

APPLICATION FOR FULL-PLANNING PERMISSION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2025/09099
APPLICATION TYPE:	Full planning permission
SITE ADDRESS:	Lordswood House, Commonwood Lane, Sherston, Malmesbury, SN16 0PX
DEVELOPMENT DESCRIPTION:	Construction of tennis court to include part retrospective change of use of agricultural land to garden and associated works
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The application site itself (red-edge area) is formed of a parcel of land located to the immediate east of the residential curtilage of Lordswood House, along with associated access. The wider land which forms part of the same ownership is formed by the dwelling of Lordswood House, which is a large, detached period dwelling, with associated outbuildings. The site is accessed from towards the end of a rural road named Common Lane, located on the eastern side of this lane. The site is relatively isolated, with open fields and / or historic woodlands surrounding the site in each direction. In particular, to the immediate south of the site is Lord's Wood which is designated Ancient Woodland (and Priority Habitat), and to the immediate north is New Plantation which is similarly designated.

The dwelling is not listed and not located within a Conservation Area or landscape designation, although 'Lords Wood Cottage' (as formerly named), is recorded on the Historic Buildings Sites and Monuments Record as being an historic farmstead and thus has a degree of heritage sensitivity. The site does not fall within any landscape designation but Public Right of Way (PRoW) SHER17 runs from the end of Common Lane east through the northern area of land within the same ownership and then through the application site itself. At the access to the site from the highway, SHER17 meets SHER35 which runs north-south along Commonwood Lane.

PROPOSAL

The application seeks permission for the erection of tennis court on land to the immediate east of the dwelling, but currently not forming part of the lawful residential curtilage; as such a formal change of use of land is inherent in the proposal. This change of use is a retrospective element, with the below site photographs confirmation that the (unlawful) change of use has already occurred, being enclosed with a post and rail fence boundary:



The application site includes an additional parcel of land situated outside of the area proposed to change use, and for the purposes of landscaping and meeting biodiversity net gain requirements; it is this area through with the PRow SHER17 runs.

PLANNING HISTORY

Proposal / Summary
N/92/00854/FUL STATUS: Closed DECISION: Approved DATED: 19 June 1992 – ERECTION OF DETACHED DOUBLE GARAGE FOR PRIVATE CARS/USE DETACHED DOUBLE GARAGE
N/87/00887/FUL STATUS: Closed DECISION: Withdrawn DATED: 6 October 1987 – CHANGE OF USE AND CONVERSION OF BARN TO FORM DWELLING
N/87/02399/FUL STATUS: Closed DECISION: Approved DATED: 14 January 1988 – CONVERSION OF BARN TO FORM DWELLING
19/04094/FUL STATUS: Closed DECISION: Withdrawn DATED: – Change of use of land from agricultural to domestic use to facilitate the creation of a tennis court.
PL/2023/03097 STATUS: Closed DECISION: Approve with Conditions DATED: 5 July 2023 – Erection of an oak framed garage with storage above.
PL/2025/06079 STATUS: Closed DECISION: Prior Approval Granted DATED: 14 August 2025 – Forestry storage building

It is clear from the planning history that the creation of a tennis court at the site has been a long-term aim, with application 19/04094/FUL being withdrawn because at that time the development was considered to be harmful to the rural character of the area, and did not include formal change of use of the land.

RELEVANT LEGISLATION, POLICIES AND GUIDANCE

Statutory Legislation:

The Town & Country Planning Act 1990

National Planning Policy:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide

Development Plan:

The development plan for Wiltshire comprises the *Wiltshire Core Strategy (WCS)* (adopted January 2015) and any made neighbourhood plans, which remains the principal statutory planning document guiding development across the county. In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

Though the development plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below:

The adopted *Wiltshire Core Strategy (WCS)*, with particular regard to:

- Core Policy 1 Settlement Strategy;
- Core Policy 2 Delivery Strategy;
- Core Policy 3 Infrastructure Requirements;
- Core Policy 13 Spatial Strategy for the Malmesbury Community Area
- Core Policy 50 Biodiversity and Geodiversity;
- Core Policy 51 Landscape;
- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 58 Ensuring the Conservation of the Historic Environment;
- Core Policy 60 Sustainable Transport;
- Core Policy 61 Transport & Development;
- Core Policy 62 Development Impacts on the Transport Network;
- Core Policy 67 Flood Risk;

Draft Wiltshire Local Plan Policies

The draft Local Plan is currently going through Examination and at this stage is subject to unresolved objections. As such, the policies contained within that draft Local Plan are considered to hold only limited weight.

