

APPLICATION FOR VARIATION OF PLANNING PERMISSION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2025/09261
APPLICATION TYPE:	Section 73 – Variation/Removal of Condition
SITE ADDRESS:	The Elms, Green Lane, Sherston, Malmesbury, SN16 0NP
DEVELOPMENT DESCRIPTION:	Variation of conditions 2, 4 and 5 of PL/2023/07329
RECOMMENDATION:	Consent be GRANTED

PROPOSAL

Application PL/2023/08493 for the *redevelopment of site to provide 4no detached dwellings* was granted planning permission on 05.03.2024 subject to 15 conditions.

This application has been submitted under Section 73 (S73) of the Town and Country Planning Act (TCPA), which provisions material amendments to a scheme by varying or removing conditions associated with a planning permission, with a request to vary condition 2 and remove condition 4.

The request does not introduce changes that would alter the broad scope of the approved development.

CONDITIONS OF PL/2023/08493 REQUESTED TO BE VARIED / REMOVED

Condition 2	
Existing Condition:	Requested change:
The development hereby permitted shall be carried out in accordance with the following approved plans and documents: · Drawing No. LPC 5294 EX 01 A: Site Location Plan · Drawing No. LPC 5294 EX 02 A: Existing Site Plan · Drawing No. SWS012271ff: Existing First Floor Plan · Drawing No. SWS012271gf: Existing Ground Floor Plan · Drawing No. LPC 5294 EX 03: Existing Barn Floor Plan and Elevations · Drawing No. SWS012271ele: Existing Elevations · Drawing No. LPC 5294 EX 04 A: Existing Street Elevations · Drawing No. LPC 5294 PL 01 B: Proposed Site Plan	The development hereby permitted shall be carried out in accordance with the following approved plans and documents: · Drawing No. LPC 5294 EX 01 A: Site Location Plan · Drawing No. LPC 5294 EX 02 A: Existing Site Plan · Drawing No. SWS012271ff: Existing First Floor Plan · Drawing No. SWS012271gf: Existing Ground Floor Plan · Drawing No. LPC 5294 EX 03: Existing Barn Floor Plan and Elevations · Drawing No. SWS012271ele: Existing Elevations · Drawing No. LPC 5294 EX 04 A: Existing Street Elevations - Drawing No. LPC 5294 PL 01 B: Proposed Site Plan

· Drawing No. LPC 5294 PL 02: Unit 1 Proposed Floor Plans · Drawing No. LPC 5294 PL 03 A: Unit 1 Proposed Elevations · Drawing No. LPC 5294 PL 04 A: Unit 2 Proposed Floor Plans · Drawing No. LPC 5294 PL 05 B: Unit 2 Proposed Elevations · Drawing No. LPC 5294 PL 06 A: Unit 3 Proposed Floor Plans · Drawing No. LPC 5294 PL 07 B: Unit 3 Proposed Elevations · Drawing No. LPC 5294 PL 08 A: Unit 3 Garage Proposed Elevations · Drawing No. LPC 5294 PL 09 A: Unit 4 Proposed Floor Plans · Drawing No. LPC 5294 PL 10 A: Unit 4 Proposed Elevations · Drawing No. LPC 5294 PL 11 B: Proposed Street Elevations · Drawing No. LPC 5294 PL 12 A: Units 1- 3 Visibility Splays · Ecological Assessment Report - 1052 The Elms, Sherston Eco Report_200923 · Preliminary Ecological Appraisal - 1052 The Elms, Sherston PEA_14-04-23 (draft issue) REASON: For the avoidance of doubt and in the interests of proper planning.	- Drawing No. LPC 5294 PL 02: Unit 1 Proposed Floor Plans - Drawing No. LPC 5294 PL 03 A: Unit 1 Proposed Elevations - Drawing No. LPC 5294 PL 04 A: Unit 2 Proposed Floor Plans - Drawing No. LPC 5294 PL 05 B: Unit 2 Proposed Elevations - Drawing No. LPC 5294 PL 06 A: Unit 3 Proposed Floor Plans - Drawing No. LPC 5294 PL 07 B: Unit 3 Proposed Elevations - Drawing No. LPC 5294 PL 08 A: Unit 3 Garage Proposed Elevations - Drawing No. LPC 5294 PL 09 A: Unit 4 Proposed Floor Plans - Drawing No. LPC 5294 PL 10 A: Unit 4 Proposed Elevations - Drawing No. LPC 5294 PL 11 B: Proposed Street Elevations · Drawing No. LPC 5294 PL 12 A: Units 1- 3 Visibility Splays · Ecological Assessment Report - 1052 The Elms, Sherston Eco Report_200923 · Preliminary Ecological Appraisal - 1052 The Elms, Sherston PEA_14-04-23 (draft issue) REASON: For the avoidance of doubt and in the interests of proper planning.
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Condition 4

