

**ITEM NO: 12**Application No.  
**21/00352/FUL**Ward:  
Winkfield And  
CranbourneDate Registered:  
5 April 2021Target Decision Date:  
31 May 2021

Site Address:

**Nuptown Piggeries Hawthorn Lane Warfield  
Bracknell Berkshire RG42 6HU**

Proposal:

**Section 73 application for the variation of condition 15 (external lighting) to planning permission 19/00930/FUL for the erection of 3x detached dwellinghouses including driveways and garages and landscaping following removal of 7 existing buildings and hardstanding at the site. [For clarification this application seeks approval for limited external lighting]**

Applicant:

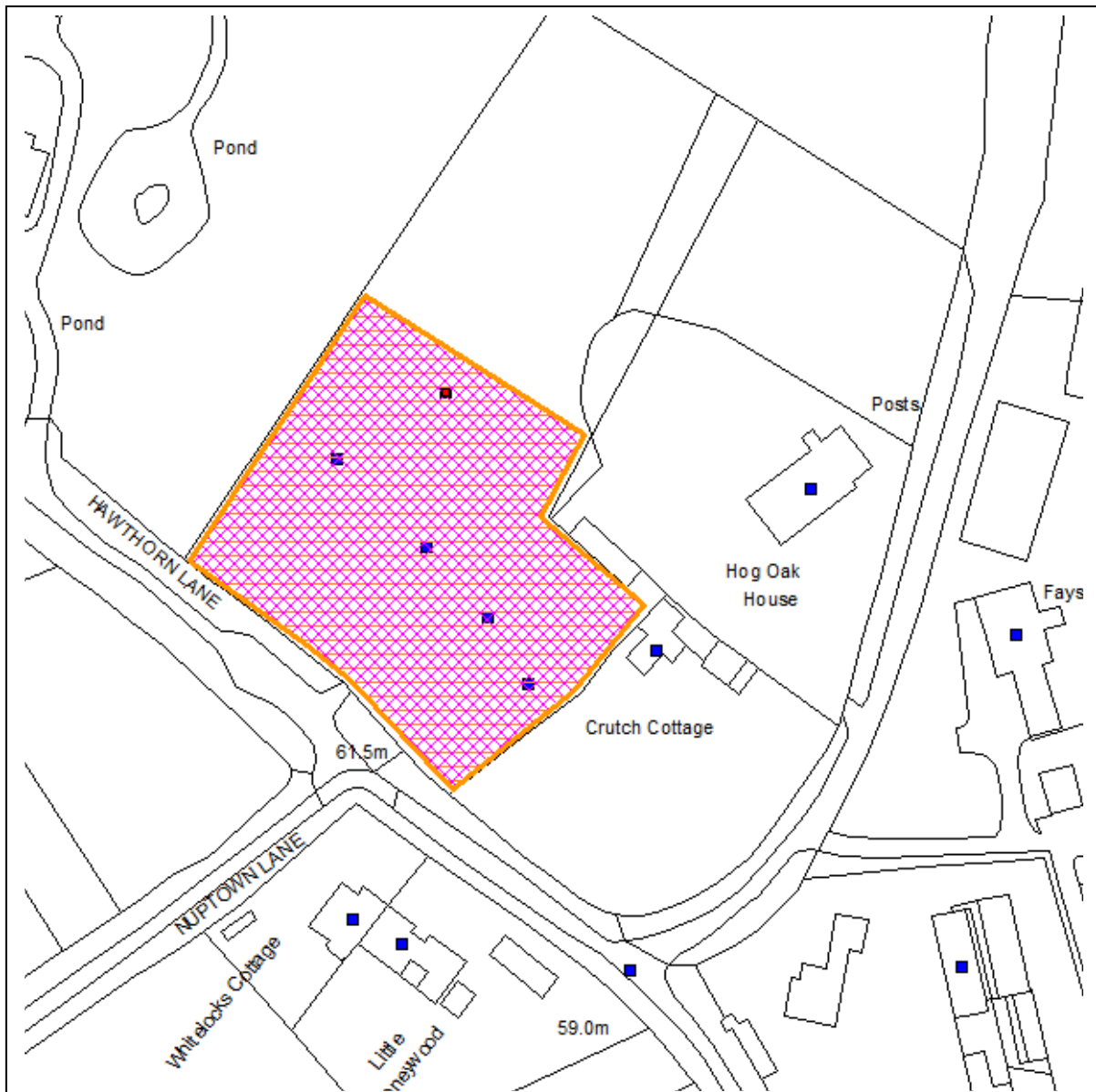
Nick Blair

Agent:

