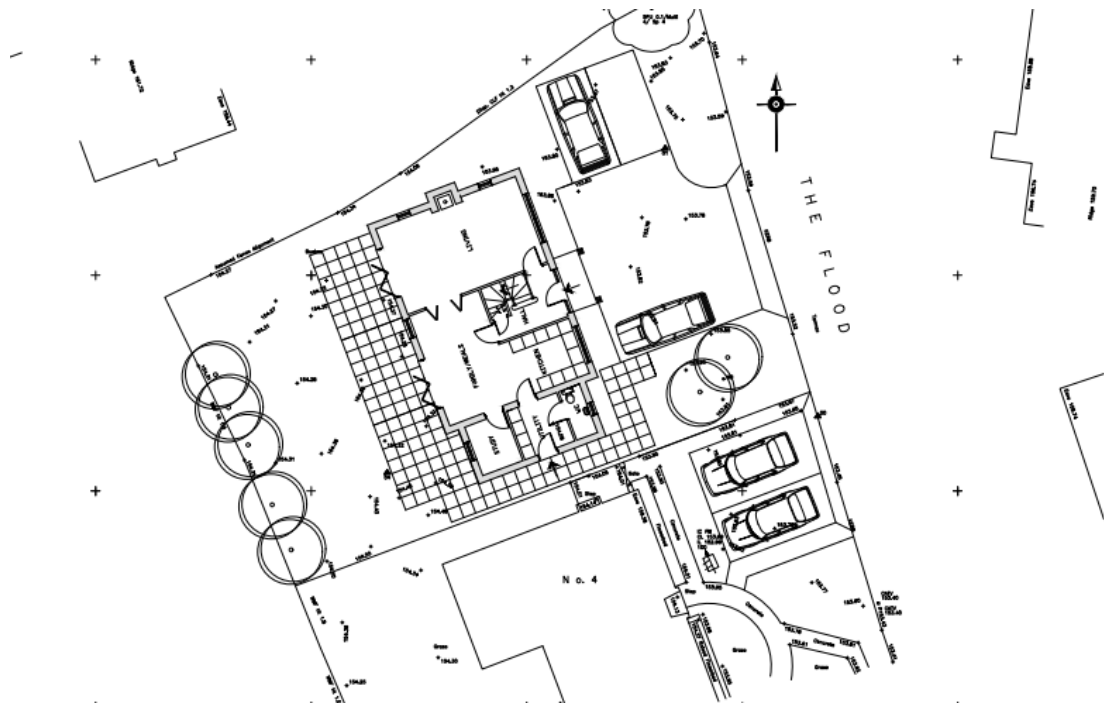
Neighbours have raised concerns about the impact of the development on their residential amenities, and similar concerns were raised in respect of the previous application that went to appeal.

As has been explained above, the Inspector found that the previous proposal would give rise to unacceptable overlooking of the neighbouring dwelling's conservatory, to the detriment of the amenities of the occupiers of that property.

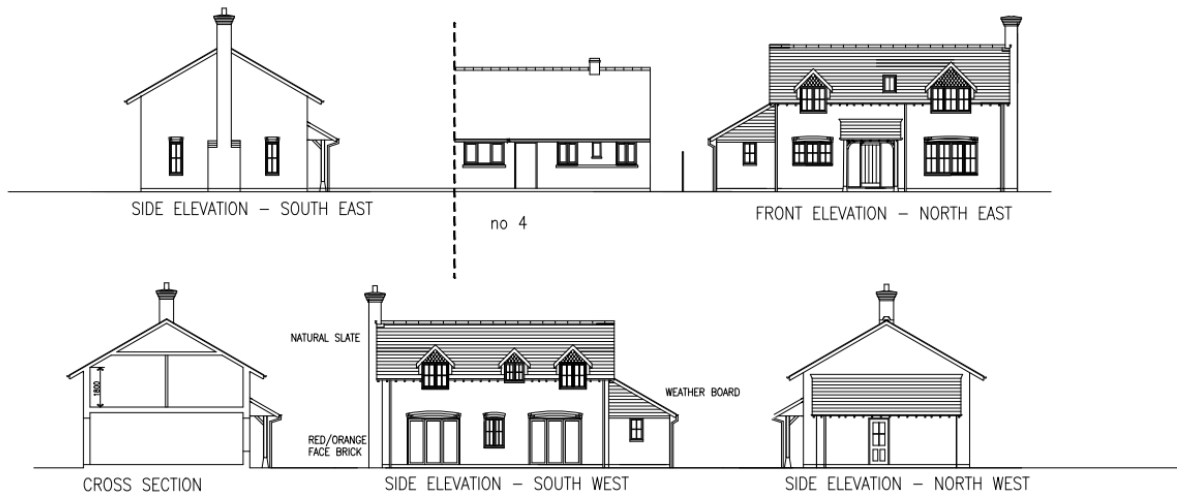
The current application has amended the design and layout of the proposed dwelling to overcome that reason for refusal. The building has been reduced to a three bedroomed property, with habitable rooms on the first floor moved to the front of the property, and with only bathrooms and a stair well rooflights to the rear rather than windows serving bedrooms. The whole building has also been slightly moved closer to the highway than the previous proposal to give a greater separation distance to the property, Middleton House, which was affected by the original proposals. However it is considered that this re-location is not sufficient to give rise to an un-acceptable relationship with the properties on the opposite side of The Flood due to the distances between the dwellings (more than 20m) and the fact that the frontages of properties are in the public domain anyway. The proposed carport/garage to the front of the dwelling has also been omitted from the current scheme.

