

REPORT OUTLINE FOR AREA PLANNING COMMITTEES**Report No.**

Date of Meeting	20 th June 2024
Application Number	PL/2024/02910
Site Address	The Gables, Dean Road, Whiteparish, Wiltshire, SP5 2RJ
Proposal	Variation of condition 1 of planning consent PL/2022/07632 to allow for design changes to porch and the erection of gates and fencing
Applicant	Mrs L Clewer
Town/Parish Council	Whiteparish
Electoral Division	Whiteparish– (Richard Britton)
Grid Ref	51.012425,-1.649538
Type of application	Full Planning
Case Officer	Joe Richardson

Reason for the application being considered by Committee

The scheme of delegation confirms that due to the relationship of the applicant to the Council, any objection received to this proposal requires the application to be determined by the relevant area planning committee board rather than under delegated powers to officers.

For the purposes of this application, the applicant is the mother of the leader of the Council, Cllr Richard Clewer and the relevant area planning committee board is the Southern Area Planning Committee.

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 for the reason(s) set out below.

2. Report Summary

The issues in this case are:

- Principle of development, policy and planning history;
- Land ownership matters;
- Design, scale, heritage/conservation matters and impact to the amenity of the area;
- Parking/Highways Impact;
- Other matters

The application has received an objection from Whiteparish Parish Council to the proposed development. The details of the objections received from the Whiteparish Parish Council and the Council's Highways Officer are set out in Section 7 (Summary of consultation responses) of this report

Following the comments received from Whiteparish Parish Council and the Council's Highways Officer, additional information and plans have been provided by the agent to address the concerns raised around land ownership and gate functionality. A re-consultation of this additional information and plans to all interested parties has taken place.

3. Site Description

The site, an existing cottage is located within the village of Whiteparish, set back from the public highway. The dwellinghouse benefits from planning permission PL/2022/07632 for the rebuilding of the partially collapsed cottage. This permission has been implemented. The dwelling prior to its partial collapse was considered to be historic in nature, not listed and identified as a property that makes a positive contribution to the Whiteparish Conservation Area of which it is located within. The location of the dwellinghouse is within the New Forest SPA, River Test Catchment Area and the Mottisfont Bat SAC.

4. Planning History

19/00581/OUT - Proposed new traditional dormer style family dwelling located at "The Gables" (Outline application relating to access, appearance and scale) WTD 14.03.19

PL/2021/09435 - Subdivision of the plot and construction of a detached bungalow with associated parking, access and landscaping WTD 17.12.21

PL/2021/11905 - 2 storey front extension, construction of a detached garage, single storey extension and conservatory and internal alterations A.C 05.05.22

PL/2022/03685 - Partial discharge of condition 5 of PL/2021/11905 (Garage material details only) APP 14.07.22

PL/2022/04488 - Discharge of condition 5 of PL/2021/11905 APP 26.07.22

PL/2022/05038 - Variation of condition 2 of PL/2021/11905 - to allow a reposition and revision to the design of the detached garage and regrade the land to the front of the cottage WTD on officer advice 20.09.22

PL/2022/07632 - Partial demolition, rebuild, extensions and internal alterations to the existing house and construction of a detached garage (part retrospective) A.C 03.02.23

5. The Proposal

The proposal seeks planning permission for the variation of condition 1 (plans) of planning consent PL/2022/07632 to allow for design changes to the porch and; the erection of fencing and gates.

