CASE OFFICER'S REPORT

Application Reference: PL/2023/09727

Application Address: Tennis Court, Ferne Estates, Berwick St John, Wiltshire SP7 0EU

SITE DESCRIPTION/CONTEXT

The site lies outside of any settlement boundary, as defined by Wiltshire Core Strategy (WCS) policies CP1, CP2. The site is in Flood Zone 1 and not in any vicinity of any rivers. It is located in the Cranborne Chase & West Wiltshire Downs. The application site is located within Ferne Estate, it is a small parcel of land between Ferne Park Cottage and Garden House. Ferne Estate lies between the villages of Berwick St. John and Ludwell. The existing tennis courts are bordered by paddocks on the north, east and south side. While a private access drive of the wider estate runs along the west side.

PROPOSAL

The application site is an existing private tennis court associated with the wider Ferne Park Estate. The application is for proposed works to erect a new permanent sports barn with a footprint larger than that of the existing tennis court, to create a private indoor tennis and padel court as well as associated changing and toilet facilities for year-round use.

RELEVANT HISTORY

S/2003/0377 - TENNIS COURT WITH BOUNDARY FENCE AND PRACTICE WALL - APPROVE WITH CONDITIONS

S/2004/1567 - CREATION OF LANDSCAPING BUND TO SOUTH OF TENNIS COURT - APPROVE WITH CONDITIONS

S/2006/0289 - PROPOSED TENNIS COURT PAVILION - APPROVE WITH CONDITIONS

PL/2023/00178 - THE ERECTION OF A COLLAPSIBLE TEMPORARY DOME COVER STRUCTURE FOR THE WINTER MONTHS ONLY FOR A TEMPORARY PERIOD OF TWO YEARS TO A PREVIOUSLY APPROVED TENNIS COURT. - WITHDRAWN BY APPLICANT

POLICIES

National Planning Policy Framework (NPPF)
2. Achieving sustainable development
4. Decision-making
12. Achieving Well-designed places

Wiltshire Core Strategy (WCS)
Core Policy 1: Settlement Strategy
Core Policy 2: Delivery Strategy
Core Policy 50: Biodiversity and geodiversity
Core Policy 51: Landscape
Core Policy 52: Green Infrastructure
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the conservation of the historic environment

CONSULTATION
Public Protection: No objection.

Highways Department: No objection.

Environment Agency: None received.

Drainage: No comment.

Neighbour/third parties: None received.

Berwick St John Parish Council: Support - Berwick St John Parish Council support this application, subject to compliance with the National Landscape Lighting & Planning Policies relating to International Dark Skies Reserves. Appropriate blinds or louvres should be fitted to

the windows, in order to minimise any light pollution. Blinds/louvres not easily accessible to be fitted with light sensor systems to ensure automatic closure at dusk.

As part of this application the Ecology team, Landscape team, and AONB/ National Landscape teams were consulted. All three of these teams initially objected to the proposals based on similar issues which can be summarised as follows:

- Concerns regarding large areas of fenestrations which cause internal light spill
- Objections to any proposed external lighting within the International Dark Skies Reserve
- Lack of information regarding the provision of an access road and parking area.
- Require more biodiversity enhancement measures.
- Concern regarding the longer views and outlook from Public Rights of Way of the proposed development within the AONB/National Landscape.
- Required more viewpoints from various PRoW and at the 'worst case scenario' which is in the winter when trees and hedges are at their lowest
- Concern regarding the reflection caused by the proposed colour of the black metal paint with suggestions of using matt black paint to minimise reflection.
- Need for additional strengthening of landscape mitigation to ensure the long-term screening / softening of the proposed development (specifically concentrated along the eastern boundary of the site.)
- In view of the isolated nature of the proposal and the narrow characteristics of the local roads the location is not appropriate for a public or competitive sports facility.