The previously refused plans and elevations are set out below:-

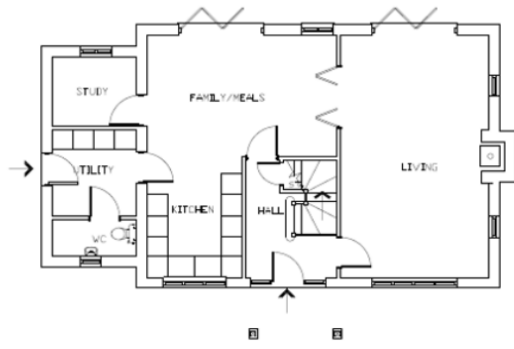




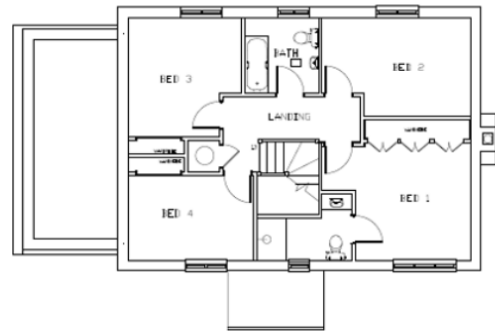
Previously proposed block plan



Previously proposed elevations

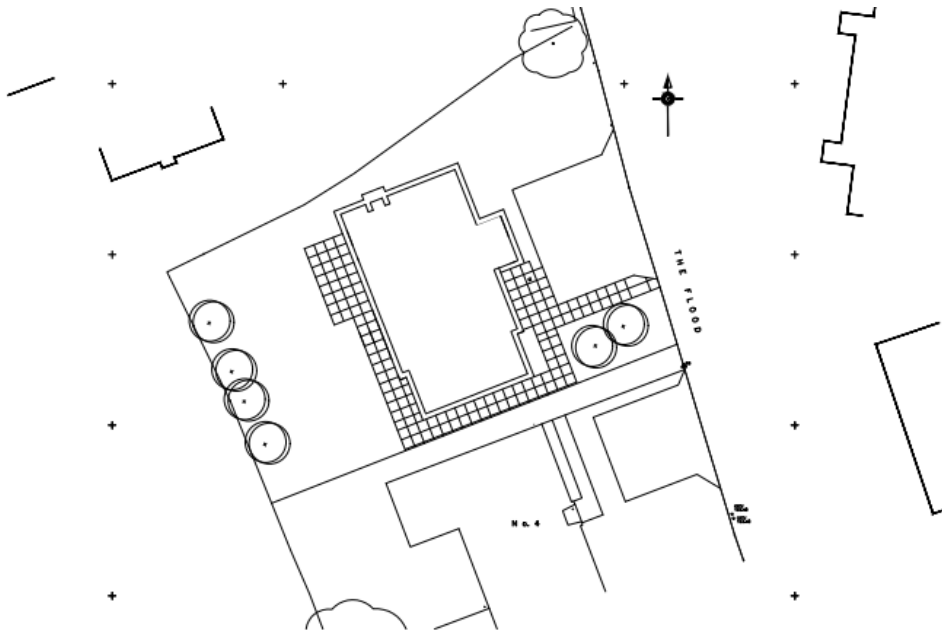


GROUND FLOOR PLAN



FIRST FLOOR PLAN

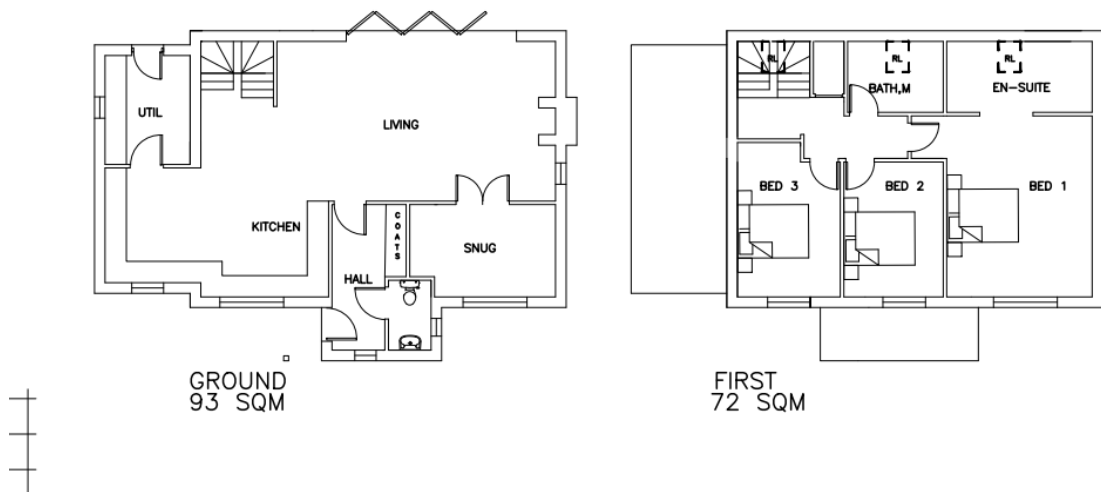
Previously proposed floor plans



Current block plan



Proposed elevations of current application



Proposed floor plans of current application

It is considered that the revised scheme, by re-arranging the internal layout of the property so that all the main habitable rooms at first floor are now to the front of the dwelling, with only bathrooms and a stairwell, all lit by roof lights, on the rear first floor elevation that the Inspector's concerns regarding overlooking of the conservatory of the dwelling known as Middleton House have been overcome.

#### 9.4 Highways

The Council's Highway Authority raised no objection to the previous application on the impact of the development on highway safety in the vicinity of the application site, and recommended that conditions be added to any planning permission. The Highways authority maintains that view in respect of the current proposal.

## **9.5 Ecology**

As has been noted above in the Planning History section, the appeal into the previous refusal of planning permission was dismissed partly as the applicants did not enter into the necessary legal agreement to secure mitigation in respect of the development's impact of additional nitrates on the Solent Special Area of Conservation and Special Protection Area.

The applicants have now 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.

## **9. 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.

## **10. 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.

A similar application was considered by a Planning Inspector in August 2022 and was only refused, when considering objections on highway safety from local residents and about the impacts of the development on the amenity of a neighbouring property and 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 and impact on amenity of the neighbouring dwelling. The applicants are in the process of entering into a legal agreement with the Council to secure the necessary mitigation for the site in respect of the nitrates objections, and the amended plans have overcome the possibility of overlooking the neighbouring dwelling.

On that basis, officers consider that the objections to the 2021 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 before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 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. 21/01/SK500 , received on 2<sup>nd</sup> December 2022  
Block Plan – Drawing no. 22/22/SK200A, received on 12<sup>th</sup> December 2022  
Proposed Floor Plans – Drawing no. 22/22/SK1, received on 2<sup>nd</sup> December 2022  
Proposed Elevations – Drawing no. 22/22/SK3, received on 2<sup>nd</sup> December 2022  
Proposed Roof Plan – Drawing no. 22/22/SK2, received on 2<sup>nd</sup> December 2022

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

- 3) No development shall commence on site above slab level until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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, in the interests of visual amenity and the character and appearance of the area.

- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-

enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the rear (south west) roofslope of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

- 5) The development hereby permitted shall not be first occupied until the first 2m 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) Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

Reason: To ensure that the highway is not inundated with private water.

- 7) No part of the development hereby permitted shall be first occupied until the access & parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter.

REASON: In the interests of highway safety.

## **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

3) The application involves an alteration to the existing vehicle access/dropped kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The

applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

4) The applicant is advised that, if it is proposed to drain this development directly into the river or carry out any work within 8 metres of the watercourse then a Land Drainage Consent is required from the Environment Agency. For further information see [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)