(There is no agent for this application)

Case Officer:

Sarah Fryer, 01344 352000

[development.control@bracknell-forest.gov.uk](mailto:development.control@bracknell-forest.gov.uk)**Site Location Plan** (for identification purposes only, not to scale)

## 1. SUMMARY

1.1 This is an application under Section 73 of the Town and Country Planning Act to vary condition 15 attached to application 19/00930/FUL which granted permission for the erection of 3 detached dwelling houses including driveways and garages and landscaping following removal of 7 existing buildings an hardstanding at the site.

1.2 It is recommended that condition 15 be varied, to allow a limited and environmentally sensitive external lighting scheme but that planning permission still be required for any additional external lighting required in the future.

<b>RECOMMENDATION</b>
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Planning permission be granted subject to conditions in Section 11 of this report
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## 2. REASON FOR REPORTING APPLICATION TO ADVISORY PLANNING COMMITTEE

2.1 The application is reported to the Advisory Planning Committee as it has received more than 5 objections.

## 3. PLANNING STATUS AND SITE DESCRIPTION

<b>PLANNING STATUS</b>
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Green Belt
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Tree Preservation Order
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## 4. RELEVANT SITE HISTORY

4.1 The relevant planning history can be summarised as follows:

21/00241/NMA Application for non material amendment to 19/00930/FUL to move location of the approved refuse storage from near the garages to next to each dwelling on all plots.

Approved 31.03.2021

19/00930/FUL Full planning application for the erection of 3x detached dwellinghouses including driveways and garages and landscaping following removal of 7 existing buildings and hardstanding at the site

Approved 27.04.2020

19/00721/PAA Application for prior approval for the change of use of 2no. agricultural buildings to 5no. dwellinghouses (C3) following the demolition of part of the buildings. Refused 13.09.2019

18/00124/FUL Erection of 2no. dwellinghouses with detached garages following demolition of existing buildings and removal of hardstanding.

Approved 06.06.2018

17/00279/TRTPO Application to fell trees. Approved 09.01.2018

Notification of Change of Use from agricultural building to Class B8 (Storage and Distribution) received 21.12.2017

16/00689/PAA Application for prior approval for the change of use of 2no. agricultural buildings to 2no. dwelling houses following the demolition of part of the buildings. Approved 18.08.2016

16/00154/PAA Application for prior approval for the change of use of 2no. agricultural buildings to 2no. dwelling houses following the demolition of part of the buildings. Refused 23.03.2016

15/01131/FUL Change of use of agricultural land to residential and erection of a detached dwellinghouse and driveway, and construction of new driveway for Hog Oak House following the demolition of the existing agricultural buildings and hardstanding. Refused 11.01.2016

13/00156/FUL Change of use of existing agricultural barn to form 1 no. 6 bed detached dwelling and erection of detached garage following demolition of existing derelict buildings. Refused 14.01.2014

10/00792/OUT Change of use of existing agricultural barn to form 1 no. 6 bed detached dwelling and erection of detached garage following demolition of existing derelict buildings. REFUSED 03.03.2011

07/00463/FUL Section 73 application for the erection of single storey front extension forming portico, following demolition of existing portico. (Condition 03 of planning permission 624510 states that no extension to any dwelling house shall be constructed without the prior written permission of the Local Planning Authority.) Approved 11.07.2007

03/00418/FUL Continued use of agricultural buildings (total floor space 402 sq.m.) for storage purposes with ancillary offices. Refused 24.02.2005

01/00662/FUL Erection of 1no. five bedroomed house and building containing 4no. stables following demolition of existing buildings. Refused 12.10.2001

01/00776/T Application for a change of use of agricultural land & building for use as a compound for storage of pipes and road repair equipment for a temporary period of one year. Refused 05.10.2001

## 5. THE PROPOSAL

5.1 This application seeks to vary condition 15 of application 19/00930/FUL which granted planning permission for erection of 3 detached dwelling houses including driveways and garages and landscaping following removal of 7 existing buildings and hardstanding at the site.