Existing Condition:	Requested change:
No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme. REASON: To ensure that the development can be adequately drained without leading to increased flood risks elsewhere.	The development shall not be first brought into use until surface water drainage has been constructed in accordance with the scheme approved under PL/2025/07329. REASON: To ensure that the development can be adequately drained without leading to increased flood risks elsewhere.

Condition 5

Existing Condition:	Requested change:
No external lighting shall be installed on-site until plans showing the type of light	The lighting approved under PL/2025/07329 shall be installed and maintained in accordance

appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication “The Reduction of Obtrusive Light” Guidance Note 01/21 (reference GN01/21), have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details, and no additional external lighting shall be installed. REASON: In the interests of the amenities of the area, and to minimise unnecessary light spillage above and outside the development site in the interests of ecology and the rural character of Upavon village.	with the approved details, and no additional external lighting shall be installed. REASON: In the interests of the amenities of the area, and to minimise unnecessary light spillage above and outside the development site in the interests of ecology and the rural character of Upavon village.
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SITE DESCRIPTION

The site comprises a rendered detached dwelling which sits centrally within a generous plot in Sherston, a large village part of the Malmesbury community area which benefits from a made neighbourhood development plan (NDP) and development boundary. The site is within the development boundary for Sherston and is an existing site allocation (site 3 within the NDP).

A large, detached outbuilding is also present at the site, south-west of unclassified ‘sandpits lane’ and south-east of a timber gate which provides vehicular access to the site. There is also existing pedestrian access from adjacent unclassified road ‘green lane’. There are some unobstructed short-range views of the site from parts of sandpit lane, by virtue of the low-level drystone walls and timber access gates, but less visibility from green lane, by virtue of higher natural planting.



Figure 1: map view of site (red)



Figure 2: aerial (2024)



Figures 3 & 4: street view (Google 2024) access points

The site is not listed and is outside of, but directly adjacent to, the Sherston Conservation Area (CA). The site is, however, wholly within the Cotswolds National Landscape (NL) – previously Area of Outstanding Natural Beauty (AONB) – part of the wider area which has the ‘dip-slope lowland’ landscape character.

The site and wider area have been identified by the Environment Agency as being in flood zone 1, at the lowest risk of flooding from rivers and seas, and no part of the site was considered to be at risk of surface water flooding as part of assessments made under the Councils Strategic Flood Risk Assessment; however, most of Sherston is considered to be at risk of groundwater flooding.

RELEVANT PLANNING HISTORY

Related to the site:

- PL/2023/08493 granted permission for *redevelopment of site to provide 4no detached dwellings* on 05.03.2024 subject to 15 conditions
 - o PL/2025/07329 requesting *discharge of conditions [...] was received* on 09.09.2025 and discharged conditions 4 and 5 on 15.04.2026

Recent, relevant planning history near the site:

None

POLICY CONTEXT

Though considered as a whole, applicable Development Plan policies are listed below along with relevant legislation and guidance.

Wiltshire Core Strategy (WCS) – Adopted 2015

- CP1: Settlement Strategy
- CP2: Delivery Strategy
- CP13: Spatial Strategy for the Malmesbury Community Area
- CP41: Sustainable Construction and Low Carbon Energy
- CP43: Affordable Housing
- CP50: Biodiversity and Geodiversity
- CP51: Landscape
- CP57: Ensuring High Quality Design and Place Shaping
- CP58: Ensuring the Conservation of the Historic Environment
- CP60: Sustainable Transport
- CP61: Transport and Development
- CP21: Development Impacts on the Transport Network
- CP64: Demand Management
- CP67: Flood Risks

North Wiltshire Local Plan (NWLP) – Saved Policies

- NE14: Trees, Site Features and the Control of New Development
- NE18: Noise and Pollution

Sherston Neighbourhood Development Plan (NDP)

- Policy 6: The Elms (Site 3)

Wiltshire Local Transport Plan (LTP4)

HOUSING LAND SUPPLY

The Councils Housing Land Supply (HLS) Statement (base date: April 2024) was published in June 2025 and covers the HLS for Wiltshire and each Housing Market Area within Wiltshire as set out in the WCS. The HLS position identified under section 6 of the statement expresses that the current number of years deliverable supply is 2.42 years.