6. Local Planning Policy

S72 of the Planning (Conservation and Listed Buildings) Act 1990

National Planning Policy Framework
Section 2 Achieving Sustainable Development
Section 12 Achieving Well Designed Places

Section 15 Conserving and enhancing the natural environment
Section 16 Conserving and enhancing the historic environment

Wiltshire Core Strategy

Core Policy 1 Settlement Strategy
Core Policy 2 Delivery Strategy
Core Policy 23 Southern Wiltshire Community Area
Core Policy 50 Biodiversity and Geodiversity
Core Policy 51 Landscaping
Core Policy 57 Ensuring high quality design and place shaping
Core Policy 58 Ensuring the conservation of the historic environment
Core Policy 61 Transport and New Development

Supplementary Planning Documents

Creating Places SPD
Wiltshire Design Guide 2024

Emerging Local Plan

7. Summary of consultation responses

Whiteparish Parish Council – Objection with comments stating:

Whiteparish Parish Council object to this application for the following reasons:

- 1. There is insufficient information to understand how the gates will open inwards due to the incline.*
- 2. It is mindful of the highways observation that it will encroach on to the public highway.*
- 3. We have been informed by a member of the public that works have already commenced.*

UPDATE:

Objection - *In addition to the Parish Council's objection of 25.04.24 the Parish Council would also like permitted development rights to be removed on this property for the prevention of over development.*

WC Highways – Objection with comments received stating:

I note the proposed new fence and gateway for the existing access. I have concerns that at least part of the new fenestration is encroaching upon the public highway. I have attached a copy of the highway record in this location. If additional detail/different scale is required, further copies of the highway record can be obtained from Highwayrecords@wiltshire.gov.uk As such, I invite the applicant to submit a revised plan showing the proposals overlaid with the highway record and the proposed fenestration altered as necessary to ensure no encroachment takes place. If amendments were not forthcoming, I would recommend that this application is refused for the following reason; The proposed development of a fence is located within the public highway and will not be accepted by the Highway Authority. The fence, if erected, would therefore constitute an unlawful obstruction in the public highway and for this reason planning permission is refused.

UPDATE:

No objection with comments received stating:

I note the revised plans received, including a revised block plan showing the extent of the existing public highway. The application red line boundary has thus been adjusted so that it does not include the section of retaining wall that is located within the existing highway. As such, in the context of this application, this overcomes the highway objection previously raised. I therefore recommend that no Highway objection is raised. NOTE: Whilst this application no longer considers the retaining wall located within the highway, the Local Highway Authority is in contact with the applicant directly in regard to a way forward with the structure, in accordance with the requirements of The Highways Act 1980.

8. Publicity

The application has been advertised by way of letters to near neighbours and a site notice but has not generated any representations from members of the public.

The publicity of this application has generated an objection from Whiteparish Parish Council and the Highways Officer. Following the submission of additional information and plans, a re-consultation to all interested parties has been undertaken to address the concerns raised. The objection from the Council's Highways Officer has been withdrawn but the objection from Whiteparish Parish Council to this proposal is maintained.

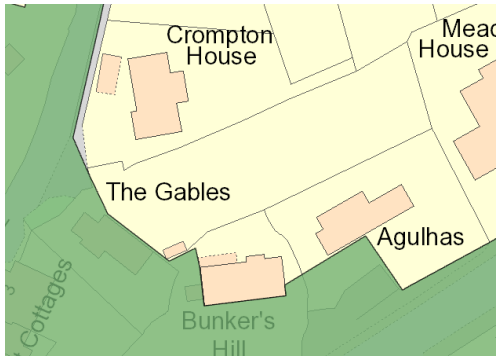
9. Planning Considerations

9.1 Principle of development, policy and planning history

The principle of development has been established through the recent extensive planning history of the site through consents PL/2021/11905 and PL/2022/07632. It is evident that planning consent PL/2022/07632 has been implemented and the re-constructed dwellinghouse approved by this consent has been erected. The proposal seeks planning permission for the variation of condition 1 (plans) of planning consent PL/2022/07632 to allow for design changes to the porch and; the re-profiling of land to facilitate the erection of fencing and gates.

A Section 73 application allows for variation and/or removal of condition(s). Any new information received in relation to a previous condition can facilitate the removal of the condition requirements on any new decision notice issued as part of a Section 73 application

The site subject to this scheme is located partially within and partially outside the Whiteparish Conservation Area as shown below:



The proposal should aim to conform to the objectives of Core Policy 57 of the Wiltshire Core Strategy (WCS) which aims to achieve a high standard of design in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality.