<u>Ecology:</u>

After receiving and reviewing the revised documents the ecology team has noted:

- The ecology report (Ecological Appraisal, Proposed Sports Barn At Ferne Park, Date: 21st June 2023 by Malford Environmental Consulting) submitted to this application is welcomed. The report details a sufficient survey effort to determine the ecological baseline of the site and the suitable mitigation measures to ensure the continued functionality of the area for biodiversity.

- The proposed structure has a large percentage cover of fenestrations which is a concern due to internal light spill onto the adjacent habitats including the Deciduous Woodland Habitat of Principal Importance. However, since the current site has significant unmitigated light pollution from the existing flood lights the proposed design will seemingly result in a net reduction of artificial light spill.

- A significant proportion of the proposed habitat mitigation and enhancement is outside the red line boundary but in the blue line boundary. The proposed habitat creation on drawing Landscape Strategy, Number: WHL-1676-05, Date: February 2024 by WH Landscape Consultancy Ltd must be secured by condition or legal agreement if planning approval is forthcoming.

- Habitat Regulations Assessment (HRA) – Test of likely significance - Hampshire River Avon Catchment Special Area of Conservation (SAC):

  A test of likely significance has been carried out by the relevant Competent Authority (Wiltshire Council) as required by Regulation 63 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This concluded that given the scale and nature of the development any temporary construction impacts and operational impacts The HRA has concluded that the application is not likely to have significant impacts on the SAC and Appropriate Assessment is not required.

Alongside their comments noted above, the Ecology team have also asked that certain conditions be included in the decision notice.

<u>Landscape:</u>

After receiving and reviewing the revised documents the landscape team has noted:

- As the site sits in the Cranborne Chase National Landscape, there is a need for additional strengthening of landscape mitigation to ensure the long-term screening / softening of the proposed development along with the comments around light spill. The original concerns related to a lack of landscape mitigation to the east of the proposed development and concerns over possible light spill from the building and any external

lighting out into the wider landscape. A revised set of drawings were produced which included additional tree planting along the eastern edge of the site.

- The landscape team are in agreement that the revised documents noting that no external lighting will be installed, and the revised elevation details highlighting the automatic louvre screens and blinds that have now been included within the structure to avoid internal light spill from the large picture windows allow them to remove their previous holding objection subject to conditions.

The conditions stipulated are with regards to WC1 and WC2 which is for the approval of landscaping before commencement and for the approved landscaping measures to be carried out and maintained. Aside from those landscaping conditions, the consultee has also noted that a condition regarding any approval that any future external lighting within the curtilage of the red line boundary must be subject to a separate planning application. These conditions have been included in the decision notice.

AONB (Cranborne Chase):

After receiving and reviewing the revised documents the AONB/National Landscape Partnership has noted:

- Additional information regarding how the proposed louver screens would be moved across the windows should be provided.
- Not all areas of glazing were noted to have louvers or blinds.
- Colour and surface texture of black paint on walls and the roof needs to be with a matt finish.
- Planting of the trees to be conditioned to be in the planting season when the building is erected.

After the points received from the AONB/National Landscape Partnership, the officer requested additional revised documents from the agent which has now been received and all the noted points have now been met by these.

PLANNING ISSUES

The application is considered in the context of the National Planning Policy Framework (NPPF), and the Wiltshire Core Strategy (WCS). Under the NPPF Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2044 require that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise. At the current time of the statutory development plan in respect of this application consists of the WCS (Adopted January 2015).

The main issues to consider are:

- Principle of Development
- Design, Scale and impact on residential amenity
- Impact on the Character and Appearance of the Area (AONB/National Landscapes)
- Dark Skies and Lighting
- Landscape and Ecology
- Parking/Access