Neighbourhood Plan: Sherston Neighbourhood Plan 2006 to 2026 (Made – May 2019)

Objective 7: The Plan will encourage the sympathetic management of the countryside surrounding the village so as to retain and/or enhance it's high quality, improve biodiversity and provide other longer term benefits to the local community by:

- Considering the creation of a community wood and/or orchard;
- Identifying and safeguarding any sites identified in the locality that are considered to be of significant ecological or landscape quality.
- Protecting, maintaining and enhancing the historic environment.

Supplementary Planning Documents and other Guidance:

- Wiltshire Design Guide (adopted April 2024)

ISSUES

The main issues that need to be addressed in this case include:

- Whether the development is acceptable in principle (CP 1 and 2)
- Whether the scheme constitutes high quality design would have an acceptable landscape impact (CP 51 and 57)

- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51)
- Whether the proposal would have a negative effect upon highway safety / Public Rights of Way (CP 61 and 64)
- Whether there would be any harmful impacts upon protected species or priority habitats (CP 50)

CONSULTATION RESPONSES

WC Rights of Way: No objection (based on revised plans and details)

WC Ecology: No comment (based on revised plans and details)

Sherston Parish Council: No objection

REPRESENTATIONS

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the application was publicised by way of:

- Neighbour notification letters sent to adjoining and nearby properties;
- A site notice displayed near the site;

These methods were used to inform interested parties and provide a period of 21 days for comments to be submitted. No representations were received in response to this application.

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In accordance with this statutory requirement, this application has been assessed against the relevant policies of the Development Plan, including the Wiltshire Core Strategy (2015) and, where applicable, any made Neighbourhood Plans. Consideration has also been given to the policies of the National Planning Policy Framework (NPPF) as a material consideration in the assessment.

Principle of Development

Policy Context

Core Policy 1: Settlement Strategy of the WCS establishes a hierarchy of settlements to guide where development should be focused. The policy prioritises growth in: Principal Settlements, Market Towns; Local Service Centres; Large and Small Villages; and outside of defined settlements development is strictly controlled and generally not supported unless exceptional circumstances apply.

Together, CP1 and CP2 ensure that new development is strategically located, sustainable, and supports the character and function of Wiltshire's communities.

Assessment and Conclusion

In this instance, the change of use of land from agricultural to residential use is generally resisted, but the acceptability of any such proposed change rests on the specific issues and impacts arising, and in particular whether there would be any landscape harm arising as a consequence. By way of contextual relevance, historic aerial photography confirms that the site has been enclosed within the adjacent residential land since at least 2017 (the Supporting Statement maintaining a date of February 2016).

Design and Impact on the Character and Appearance of the Area and Landscape Impact Policy Context

Set in the context of Section 12 of the NPPF, Core Policy 57 of the WCS requires high-quality design that:

- Enhances local character.
- Responds to the natural, historic, and built environment.
- Retains important features (e.g., trees, hedges).
- Supports sustainable construction and compatibility with surrounding uses.
- Creates safe, legible, and accessible spaces.

The Wiltshire Design Guide encourages sensitivity to local character, materials, and architectural styles and supports modern living standards while maintaining aesthetic and functional quality. WCS Policy CP57 and the adopted Wiltshire Design Guide SPD (2024) provides further guidance on integrating development into the landscape. The Council's Green & Blue Infrastructure Strategy (2022–2030) also supports the protection and enhancement of landscape character.

In terms of landscape impact, Section 15 of the NPPF, specifically paragraphs 187-191, relates to landscape matters. The site is not within any designated landscape area; however, the guidance and objectives of the NPPF remain relevant, as does Core Policy 51 (WCS), which requires that development protects, conserves, and where possible enhances the character and quality of Wiltshire's landscapes.

Assessment

The site of the proposed tennis court is clearly visible from the PRoW and does present some design and landscape sensitivity. However, it is acknowledged that the site has formed part of the residential curtilage for an extended period of time – at least nine years. As such, the provision of a tennis court within this parcel of land, which is now more closely related to the residential land than the adjacent open countryside (certainly than was the case during the consideration of the previously withdrawn application in 2019), is not considered to lead to any material level of landscape harm.

It is also noted that the submitted plans show landscape screening (in part for reasons of BNG, as below) along the northern section of the boundary, at the interface with the PRoW, thus providing some element of screening. This is shown on the submitted Landscape Plan so can be suitably secured by way of Condition, as appropriate.

Whilst the submitted details show a green wire mesh fence surrounding – which would be appropriate given the setting, the surfacing material of the tennis court is not specified. Given its visibility from the PRoW, it is considered that, if acceptable in all other regards, the colouration of the tennis court should be suitably appropriate: the Applicant has confirmed that this would be two-tone green (light green inner with darker green surround), and of acrylic surface on asphalt / concrete base; these details can be covered by way of Condition as necessary.