### Legislative Background.

5.2 Section 73 enables conditions to be varied or removed associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

5.3 Whilst an application under section 73 enables conditions to be varied, the time limit cannot be amended, nor can the description of development be amended,

5.4 Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted. The new permission sits alongside the original permission. In respect of conditions, Planning Practice Guidance clarifies that '*notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged*'.

5.5 Condition 15 stated:

No external lighting shall be installed on the site or affixed to any buildings on the site.

5.6 The applicant has submitted an external lighting scheme which has been designed with an ecologist to enable limited external lighting consisting of:

(1) 4 LED downlights on the gateposts entering the site on passive infrared (PIR) movement sensor. The down lights would have dimensions of 122mm by 86mm by 81mm.

(2) Three 750mm tall bollard lights in the driveway to plots 1 and 2 fitted with a low voltage 5w LED lamp on PIR movement sensors.

(3) 25 LED downlights on walls next to the external doors of the new houses and garages on PIR movement sensors.

5.7 Condition 15 is proposed to be reworded as below:

'No external lighting shall be installed on the site or affixed to any building on the site other than in accordance with the light detailed within the letter from GS Ecology dated 5<sup>th</sup> April 2021. Therefore' the condition is not being removed but varied to allow for a sensitively designed lighting scheme.

## **6. REPRESENTATIONS RECEIVED**

### **6.1 Warfield Parish Council**

Recommends refusal as the existing condition should be maintained to preserve dark skies in the area and prevent light pollution.

### **6.2 CPRE Berkshire**

CPRE Berkshire objects to the application on the following grounds:

Policy WNP13 for the Warfield Neighbourhood Plan promotes dark skies and should be material in the determination of this application. [Officer Note: The Warfield Neighbourhood Plan is at the examination stage and therefore cannot yet be afforded any weight in the decision-making process].

Disagree that there is a need for external lighting and concerned that it could lead to a creep of lighting across the countryside to its detriment.

### **6.3 Other Representations**

6 letters of objection have been received from different addresses, making the following representations:

- The site is evidently sensitive to light pollution due to the proximity to SSSI and Nature reserve and bat roosts.
- There is no justification for the proposed lighting.
- Will the lights be individually switched or grouped.
- The site is located in an area of intrinsically dark landscape and as such the proposals would have a detrimental effect on amenity and nature conservation as a result of light pollution which is considered against Policy WNP13 Policy Promoting Dark Skies.
- The site is located within the Green Belt. The proposal would have an urbanising effect on the site and the locality and therefore constitutes inappropriate development.

## **7. SUMMARY OF CONSULTATION RESPONSES**

### **Biodiversity Officer**

7.1 No objection to proposed lighting scheme.

## **8. MAIN POLICIES AND OTHER DOCUMENTS RELEVANT TO THE DECISION**

8.1 The primary strategic planning considerations applying to the site and associated policies are:

	<b>Development Plan</b>	<b>NPPF</b>
General policies	CS1 and CS2 of the CSDPD	Consistent
Design	CS7 of the CSDPD, EN20 of the BFBLP	Consistent
Amenity	'Saved' policies EN1, EN2 and EN20 of the BFBLP	Consistent
Highways	'Saved' policy M9 of the BFBLP CS23 of the CSDPD	Consistent - Para. 107 refers to LPAs setting their own parking standards for residential development
Biodiversity	CS1, CS7 of the CSDPD	Consistent Par. 180
Green Belt	'Saved' Policy GB1	Consistent (para. 149)
<b>Other publications</b>		
National Planning Policy Framework (NPPF)		

## 9. PLANNING CONSIDERATIONS

9.1 The key issues for consideration are:

- i. Impact upon ecology
- ii. Impact upon Character and Appearance of the Area and openness of Green Belt
- iii. Other matters

### i. Impact upon ecology.

9.2 The condition was imposed at a request from the Council's Biodiversity Officer so that artificial light did not have a detrimental effect upon biodiversity or ecology.