ASSESSMENT

Principle of Development

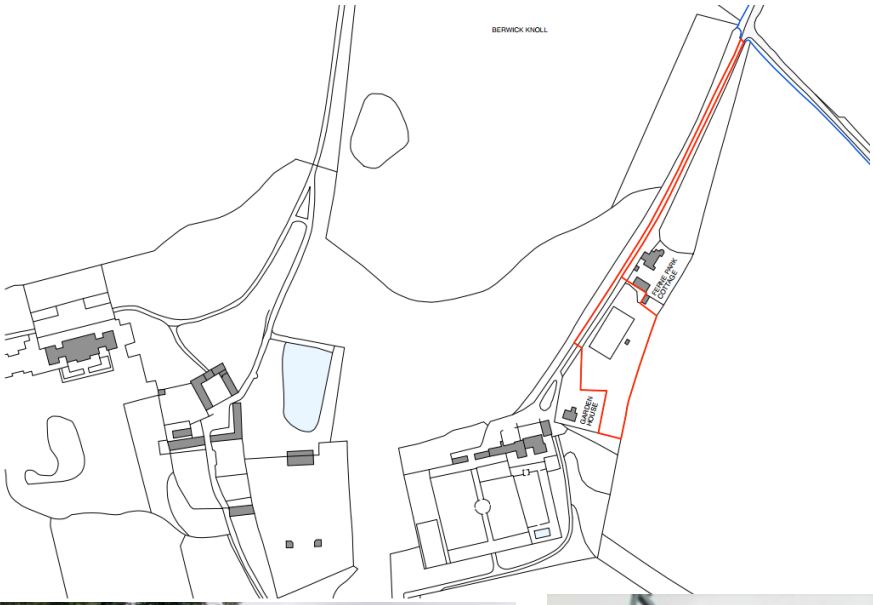
The site is not situated within a settlement boundary lies outside the defined settlement of Tisbury. As defined by WCS policies CP1, CP2 and CP27, development outside the defined settlement boundaries and at local service centres will be limited to infill within the existing built area.

Design, Scale and Impact on Residential Amenity

The application site consists of an existing external tennis court that has previously had a plastic dome structure erected over it to allow for the court to be used in all seasons. The submitted documents have noted that the proposed sports barn is an improvement to the previous bubble cover. However, it is important to note and highlight that the bubble cover was not approved under any planning application and was undergoing enforcement action prior to this application being submitted. Therefore, this application and the effects of the proposed works cannot be seen as being an improvement to the previously erected bubble cover, as the development was

not permitted in the first place. This bubble cover has now been dismantled and taken off site at the moment of writing this report.

The application site consists of an open-air tennis court with a green chain link fence surrounding the court, and post and rail fencing surrounding the chain link fence. An existing single storey pavilion is located at the northern end of the red line boundary which is proposed to be retained. There is also an existing small detached changing room building which is proposed to be demolished. Behind the pavilion is Ferne Park Cottage, a detached residential dwelling associated with the wider Ferne Park Estate. Located on the southwest is another residential dwelling, Garden House, also associated with the wider Ferne Park Estate.





Existing Pavilion to be retained. With Ferne Park Cottage in behind it.



Existing external floodlights and Chain link fence.



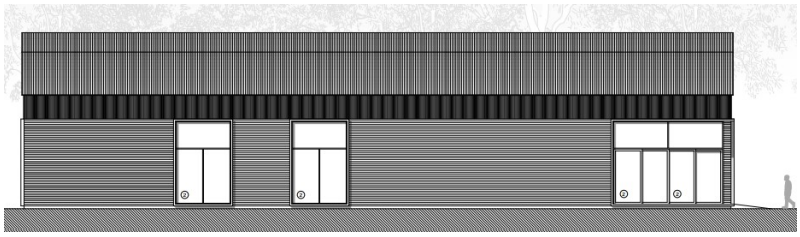


Existing changing room disused and proposed to be demolished.

This application now seeks to create a sports barn in the same location as the existing external tennis court to create an area for year-round use for the private use of the residents of Fern Park. The proposed sports barn creates an internal tennis court, padel courts, changing facilities/toilets, and associated spaces. The design of the barn takes precedence from an agricultural Dutch Barn. The simple design and use of materials of the proposed sports barn aims to be perceived as an agricultural barn. However, the large expanse of glazing throughout all the elevations does not marry into this notion of being an agricultural barn. The proposed sports barn has two different sizes of curve roofs and is proposed to be made up of metal on the roof and walls. Breaking up the massing of the sports barn into two asymmetrical curves softens the potential scale of the proposed development.