Briefing Note (No. [25 – 04](#)) dated 18.06.2025 reiterates that position and states under section 2.3 that: *The council cannot demonstrate the requisite five-year housing land supply. The current position indicates there is a 2.42 years supply.*

ISSUES

The primary issue in the consideration of this application is whether planning permission should be granted subject to conditions differing from those originally attached to PL/2024/07434

The following planning matters will form part of the assessment:

- Principle / Sustainable Development
- Impact on the Cotswolds National Landscape
- Impact on the setting of the Sherston Conservation Area
- Design and Neighbour Amenity
- Highway Safety / Access
- Drainage / Flood Risk
- Biodiversity

CONSULTATION

[Sherston Parish Council](#): No Objection

[Councils Drainage Team](#): 09.12.2025 Objection

[...] Following review of the information provided, Condition 2 can be varied, but [...] Condition 4 cannot be discharged until [...] information is submitted and accepted by the LLFA. [...]

[Councils Ecology Team](#): No Objection

The proposal to vary condition 2 is noted which has implications for condition 5 relating to [...] lighting.

Due to the confirmed bat roost within the existing building and established foraging and commuting routes nearby, the proposed lighting condition remains necessary to minimise impacts on green infrastructure. The amended lighting strategy is acceptable, and provided works follow our original comments in PL/2023/08493, there is no objection to varying condition 2 and we would support the discharge of condition 5 in relation to lighting.

Please note a licence from Natural England will still be required to undertake works. Due to the time lapsed between the surveys, additional bat surveys may be required to support any licence application, please seek advice from Natural England.

Councils Highways Team: No objection

[...] In regard to the Condition 2, the only revision which would affect the previous highways comment is that of Plot 1, however a car port is proposed and this with the driveway parking would satisfy the vehicle parking requirements. [...]

Under application PL/2025/07329 (inter alia)

Councils Drainage Team:

10.10.2025: Further information required

13.01.2026: Further information required

15.04.2026: No objection

I am satisfied that based on the information provided that the residual point II from our February 2026 response can now be closed out, and therefore that no further drainage information is required.

Councils Ecology Team:

09.10.2025 Further information required

21.01.2026 No objection

REPRESENTATIONS

At the time of writing 1no public comment has been received raising concerns regarding construction traffic and observations that the lorries accessing the site have caused damage to verges and drystone walls.

Officer Comment:

This application has been made under S73 of the TCPA for an application which did not include a condition approving or requiring the submission and approval of a Construction Management Statement (or similar); consequently, given that matters relating to construction traffic routing and site logistics were not controlled through PL/2023/8493 and that works have commenced, it would not be reasonable or necessary to introduce a new condition controlling construction activities under this S73 application. The enforcement of any traffic regulation orders (including weight limits) is the responsibility of the Highways Authority; furthermore, any issues relating to damage to private property (including claims for repair or compensation) is a civil matter falling outside of the remit of the planning system.

ASSESSMENT

Principle / Sustainable Development

Permission granted under PL/2023/08493 expires on 05.03.2027 and the principle of development has been established under that application. As a result, the following assessment is primarily focussed on whether the proposed changes to the approved plans would result in any new/increased harm because of the proposed design changes.

Impact on the Cotswolds National Landscape

Assessment relating to potential impacts associated with the development of one dwelling in this NL setting was carried out as part of PL/2023/08493. The assessment under that application included the observations that *the proposal would not encroach over the existing boundary such that its prominence within the wider area would be significantly increased. The dwellings would be located within an already built-up area, where larger modern developments have recently occurred along its boundary at Carriers Close to the north, which would be read against the existing built form. It is therefore considered that the proposal is in accordance with CP 51.*

The changes proposed to the design of the approved dwellings includes:

- Reconfiguration of internal layout of unit 1 to include the removal; of garage building.
- Inclusion of attached carport to unit 1
- Alteration to front entrance position and canopy, and amendment to fenestration to unit 1
- Reconfiguration of internal layout to unit 2
- Inclusion of enclosed porch to replace front entrance canopy, removal of rear enclosed area adjacent to utility, and amendment to fenestration to unit 2
- Reconfiguration of internal layout of unit 3
- Inclusion of enclosed porch to replace front entrance canopy, removal of rear enclosed area adjacent to hallway, and amendment to fenestration to unit 3
- Reconfiguration of internal layout of unit 4
- Changes to the external appearance of unit 4
- Changes to position of fenestration on detached garage

