28th June 2023

Our Ref: SWLC.LPC5319

Development Services – North
Wiltshire Council
Monkton Park
Chippenham
Wiltshire
SN15 1ER

Dear Sir/Madam

Town and Country Planning Act 1990
Change of use and conversion of former garage building on land at West Ashley House, Box, Wiltshire, SN13 8AN for use as holiday let accommodation.

As your records will show planning permission was recently approved in respect of the above development, pursuant to application PL/2022/06078. That permission was subject to a condition (No 2) requiring the works be carried out in accordance with those plans listed, and also that future changes were not permitted (condition No 7). However, it is proposed to revise the building's fenestration and add a single new rooflight.

Accordingly, it is the purpose of this application, pursuant to Section 73 of the above Act therefore to vary condition No 2, (the wording of which is inserted below) substituting the plan listed in bold below, in the stead of the plan in red.

Condition No 2

The development hereby permitted shall be carried out in accordance with the following approved plans and details:

Location plan ref. EX01A.
Existing site plan ref. EX02.
Existing floorplan and elevations ref. EX03.
Proposed floorplan and elevations ref. PR02. – **LPC-5319-PR-02 Rev A**
Proposed site plan (incorrectly labelled as existing) ref. PR01C.
Material finishes document submitted 25/10/22.
Structural report dated 15/03/22 and prepared by BTA Structural Design.

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

As you can see from the new plan the changes proposed are non-material minor amendments, but for the avoidance of doubt the variation of condition No 2 secures a clear agreement that had the changes been presented originally there is no reason

LPC (TRULL) LTD
TRULL, TETBURY
GLOS, GL8 8SQ
Tel: 01285 841433
www.lpctrull.com

DIRECTOR: SWL CHAMBERS BSc (HONS) MA MRTPI. REGISTERED IN ENGLAND AND WALES No. 03259960, REGISTERED OFFICE: TRULL, TETBURY, GLOS, GL8 8SQ.

to believe the decision would have been different and avoids breaching condition No 7.

Plans as approved





Plans as Proposed



As you will be aware Section 73 to the Town and Country Planning Act 1990 enables an applicant to apply to develop land without compliance with conditions attached to an extant planning permission, and under this section a Local Planning Authority may amend or remove conditions. Additionally, of course it is understood that a

successful Section 73 application result in the grant of a new planning permission, without deleting the original permission, which is therefore a material consideration.

I am aware that the Courts have been held that when determining a Section 73 application the amendments permitted should not amount to a fundamental alteration of the proposal put forward in the original application. The case of R (Vue Entertainment Limited) v City of York Council [2017] EWHC 588 (admin) gave clear support for use of section 73 in respect of changes to a condition that went beyond 'minor' amendments. As said though in this case the changes are believed to be very minor.

In light of the minor nature of the changes shown, and by reference to the officer's delegated report prepared with regard to the approved development I hope you will agree that there are no reasons to suggest that had the changes been part of the original submission they would have resulted in a different assessment and that the conditional variation outlined can therefore be agreed to support the grant of permission afresh. The development can therefore reasonably proceed varying condition No 2 as shown earlier.

I trust the above comments are sufficient to allow the application to be promptly determined, however if there are any queries, please do not hesitate to contact me.

Yours faithfully

[redacted]

Simon Chambers
Director

Enc.

Cc: Mr & Mrs S Taylor-Richards
Mr A Reid