The dimensions of the proposed sports barn is approximately 38 m by 32 m with the taller curve having a height of approximately 9.4 m and the smaller one being 8.3.





The application site sits between two residential dwellings with Ferne Park Cottage on the north and Garden House to the south. It is believed that these two dwellings are associated with the wider Ferne Park estate. No comments have been received from these neighbours.

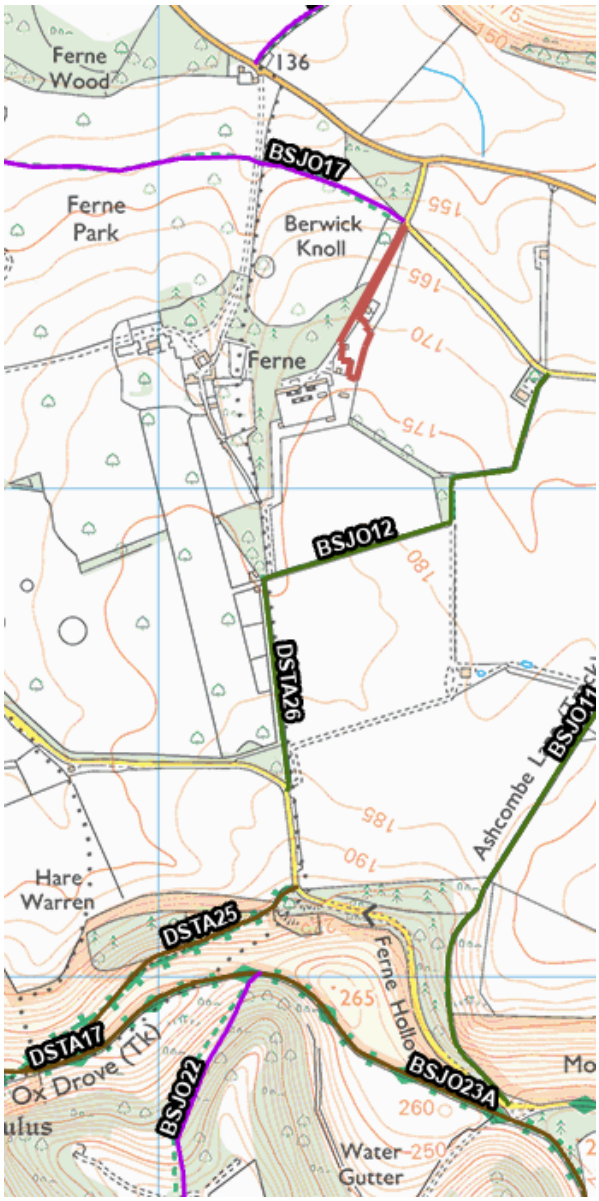
Due the isolated nature of the proposal and the narrow characteristics of the local roads the location is not appropriate for the proposed sports barn to be used as a public or competitive sports facility. This has been conditioned in the decision notice.