Core Policy 57 of the WCS requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF (paragraph 135f) states that planning decisions should 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.'

Core Policy 58 of the WCS states that development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance, including:

- i.* Nationally significant archaeological remains
- ii.* World Heritage Sites within and adjacent to Wiltshire
- iii.* Buildings and structures of special architectural or historic interest
- iv.* The special character or appearance of conservation areas
- v.* Historic parks and gardens
- vi.* Important landscapes, including registered battlefields and townscapes.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

9.2 Land ownership matters

Below is an extract taken of land within the ownership of the Council's Highways Team. The original red line plan provided within this application included a section of this land and as such the Council's Highways Team objected to this proposal. The agent has now submitted an amended red line plan that does not include any land within the ownership of the Council's Highways Team and therefore, the Highways objection to this proposal has been withdrawn. Full details of this will be covered in the Parking/Highway Safety section of this report.



However, before reviewing the proposed fencing and gates, it is necessary to advise on the area of land at the front of the dwellinghouse. It is evident that re-profiling of an area of land at the front of the dwellinghouse has already been completed with the creation of retaining walling. This retaining walling is shown in the photographs below. These photographs were taken by the case officer during site visits connected with the different planning applications on the site. However, it is unclear who actually owns this parcel of land. Officers are aware that on-going discussions between the applicant and Council's Highways Team to ascertain ownership are on-going.

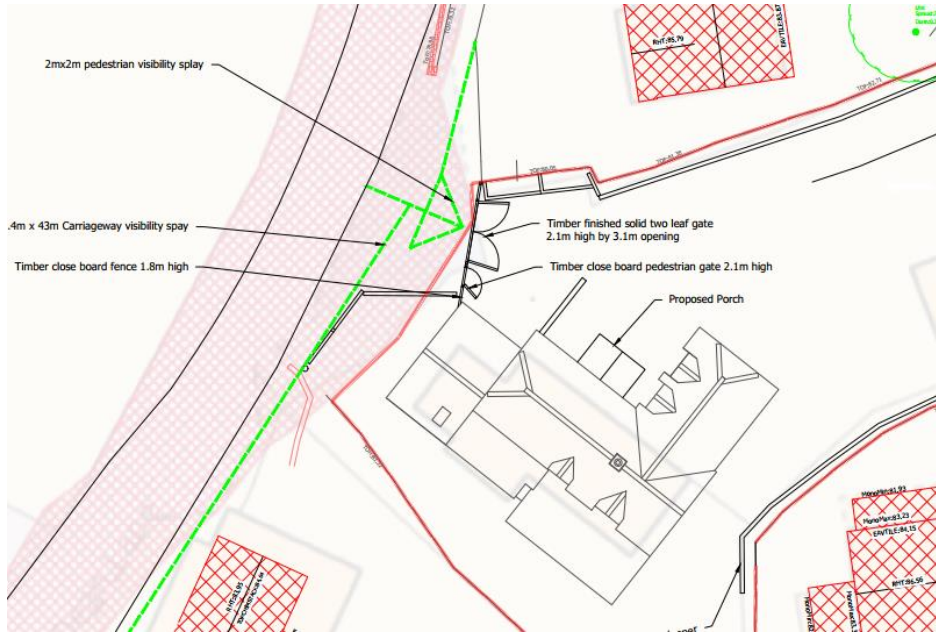


Photo taken 25th Nov 2022



Photo taken 26th April 2024

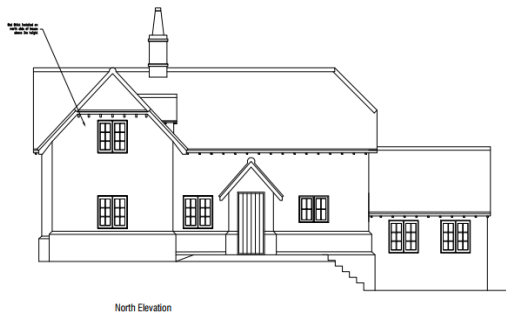
It is important to advise members that this parcel of land does not form part of this planning application. The proposed fencing and gates are to run across the existing driveway entrance of the property and would then join to the existing fencing along the boundary as shown in the submitted proposed block plan below.