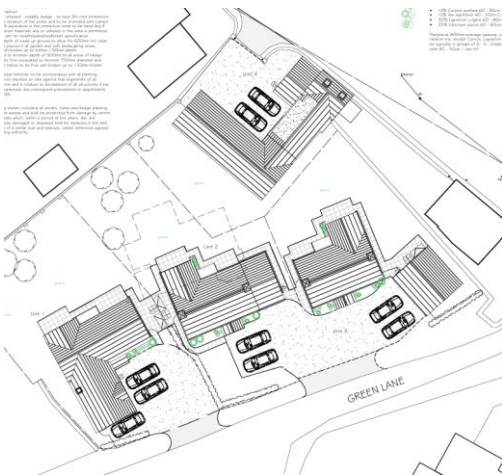


Figure 5: partial extract of permitted side plan



Figure 6: partial extract of proposed site plan

Overall, the proposed changes to the design, whilst material, are not so different to the originally permitted scheme to result in a different assessment of potential harm to the NL setting. Conditions which were previously deemed as necessary remain as such.

Impact on the Sherston Conservation Area

As with the assessment of impact on the NL, the proposed changes are not so significant to result in any increased harm to the CA.

The proposal remains in line with the aims of Policy CP57 and the aims of CP58 of the WCS and relevant parts of the WDG.

Design and Neighbouring Amenity

The scheme continues to propose the same number of dwellings with the same number of bedrooms proposed; all dwellings will continue to exceed the minimum space standards, and the design will continue to respect the established character of this part of Sherston.

The footprint of the buildings will be marginally altered from that which was permitted; however, the remaining amenity area for each unit is sufficiently large to accommodate the amendments. Furthermore, the changes will not result in an unacceptable change to neighbouring amenity, when compared with the approved scheme.

Highway Safety / Access

The requested amendments will not result in a change to the proposed access and consultation with the Councils highways team confirms that there will continue to be sufficient off-street parking provisions to serve each dwelling.

Drainage / Flood Risk

The application was made in tandem with a request for discharge of condition 4 (under application PL/2025/07329). Condition 4 required a scheme for the discharge of surface water to be submitted and approved in writing prior to commencement of development.

Significant discussions were carried out between the LLFA and the applicant during the course of application PL/2025/07329 which resulted in further details being submitted prior to a decision being made.

Whilst the drainage team's representation under this application (received on 09.12.2025) indicated an objection to variation of condition 4 under this application, the representation received on 15.01.2026 and decision made on 15.04.2026 under PL/2025/07329 clearly indicates that condition 4 should be varied to a compliance condition under this application.

No amendments to the design of the scheme raise any new concerns regarding drainage or flood risk matters.

Biodiversity

The application was made in tandem with a request for discharge of condition 5 (under application PL/2025/07329). Condition 5 required the approval of external lighting prior to any installation in

for reasons including in the interest of ecology. The condition was discharged under PL/2025/07329 which indicates clearly that condition 5 should be amended under this application.

No amendments to the design of the scheme raise any new concerns regarding ecology.

SUMMARY AND CONCLUSION

Application PL/2023/08493 was granted permission on 05.03.2024 subject to conditions.

The request under this application is for conditions 2, 4 and 5 to be varied; no conditions are being requested for removal. All conditions have, nonetheless, been reviewed as part of this application.

Variation of the wording associated with condition 1 (standard 3-year) is necessary for the avoidance of doubt.