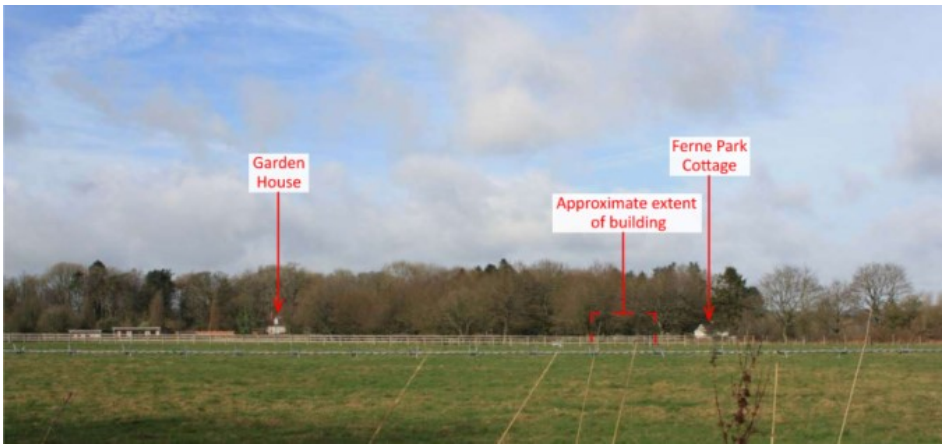
Impact on the Character and Appearance of the Area (AONB/National Landscapes)

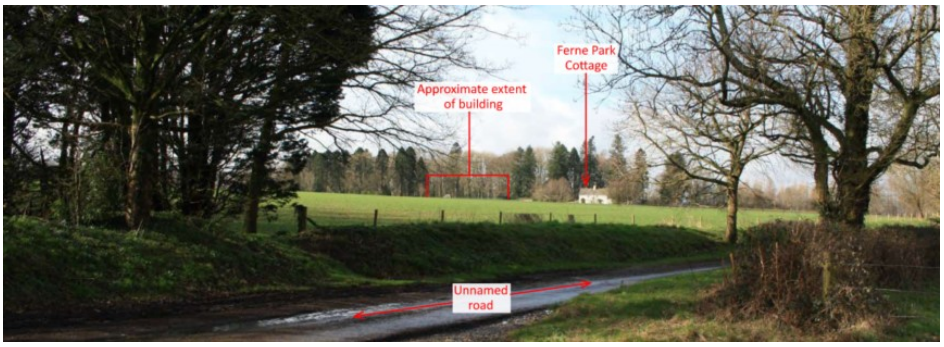
The application site is located in the Cranborne Chase AONB/National Landscape. Wiltshire Core Strategy Core Policy 51 which seeks to protect, conserve and enhance Wiltshire's distinctive landscape character will be relevant to the planning application. Development within

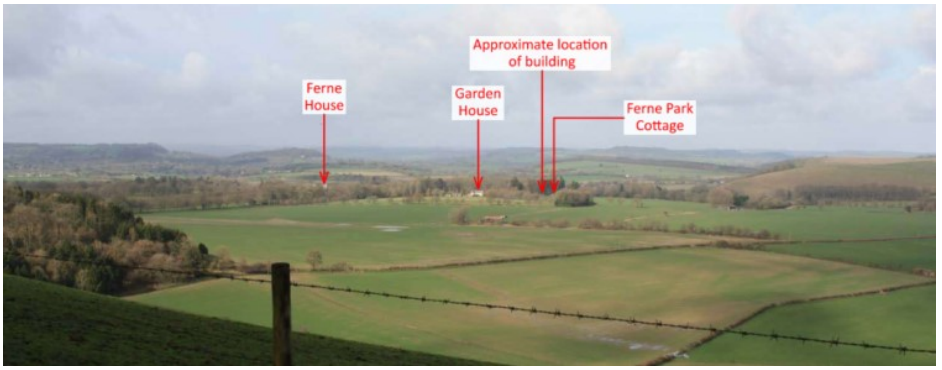
the AONB/NL should protect, conserve and where possible enhance landscape character, while any negative impacts must be mitigated through sensitive design and landscape measures.

Additionally, the application site is in a location where the development would be visible from various public right of way footpaths and bridleways. Mitigation for long term screening and softening of the development from these views have been submitted as part of this planning application. Photographs of different views from these rights of way footpaths during winter and summer have also been submitted as part of the application.