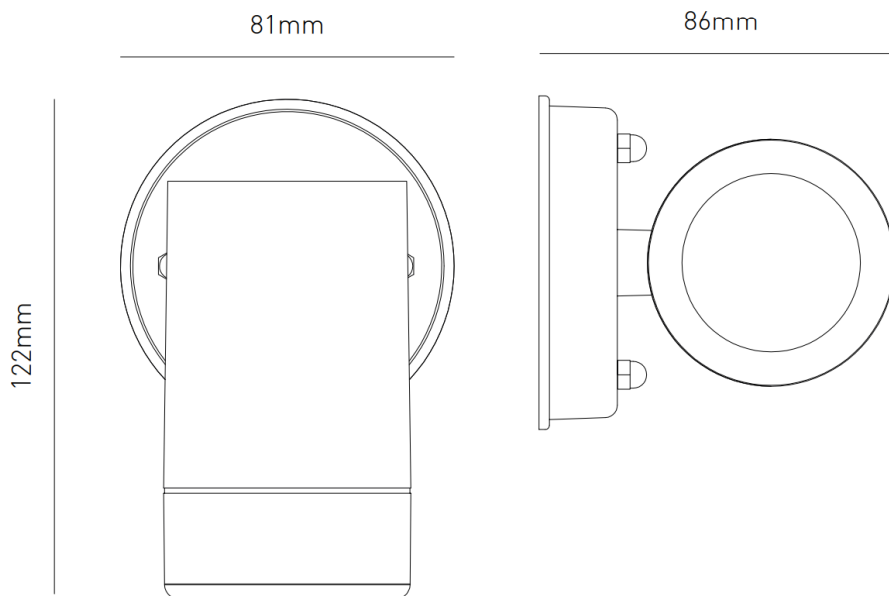
9.3 Conditions can be a means of controlling future development which would otherwise be permitted development. This can be, to ensure that any future development is sensitive to the specifics of the site or in this case to ensure that the LPA had control over external lighting. The imposition of a condition to remove permitted development rights is not therefore a blanket refusal for any future developments.

9.4 In this instance the applicants have requested to vary condition 15 to enable an external lighting scheme to be considered. This has been designed in conjunction with an ecologist to ensure that the impacts are acceptable to wildlife.

9.5 The lighting would consist of three 0.75m high bollards, 4 LED downlights posited either side of the gates, and 25 down lights positioned adjoined to external doors on the dwellings and garages.

9.6 The downlights have dimensions of height 12.2cm, with 8.1cm and depth of 8.6cm. So whilst there are a number of them around the site there are small discrete units. It is not

considered that would have an impact upon the character or appearance of the area and the light emitted would be minimal.



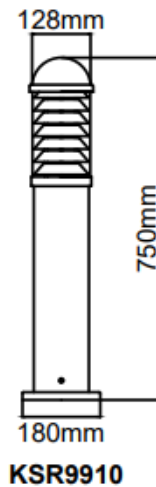
9.7 They would use Passive Infrared (PIR) movement sensors so, unless triggered, the lights will be off, maintaining the dark skies and not interfering with wildlife.

9.8 The Council's Biodiversity Officer has no objection to the installation of sensitive downlighters which will minimise the lighting around the new development and raises no objection to the proposal.

**ii. Impact upon Character and Appearance of the Area and openness of Green Belt**

9.9 Objections have been raised on the grounds that the lights would be out of character with the area and harmful to the openness of the Green Belt. The bollards are the biggest and most visually prominent structures of the lighting structures proposed. However only three are proposed to be installed and at 75cm in height, the impact within the site is not considered to be significant.

9.10 The site is located within the Green Belt where openness is its key characteristic. All the lights apart from the pillars would be affixed to approved structures within the site and due to their size are not considered to detrimentally affect the openness of the Green Belt. Whilst the bollards are larger and stand alone features, there are only three and given their height and dimensions, they are not considered to detrimentally affect the openness.