Conclusion

With Conditions to ensure appropriately muted colour of the tennis court and surrounding fencing, and with the proposed landscaping at the site boundary (which can also be secured by way of Condition), it is on balance considered that the application does not give rise to any conflict with Core Policies 51 or 57 (WCS) or Sections 12 and 15 of the NPPF and Objective 7 of the Sherston Neighbourhood Plan.

Impact on Heritage Assets

Policy Context

From the point of view of the historic environment the main statutory tests are set out within the Planning (Listed Building and Conservation Areas) Act 1990. Section 66 requires that special regard be given to the desirability of preserving listed buildings, their settings or any features of special architectural or historic interest which they possess.

The NPPF outlines government policy for planning. Chapter 16 of the NPPF 'Conserving and enhancing the historic environment' sets out the Government's high-level policies concerning heritage and sustainable development. In particular, Paragraph 208 requires LPAs should "avoid or minimise any conflict" between the heritage asset's conservation (which includes achieving its optimum viable use) and any aspect of a proposal.

Paragraph 210 requires local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable new uses and of new development making a positive contribution to local character and distinctiveness. Paragraphs 212 requires "great weight" to be given to an asset's conservation "irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." Paragraph 213 advises that harm to the significance of a designated heritage asset should require "clear and convincing justification". Paragraphs 213-215(214-216) require a balanced approach with any harm which would be caused being weighed against the potential public benefits which might be achieved.

The Planning Practice Guidance provides guidance on interpreting the NPPF.

The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that designated and non-designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance and encourages proposals which improve the condition of heritage assets at risk.

Assessment and Conclusion

In this instance, the site does not form part of the curtilage of the building and, whilst it affects the setting of the building, the building is not formally listed and thus a proportionate

appropriate and consideration is warranted. The introduction of a tennis court within the (extended) curtilage of a dwellinghouse is not incongruous by nature and could in fact be considered as reversible. As such, the application proposal is not considered to give rise to any heritage harm, and thus no conflict with Core Policy 58 (WCS) or Section 16 of the NPPF.

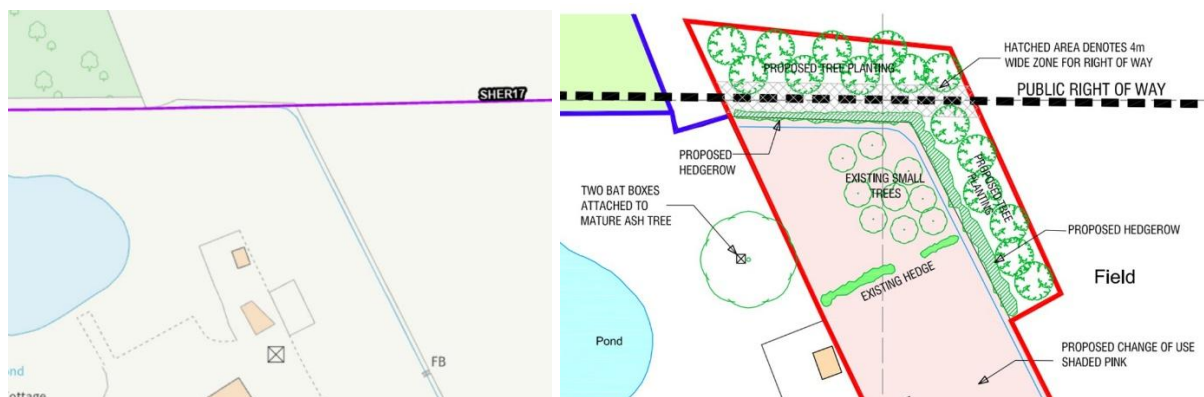
Highways and Public Rights of Way Impacts

Policy Context

Although there are no specific highway, access or parking issues arising from this application proposal, given that the site is crossed by a Public Right of Way, it is necessary that the treatment of this is given due consideration, in particular in the context of the Local Cycling and Walking Infrastructure Plan (LCWIP) and LTN 1/20 (DfT) which provide further design guidance for active travel infrastructure.

Assessment

In response to the Rights of Way Officer's comments, a Landscape Plan was provided during the course of determination which clearly shows that the proposed planting area which runs around the north-eastern corner of the proposed residential land will not encroach to within 4m of the PRow. The route of the PRow and submitted Landscape Plan are shown in extract below:



Conclusion

With this additional detail having been provided, it is considered that this provides a suitable mechanism to ensure the route of the PRow is protected in perpetuity. As such, there are no objections to the application in terms of access and rights of way.