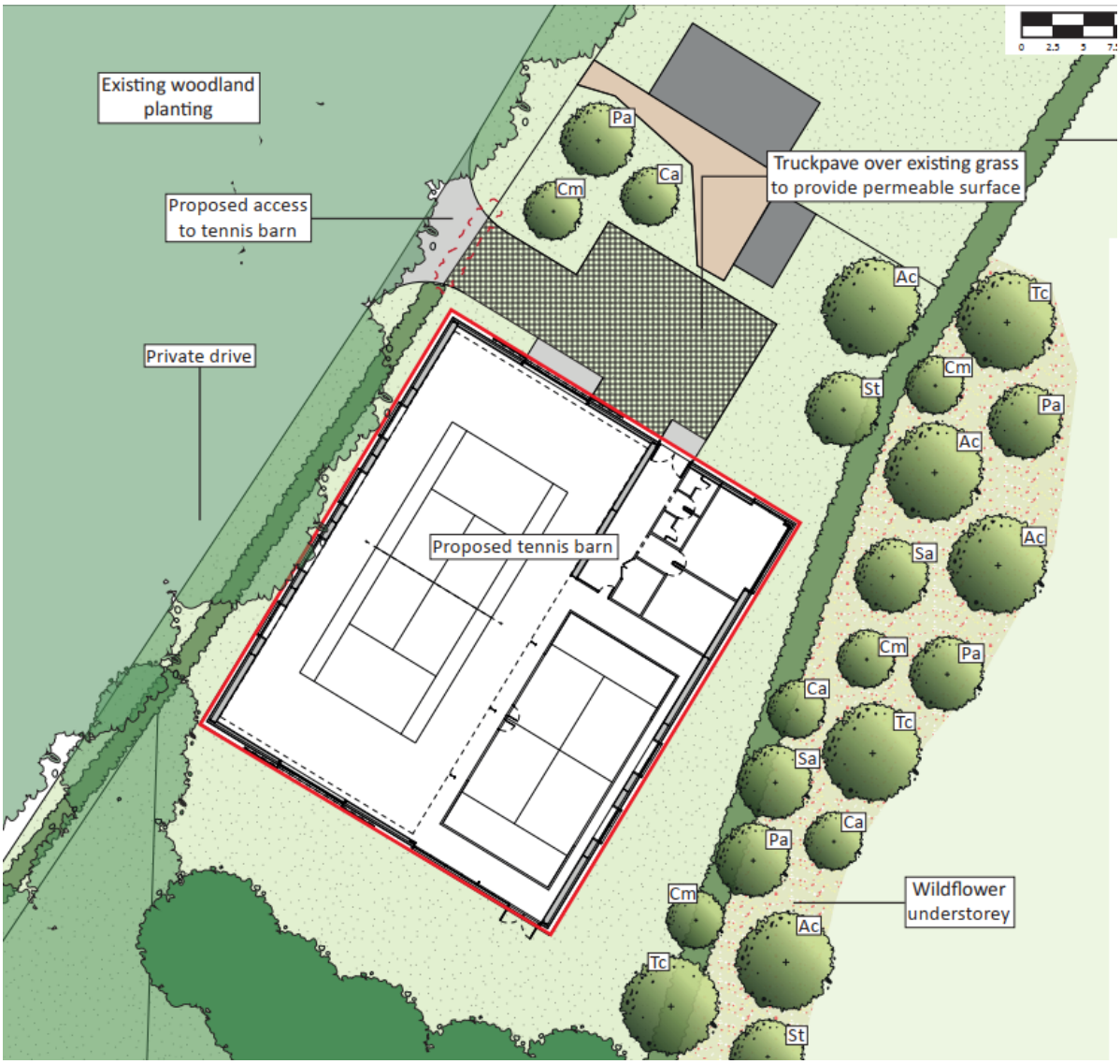






Photographs showing the context of the proposed development from various rights of way footpaths during winter.

The various consultees have noted that the submitted photographs and the existence of various right of way paths evidence that long term screening would be required particularly at the southwest area of the application site. To achieve an acceptable level of screening, 15 trees were suggested by the consultees to be planted as part of the planning application. However, the agent noted that there was not enough space within the red line boundary for these trees. The revised documents submitted by the agent propose these 15 trees be planted outside of the red line boundary but within the blue line boundary and within the ownership of the applicants also located along the southwestern boundary. The planting of these trees has been conditioned to be in place prior to the development being in use and is to be maintained and retained for the lifetime of the development.