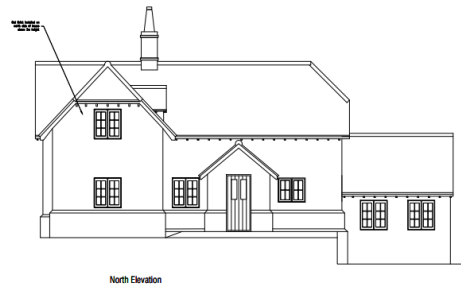
9.3 Design, scale and impact to the amenity of the area including the Conservation Area

The changes to the design of the approved and proposed porch are shown below:

Comparison of the approved elevations under PL/2022/07632 and proposed elevations subject to proposal below:



Approved (above)



Proposed (above)



Approved (above)

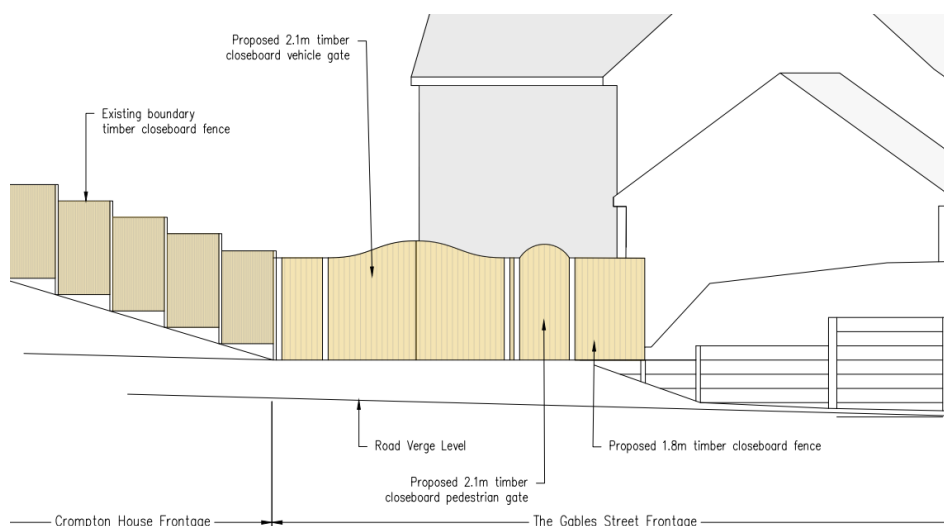


Proposed (above)

As shown, the changes in the design would see a modest extension to the porch providing a larger footprint/area and change in roof angle to facilitate the increase in size. The existing approved porch had a floor area of 1.2 square metres and the proposed increase in porch size would see the floor area increased to 2.7 square metres. The changes proposed that would also include the insertion of a small window into the western elevation of the extended porch are required to increase the user functionality of this part of the dwellinghouse and would not include any element of the historic fabric of the dwellinghouse retained under the previous approval.

Other works proposed include the erection of fencing and gates to serve the access/egress at the front of property. As previously alluded to, the proposed fencing and gates would not be erected on the parcel of land at the front of the property which is the subject of on-going land ownership matters between the applicant and Highways Authority.

The proposed 1.8 metre wooden fencing and 2.1 metre wooden gates (one vehicular, one pedestrian) would be erected across the existing frontage of the dwellinghouse connected to the existing boundary fencing and finishing at corner point of the gable-end elevation of the dwellinghouse. This is shown in the proposed street scene elevation.