9.11 The proposed lighting will be controlled by infrared movement sensors and so will only be turned on when triggered. The lighting will therefore not be on continuously throughout the night and accordingly it is not considered that unacceptable light pollution would result from the proposal.

9.12 Given the above it is not considered that the proposal would have a significant impact upon the character and appearance of the area and is considered to comply with Policy CS7 of the Core Strategy DPD and EN20 of the Bracknell Forest Borough Local Plan.

### iii. Other matters

9.13 In accordance with the regulations the conditions have been updated to take account of the details reserved by conditions and subsequently agreed or discharged. Due to the nature of the details, some of these conditions have been removed as they are no longer necessary (e.g. verification of contamination) or updated to reflect the details which have been approved (e.g. boundary treatments).

## 10. CONCLUSIONS

10.1 This application is to vary a condition to enable sensitive lighting to be installed upon and around the dwellings granted planning permission last year. The application has been assessed by the Council's Biodiversity officer and found to be acceptable. The small light fixings, downward direction of illuminance and limited number of bollards would have an insignificant impact upon the character and appearance of the area and the openness of the Green Belt.

10.2 The condition is retained but re-worded to enable the acceptable lighting scheme to be installed. A planning application would therefore be required should any other external lighting be proposed and this could be assessed for suitability at that point.

10.3 It is therefore considered that the proposed development complies with 'Saved' policies EN20 of the BFBLP, Policies CS1, CS7 of the CSDPD and the NPPF.

## 11. RECOMMENDATION

11.3 The application is recommended to be delegated to the Assistant Director: Planning and **APPROVED** subject to the following conditions:-

01. The development hereby permitted shall be begun before the expiration of three years from 27.04.2020.  
REASON: This was the date of the parent permission and cannot be changed by a S73 application.

02. The development hereby permitted shall be carried out only in accordance with the following approved plans received by the Local Planning Authority under planning reference 19/00930/FUL:  
Location Plan: D1297-01  
Site Location Plan: D1297-02p Rev. 5  
Existing Site Layout Plan: D1297-12p Rev.6  
Typical Garage Details: D1297-09p  
Front Boundary Fence Details: D1297-14a  
Tree Protection Details (demolition): D1297-02p Rev.3  
Tree Protection Details (construction): D1297-02p Rev. 3  
GS Ecology Scheme to Mitigate the impact on Nesting birds during construction. Dated 24 January 2020  
GS Ecology Ecological Assessment dated February 2020  
GS Ecology Bio-diversity Enhancements Plan dated February 2020  
Remediation and Verification Strategy by Santec dated 24 February 2020

Plans approved under NMA application 21/00241/NMA  
Plot 1 Floor Layout Plans (D1297-03p Rev 3)  
Plot 1 Elevations (D1297-04p Rev 3)  
Plot 2 Floor Layout Plans (D1297-05p Rev 3)  
Plot 2 Elevations (D1297-06p Rev 3)  
Plot 3 Floor Layout Plans (D1297-07p Rev 3)  
Plot 3 Elevations (D1297-08p Rev 3)  
Unnumbered Block plan- existing and proposed refuse store locations

Received 4.3.2021 and 5.03.2021.

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

03. The dwellings hereby approved shall be constructed out of Vandersanden, Bromley and red multi stock bricks; Dark Antique Priory plain roof tile; oak wooden beams and white render.

REASON: In the interests of the visual amenities of the area.  
[Relevant Policies: BFBLP EN20, Core Strategy DPD CS7]

04. The materials and height of wall, fences and other means of enclosure shall be installed in accordance with Landscaping Plan 3716/200/H approved under application 20/00142/COND prior to the first occupation and thereafter retained as approved.

REASON: - In the interests of the visual amenities of the area and bio-diversity  
[Relevant Policies: BFBLP EN20, Core Strategy DPD CS1, CS7]

05. Prior to the practical completion of any dwelling, the Warfield byway 20 shall be returned to its former condition, of which the council hold record.