Dark Skies and Lighting

The application site is located within the Cranborne Chase and West Wilshire Downs AONB/NL and the International Dark Skies Reserve, which confers a national and international statutory landscape designation onto the landscape. WCS CP51 Landscape has also noted that proposals will need to demonstrate: Tranquillity and the need to protect against intrusion from light pollution, noise, and motion.

The existing external tennis court has 5 tennis court floodlights and with the development of the proposed sports barn, these external floodlights will be removed from the landscape. The comment from the consultees have noted that whilst the development will have the appearance of an agricultural barn, the large window openings proposed means that the development will have a significantly more intense usage than a barn with agricultural use. A lighting technical report has been suggested to be submitted by the consultees. The agent however has not submitted any proposals for any external lighting; therefore, they have not included a lighting technical report. A condition has been included stating that any new external lighting would need to 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 GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

The proposed sports barn has areas of glazing on all elevations. The mitigation strategy discussed with the agent after receiving consultation responses are noted in the submitted documents and indicate that all the proposed areas of glazing are to have either external louver screens or internal blackout blinds. These are proposed to be electronically operated and linked to internal controls with automated dusk to dawn mode of operations. These light spill reduction systems prevent any light spill from the internal lighting within the proposed development specifically at night. Whilst such a proposal would seem to alleviate the lighting concerns, the LPA considers that the closing and opening of shutters etc across windows would be difficult if not impossible to enforce. The 6 tests for Planning conditions would therefore not be able to be met. Notwithstanding, compared to the existing lighting situation and impact on site, it is considered that the proposal as designed, would be unlikely to have any more of a demonstrable impact in terms of light spill on the Dark skies reserve/AONB, particular given the surrounding landscape/planting features and the limited times the building is likely to be used in

reality. Indeed, the proposed building would be more likely to contain light spill upwards that the existing situation on site.

Concerns were raised by the consultees regarding the surface texture of the proposed black paint on all the surfaces (roof and walls) which can potentially cause reflections and a shiny appearance of the surface particularly when the surface is wet or damp with dew. The application has been revised and now notes that matt black paint is proposed to be used on all surfaces (roof and walls).

Landscape and Ecology

The site is located within the Cranborne Chase National Landscapes with adjacent habitats such as a Deciduous Woodland Habit of Principal Importance. Section 15 of the NPPF - Conserving and enhancing the natural environment notes that: great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Core Policy 50 of the Wilshire Core Strategy also further strengthens the need for ecological protection. The ecological appraisal submitted as part of this application has given an ecological baseline which currently exists on the site. After which mitigation measures have been proposed to ensure the continued functionality of the area for biodiversity.

The site is located between two boundary hedgerows along the south-eastern and north-western sides. The proposed tennis barn extends further along the south-eastern boundary of the application site when compared to the existing tennis courts. The development extends out to an existing are of grassland which appears to be regularly mowed and as such is of low ecological value.

A 7.5meter section of the existing hedge located along the western boundary is proposed to be removed to facilitate vehicular access into the application site.

The ecological report has noted that the existing structures on the application site have no potential to support roosting bats. The eastern hedge located at the boundary of the red line of the application site is an existing arable field. The ecological report has noted that there are no protected mammals inhabiting the application site, it is unsuitable for supporting ground nesting birds, and is not considered to support reptiles and great crested newt. No birds were heard or observed within the application site during the walkover survey. Common birds could nest within the boundary hedgerows, vast majority of the hedges will be retained and protected. An informative has been added to the decision notice indicating that according to the Wildlife and Countryside Act (1981) and the Habitats Regulations (2017) it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles.