In officer opinion, the proposed fencing and gates are of standard appearance and would help enclose the existing dwellinghouse and access/egress. Officers note the concerns received from the Parish Council in regard to how the gates will open inward given the incline/land level changes of the existing driveway. Additional plans have been provided along with additional information to confirm that the electrically operated inward opening vehicle and pedestrians gates proposed would require an adjustment of the driveway levels by no more than 250mm to that of the levels approved under the previous consent. This land level adjustment would enable the gates to swing inward towards the property.

Works to increase the size of the porch would not include any element of the historic fabric of the dwellinghouse retained under the previous approval. Furthermore, in officer opinion, the proposed works that include the increase in size of the porch and the erection of the fencing and gates across the site frontage are acceptable in design, scale and massing. In terms of any impact to the appearance of the Whiteparish Conservation Area by way of the proposed, it is considered there would not be any adverse harm and as such, the scheme accords with the requirements of Core Policies CP57 and CP58 of the WCS.

By way of the nature of the works proposed, it is considered that there would not be any significant detrimental harm on the amenity of any nearby neighbouring properties, known as Crompton House, Bunkers Hill, Agulhas, Nunns Orchard or 3 White Hart Cottages to justify the refusal of this Section 73 planning application to vary the approved plans condition of planning consent PL/2022/07632.

9.4 Highway safety/parking

As already alluded to within this report, and as shown in the consultee response section of this report, the Council's Highways Team objected to this proposal as the original red line plan provided within this application included a section of this land that is believed to be within the ownership of the Highways Authority and not the applicant. An amended red line plan removing the retaining wall constructed by the applicant has been submitted to the Local Planning Authority for consideration.

The Highways Officer has assessed this amended plan showing this section of land/retaining wall being removed from this proposal and has raised no objection to the proposed works. On the basis of the Highways Officer comments, officers consider that the proposed works will not have any adverse impact to highway users or highway safety.

The matter of the retaining wall and ownership of the parcel of land, whether this be within the ownership of the applicant or the Highways Authority is a separate matter to be resolved between the relevant parties.

9.5 Other matters

Officers note the concerns of the Parish Council in respect of works being undertaken prior to any planning permission being granted. Following a site visit to the application site, officers observed the retaining wall being in situ. However, these works do not form part of the planning application and are subject to on-going discussions to be resolved between the applicant and the Highways Authority for the reasoning as already outlined. No other works subject to this planning application have been commenced.

10 Conclusion and Planning Balance

The comments received from the Parish Council are duly noted and have been carefully considered. The planning history of the site is also noted where a precedent and principle of development for the works have been established and is referred to within this report.

Members are advised that this is a Section 73 planning application to vary condition 1 of planning permission PL/2022/07632 to allow for design changes to the size of the porch and; for the erection of fencing and gates across the site frontage. A Section 73 application allows for variation and/or removal of condition(s). Any new information received in relation to a previous condition can facilitate the removal of the condition requirements on any new decision notice issued as part of a Section 73 application.

The issues raised by the parcel of land and retaining walling incorporating land outside the ownership of the applicant have been resolved by the submission of an amended red line plan that has been confirmed to be acceptable by the Highways Officer and are the subject of on-going separate discussions outside the scope of this planning application.

Officers therefore consider that on balance, having regard for the nature of works proposed, the proposal accords with the requirements of Core Policies CP57 and CP58 of the Wiltshire

Core Strategy, guidance with the NPPF and thus, recommends planning permission for the variation of condition 1 of planning consent PL/2022/07632 should be granted for the development proposal.