REASON: To ensure that the byway remains in an acceptable state to be enjoyed by all users.  
[Relevant Policies: Core Strategy DPD Policy CS24]



06. All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with Landscaping Plan 3716/200/H, Proposed Planting Scheme dated 01.02.2021 and Planting Specification approved under reference 20/00142/COND, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development or prior to the occupation of any part of the approved development, whichever is sooner. All hard landscaping works shall be carried and completed prior to the occupation of any part of the approved development. As a minimum, the quality of all hard and soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.  
REASON: In the interests of bio-diversity and visual amenity of the site  
[Relevant Plans and Policies: CSDPD CS1, CS7]
07. No dwelling shall be occupied until a means of vehicular access has been constructed in accordance Landscaping Plan 3716/200/H and Email from applicant dated 26.03.2021.approved under application 20/00142/COND  
REASON: In the interests of highway safety.  
[Relevant Policies: Core Strategy DPD CS23]
08. Prior to the first occupation, the parking and turning areas shown on plan D1297-02P Rev 4 shall be constructed in accordance with details approved under application 20/00142/COND. The area will be retained for parking thereafter.  
REASON: To ensure adequate on-site parking is provided  
[Relevant Policy: BFBLP M9]
09. The garages shall be retained for the use of the parking of cycles at all times.  
REASON: To ensure that the Local Planning Authority's cycle parking standards are met.  
[Relevant Policy: BFBLP M9]
10. During construction the site shall be laid out and operated in accordance with the Site Organisation Plan dated 18.02.20. The approved scheme shall be performed, observed and complied with. No other areas on the site, other than those in the approved scheme shall be used for the purposes annotated.  
REASON: In the interests of amenity and road safety.  
[Relevant Policy: BFBLP M9]
11. The parking and turning areas shall incorporate surface water drainage that is SuDS compliant and in accordance with DEFRA "Sustainable Drainage Systems - Non-statutory technical standards for sustainable drainage systems" (March 2015). It shall be operated and maintained as such thereafter.  
REASON: To prevent increased risk of flooding, to improve and protect water quality and ensure future maintenance of the surface water drainage scheme.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification) no enlargement, addition, improvement or other alteration permitted by Classes A, B, C, E and F of Part 1 of the Second Schedule of the 2015 Order shall be carried out.

REASONS: The site is located within the designated Green Belt where strict controls over the form, scale and nature of development apply and the site is affected by a Tree Preservation Order/contains trees which are a feature of the site where strict control over development is required by the policies of the development to ensure their protection.  
[Relevant Policies: BFBLP GB1, EN1, Core Strategy DPD CS9]

13. The areas shown for bat roost purposes on the approved plans shall thereafter be retained as such and shall not be used for any other purpose.  
REASONS: In the interest of nature conservation.  
[Relevant Policies: CSDPD CS1]
14. No external lighting shall be installed on the site or affixed to any building on the site other than in accordance with the lighting scheme detailed within the letter from GS Ecology dated 5<sup>th</sup> April 2021. All lighting detailed within the approved scheme shall only be operated by the passive infra-red sensors.  
REASONS: In the interest of Bio-diversity.  
[Relevant Policies: CSDPD CS1]
15. Should any trees, shrubs or hedgerows be removed during the main bird nesting period of 1st March to 31st August inclusive, the works shall be undertaken following the methodology contained within the GS Ecology 'Scheme to minimise the impact on nesting birds during construction' dated 24 January 2020.  
REASONS: In the interest of Bio-diversity.  
[Relevant Policies: CSDPD CS1]

#### Informative(s)

01. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
02. Trees on and adjacent to this site are/may be protected by Tree Preservation Orders and/or Conservation Area legislation. Written consent must be therefore obtained from the Council's Tree Section before undertaking any form of work to such trees (including any work affecting their root systems), unless detailed works to such trees have been specifically approved in writing as a part of this planning permission. Any pruning or removal of trees without the necessary consent or any damage arising from non compliance with other conditions of this permission or otherwise may be liable to prosecution by the Council. This may be in addition to any enforcement action deemed appropriate for non compliance with relevant planning conditions. Property owners, developers and/ or any other relevant persons are therefore advised to take appropriate measures to ensure that all persons responsible for overseeing works approved under this permission are suitably briefed on this matter
03. No details are required to be submitted in relation to the conditions attached to this decision, however they are required to be complied with.