Throughout the planning process there has been an exchange between the agent and the specific consultees with regards to achieving a sufficient amount of ecological mitigation and enhancement. These mitigation and enhancement procedures include the protection of animals during construction, lighting design notes, protecting nesting birds, a proposed bat roosting box, proposed bird nesting boxes, an area of wildflower grassland, woodland planting, and tree planting.

A habitat regulations assessment has been carried out by the relevant Competent Authority (Wiltshire Council) as required by Regulation 63 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. HRA has concluded that the application is not likely to have significant impacts on the SAC and Appropriate Assessment is not required.

<u>Parking/Access</u>

The site is currently accessed off a private access track which leads to the application site and is shared with three residential dwellings. The proposed works include the removal of a 7.5meter section of hedgerow along the western boundary of the application site. An area on the north side of the application site is proposed to be truck paved over to provide a permeable surface to be used a car parking area. The tennis court is only for private use, therefore there is no designated number of car parking spaces that need to be provided. The area demarcated on the proposed site plan allows for ample car parking space and allows vehicles to manoeuvre



and exit the site forward facing. There have been no objections received from the Highways team when consulted on this application.

CONCLUSION

After various comments and consideration between the different teams and consultees, the impact of the proposed development to the neighbour amenity, AONB/National Landscapes, Dark Skies, Ecology, Landscape, and habitats have been met through mitigation strategies and design considerations. It is therefore recommended that this application is approved with conditions.

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:

Location Plan ref:202310_PL001 Received: 09/11/23
Design and Access Statement 09/11/23
Existing Site Plan and Photographs ref:202310_PL00 Received: 09/11/23
Site Massing Model ref: 202310_PL007 Received: 09/11/23
Proposed Site/Roof Plan ref: PL003 Rev A Received: 02/04/24
Proposed Ground Floor Plan ref: 202310_PL004 Rev A Received: 02/04/23
Proposed Elevations ref: PL005 Rev B Received: 03/05/24
Proposed Elevations ref: PL006 Rev B Received: 03/05/24
Landscape Implementation and Maintenance Detail Received: 02/04/24
Ecological Appraisal Received: 02/04/24
WHL rebuttal response Received: 02/04/24
REASON: For the avoidance of doubt and in the interests of proper planning.

3.Materials to be used in the construction of the works hereby permitted shall be as stated on the application form.

REASON: In the interests of visual amenity and the character and appearance of the area.

4. The use of the proposed sports barn is to only be for private use and not to be used as a public or competitive sports facility for the lifetime of the development.

REASON: Due the isolated nature of the proposal and the narrow characteristics of the local roads the location is not appropriate for a public or competitive sports facility.

5. Prior to the development being in use, the ecological mitigation proposed within the blue line boundary is to be implemented, maintained and retained for the lifetime of the development according to the submitted documents.

REASON: To ensure a satisfactory implementation and maintenance of the Biodiversity Mitigation and Enhancement Strategy

6. The development will be carried out in strict accordance with the following documents:
- Landscape Implementation and Maintenance Detail for Proposed Tennis Barn, Ref: 23.1676, Rev:, Date: February 2024 by WH Landscape Consultancy Ltd
- Sections 6.1, 6.3, 6.4 of the report: Ecological Appraisal, Proposed Sports Barn At Ferne Park, Date: 21st June 2023 by Malford Environmental Consulting

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

7. Any new lighting should be for the purposes for safe access and security and 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 GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

REASON: To avoid illumination of habitat used by bats.

8. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner,

All shrubs, trees and hedge planting shall be maintained in accordance with

- drawing *Landscape Strategy, Number: WHL-1676-05, Date: February 2024 by WH Landscape*

Consultancy Ltd for the duration of the development from the commencement of the scheme and shall be protected from damage by vermin and stock.
- Any trees or plants which, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure a satisfactory implementation and maintenance of the Biodiversity Mitigation and Enhancement Strategy

INFORMATIVES

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2017) it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Please note that this planning application consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England’s website for further information on protected species.