Ecology and Biodiversity

Policy Context

The ecological impact of development is a key planning consideration, especially for larger schemes. Proposals must assess and address potential effects on:

- Protected species
- Priority habitats
- Ecological networks
- Green and blue infrastructure

Core Policy 50 of the Wiltshire Core Strategy requires development to:

- Avoid harm to ecological assets.

- Deliver measurable Biodiversity Net Gain (BNG), in line with the Environment Act 2021.
- Support habitat restoration and connectivity.
- Integrate biodiversity into site design.

The Green & Blue Infrastructure Strategy (2022–2030) promotes nature recovery, ecosystem services, and habitat connectivity through development.

Unless exempt, National policy requires a minimum of 10% Biodiversity Net Gain (BNG) for major developments, demonstrated via:

- Biodiversity Metric calculations
- Ecological assessments (e.g. PEAs, Phase 1 surveys, protected species surveys)

Assessment

The site is located immediately adjacent to designated Ancient Woodlands which are also recorded as Priory Habitats. In response to the initial consultation, the Ecology Officer requested further information and clarity regarding the ecological mitigation and enhancement measures relating to these features, including details as to how the ancient woodland will be protected during both construction and operation. In addition, given the relationship between the delivery of the proposed biodiversity net gain and the site landscaping (as above), further detail on the provision of this was requested.

In response, the submitted Landscape Plan shows the necessary protection measures and demonstrates that a minimum 15-metre buffer to the adjacent priority habitat deciduous woodland / ancient woodland will be maintained.

Conclusion

With the mitigation and enhancement measures being shown on the Landscape Plan, the Ecology Officer has confirmed no objection. The Landscape Plan demonstrates that the necessary biodiversity net gain can be provided; that will be secured by way of mandatory Condition. On this basis, the application is not considered to conflict with Core Policy 50 (WCS) or Section 15 of the NPPF, as well as Objective 7 of the Sherston Neighbourhood Plan.

PLANNING BALANCE AND CONCLUSION

At the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with an up-to-date development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless (taken from paragraph 11d of the NPPF):

- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;

The application does raise some issues of principle, given that it seeks the change of use of agricultural land to residential. However, given the context of the site and the nature and relationship of the parcel of land which is proposed to change use with the existing established

and lawful residential curtilage, it is considered on balance that, in this instance, the conflict arising in terms of the principle of the proposed change of use are reduced.

The proposal is broadly compliant with relevant local and national planning policies in respect of design and landscape impact, heritage, rights of way and ecology and biodiversity, subject to the recommended conditions and necessary mitigation measures.

Accordingly, the proposal is considered acceptable in planning terms and in accordance with the Wiltshire Core Strategy, the National Planning Policy Framework, and all other relevant material considerations and is recommended for approval accordingly.

RECOMMENDATION:

That Planning Permission be GRANTED, subject to 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:
 - 1124:P:21A: Location Plan
 - 1124:P:02: Tennis Court Block Plan
 - 1124:23B: Tennis Court Landscape Plan (received 06/02/2026)
(received 24/11/2025 unless otherwise stated)

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

3. No development shall commence on site (including any vegetation removal or works to existing structures), until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Construction Method Statement shall include all precautionary measures to be implemented during the construction period, for the protection of sensitive habitats and species known to be present within or adjacent the site, with particular reference to:
 - Bats
 - Nesting Birds
 - Great Crested Newts
 - Ancient / Priority Habitat WoodlandThe development shall be carried out in strict accordance with the approved Construction Method Statement.

REASON: To ensure adequate protection, mitigation and compensation for protected species and priority habitats throughout the construction period.

4. The tennis court surface shall be entirely of muted two-tone green colour only: light green inner court with darker green surround, and shall remain so in perpetuity.

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

5. The development will be carried out in strict accordance with the following documents:
 - Landscape Plan. 05 February 2026. Brian Kirby Design. Drawing No. 1124:23B;
 - Baseline BNG Habitat Plan;
 - Post-development BNG Habitat Plan;
 - Sections 5 and 6 and Annex 2 and 3 of Preliminary Ecological Appraisal. September 2025. Seasons Ecology. Report Ref. SEB3139_01 v2;
 - The Statutory Biodiversity Metric. 03 November 2025. Iteration 2;
 - Biodiversity Net Gain Statement – Statutory Biodiversity Metric. November 2025. Seasons Ecology. Report Ref. SEB3139_01 v3.

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

6. 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 free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, 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 landscaped setting for the development and the protection of existing important landscape features.

7. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation. The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals (ILP) Guidance Notes on the Avoidance of Obtrusive Light (GN 01/2021) 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.

INFORMATIVES

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

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.

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Conservation of Habitats and Species Regulations 2017 (as amended) 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 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.