11 RECOMMENDATION:

Approve with 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:

Site Location Plan Date Received 04.06.24

DWG No: 154 103 Rev E Proposed Block Plan Date Received 26.04.24

DWG No: 154 017 Rev C Proposed Elevations with Ecological Mitigation Date Received 19.04.24

Proposed Garage Elevations and Floor Plan Date Received 20.03.24

DWG No: 154 016 Rev B Proposed Ground Floor and First Floor Plans Date Received 19.04.24

DWG No: 154 018 Rev A Proposed Roof Plan Date Received 26.04.24

DWG No: 1352/05 Proposed Dormer Detail Date Received 26.04.24

DWG No: 154 317 Rev A Retained Dwellinghouse Elevations Date Received 26.04.24

DWG No: 154 104 Rev E Proposed Street View of Fencing and Gates Date Received 26.04.24

DWG No: 154 106 Rev A Proposed Gate Section Date Received 26.04.24

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

- 3 The materials to be used in the extension of the porch hereby permitted shall match in material, colour and texture those used in the existing dwellinghouse.

REASON: In the interests of visual amenity and to preserve and enhance the appearance of the Conservation 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), there shall be no extensions, alterations or further window openings inserted to the roofslopes or first floor elevations to the dwelling other than as approved as part of a formal planning application by the Local Planning Authority.

REASON: In the interests of the amenity of the area.

- 5 Before the development hereby permitted is first brought into use the dormer window in the southern roofslope as shown in approved drawing DWG No: 154 017 Rev C Proposed Elevations with Ecological Mitigation/Enhancement Proposals (serving the ensuite bathroom) shall be glazed with obscure glass only (to level 5 obscurity) and shall be maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

- 6 No part of the development hereby permitted shall be first occupied until the access, turning areas and parking spaces have been completed in accordance with the details shown on the approved plans.

REASON: In the interests of highway safety.

- 7 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.

- 8 The development shall be carried out in strict accordance with Section 3.6 of the Bat Survey Report by Daniel Ahern Ecology Ltd dated March 2022 and DWG No: 154 017 Rev C Proposed Elevations with Ecological Mitigation. The installation of the bat and bee bricks and bird box as showing on the approved drawing shall be supervised by a professional ecologist and these enhancement measures will continue to be available for their target species for the lifetime of the development.

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

INFORMATIVE TO APPLICANT(S):

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/communityinfrastructur

[elevy](#)

2. Breeding birds

The adults, young, eggs and nests of all species of birds are protected by the Wildlife and Countryside Act 1981 (as amended) while they are breeding. Please be advised that works should not take place that will harm nesting birds from March to August inclusive. All British birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 while birds are nesting, building nests and sitting on eggs. The applicant is advised to check any structure or vegetation capable of supporting breeding birds and delay removing or altering such features until after young birds have fledged. Damage to extensive areas that could contain nests/breeding birds should be undertaken outside the breeding season. This season is usually taken to be the period between 1st March and 31st August but some species are known to breed outside these limits.

3. Artificial lighting

The habitat within the proposed development site and the surrounding area is suitable for roosting, foraging and commuting bats. An increase in artificial lux levels can deter bats which could result in roost abandonment and/or the severance of key foraging areas. This will likely result in a significant negative impact upon the health of bat populations across the region. Artificial light at night also negatively affects humans' health and has a substantial adverse effect on biodiversity. Therefore, any new external artificial lighting as part of this development should only be for the purposes of security and safe access. Any new lighting should be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

4. Bat roosts

There is a low risk that bats may occur at the development site. Many species of bat depend on buildings for roosting, with each having its own preferred type of roost. Most species roost in crevices such as under ridge tiles, behind roofing felt or in cavity walls and are therefore not often seen in the roof space. Bat roosts are protected all times by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 even when bats are temporarily absent because, being creatures of habit, they usually return to the same roost site every year. Planning permission for development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a bat licence if an offence is likely. If bats or evidence of bats is found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or the applicant is advised to follow the advice of a professional ecologist or to contact Natural England's Batline through the internet.

5. The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

6. Whilst this application no longer considers the retaining wall located within the highway, the applicant is advised to contact the Local Highway Authority to discuss an appropriate resolution to the retaining wall, in accordance with the requirements of The Highways Act 1980.