It is recommended that permission is granted to reflect the following:

Condition of W/07/01369/FUL	Remove / Vary?
1: Standard 3 years	Amend to reflect that development must be commenced before 05.03.2027
2: Approved plans	Amend to include new plans, and remove superseded plans, 'existing plans', and duplicate plans.
3: Landscaping	Amend to remove duplication
4: Surface water	Amend to take into account PL/2025/07329 decision
5: External lighting	Amend to take into account PL/2025/07329 decision
6: Water consumption levels	Remove - not relevant
7: Visibility splays	Amend to correct trigger
8: Access	Amend to correct trigger
9: Demo materials removal	Amend to correct 'reason'
10: PD removal	Amend to correct 'reason'
11: Boundary fence	Remains relevant
12: Strict accordance	Remains relevant
13: Bat roosts	Remains relevant
14: External lighting	Remove – duplicate requirements of condition 5
15: Biodiversity enhancements	Remains relevant

RECOMMENDATION:

That planning permission be GRANTED subject to the following conditions:

1. The development hereby permitted shall be begun before 05 March 2027

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 and documents:

Drawing No. LPC 5294 EX 01 A: Site Location Plan Drawing No. LPC 5294 PL 01 B: Proposed Site Plan

Drawing No. LPC 5294 PL 02: Unit 1 Proposed Floor Plans

Drawing No. LPC 5294 PL 03 A: Unit 1 Proposed Elevations

Drawing No. LPC 5294 PL 04 A: Unit 2 Proposed Floor Plans

Drawing No. LPC 5294 PL 05 B: Unit 2 Proposed Elevations

Drawing No. LPC 5294 PL 06 A: Unit 3 Proposed Floor Plans

Drawing No. LPC 5294 PL 07 B: Unit 3 Proposed Elevations

Drawing No. LPC 5294 PL 08 A: Unit 3 Garage Proposed Elevations

Drawing No. LPC 5294 PL 09 A: Unit 4 Proposed Floor Plans

Drawing No. LPC 5294 PL 10 A: Unit 4 Proposed Elevations

Drawing No. LPC 5294 PL 11 B: Proposed Street Elevations

Drawing No. LPC 5294 PL 12 A: Units 1- 3 Visibility Splays

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

3. The development will be carried out in strict accordance with the following document approved under PL/2023/08493:
Ecological Assessment Report. September 2023. Pure Ecology
REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.
4.
 - a) All approved soft 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
 - b) 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.
 - c) All approved hard landscaping shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.
5. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the scheme approved under PL/2025/07329.
REASON: To ensure that the development can be adequately drained without leading to increased flood risks elsewhere.
6. The lighting approved under PL/2025/07329 shall be installed and maintained in accordance with the approved details, and no additional external lighting shall be installed.
REASON: In the interests of the amenities of the area, and to minimise unnecessary light spillage above and outside the development site in the interests of ecology and the rural character of Upavon village.
7. No part of the development shall be first occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.
REASON: In the interests of highway safety.
8. The development hereby permitted shall not be first occupied until the first 5m of the access, measured from the edge of the carriageway and/or whole of the parking area, 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

9. Within 3 months of the demolition of the buildings, all materials resulting therefrom shall be removed from the site.

REASON: In the interests of the character and appearance of the Conservation Area and the general amenities of the local environment.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-H or Part 2, Class A shall take place on the dwellinghouses hereby permitted or within their curtilage.

REASON: In the interests of the amenity of the area which is within the Conservation Area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

11. No dwelling shall be occupied until the 1.8m high boundary fence have been completed in accordance with the approved details.

REASON: To ensure the timely delivery of the boundary treatments in the interests of the amenities of the adjoining properties.

12. Replacement bat roosts will be incorporated into the development in accordance with: Ecological Assessment Report. September 2023. Pure Ecology. The installation of these bat roosts will be supervised by a professional ecologist and this part of the condition will be discharged when photographic evidence of installed features have been submitted to and approved in writing by the local planning authority. These bat roosts and access points will continue to be available for bats for the lifetime of the development.

REASON: To mitigate for impacts to bats arising from the development.

13. Biodiversity enhancement measures will be incorporated into the development in accordance with Appendix 4 Ecological Mitigation, Enhancement and Protection Plan, as outlined within the Ecology Report Ecological Assessment Report. September 2023. Pure Ecology. The approved details shall be implemented before occupation of the final works.

REASON: To provide mitigation/enhancement for biodiversity.

INFORMATIVES TO APPLICANT:

- Bat roosts have been confirmed on and near the site. Under the Conservation of Habitats and Species Regulations 2017 (as amended), it is an offence to harm or disturb bats or damage or destroy their roosts. Planning permission for development does not provide a defence against prosecution under this legislation. The applicant is advised that a European Protected Species Licence will be required before any work is undertaken to implement this planning permission.
- 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.

- The applicant should note that under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Habitats 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.
- 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 can have a substantial adverse effect on biodiversity. 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 in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.
- The proposal includes alteration to the public highway, consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license 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.