CASE OFFICER'S REPORT

Application Reference:	PL/2023/06117
Application Type:	Removal/variation of conditions
Site Inspection:	
Consultation ends:	24 August 2023
Case officer:	Hilary Baldwin

Site Address:	Broadtown Brewery, 29 Broad Town Road, Broad Town, Swindon, SN4 7RB
Proposal:	Variation of condition 2 on PL/2022/07367 to enable the acoustic fence to be erected by April 2024.
Recommendation:	Approve with Conditions

Proposal and Site Description

Proposal

The application seeks a variation of Condition 2 of the extant planning permission ref: PL/22/07367 which was granted permission 19 April 2023.

The application seeks to vary the time period for the requirement to erect a 3m acoustic fence along the northern boundary of the site and an associated earth bund. The time period given was within three months of the date of the original permission, which would have required implementation before 19 July 2023.

The covering letter states that such implementation would not be appropriate during the month of March – September due to adverse impact upon biodiversity.

It is proposed that the condition is varied to allow for implementation prior to 31st March 2024.

For the avoidance of doubt, the condition subject of this application as written on the Decision Notice is as follows:

2. The proposed 3m high timber acoustic fence along the northern boundary of the site and the bund on adjoining land, as shown on the Proposed Site Plan Drawing No. 150, shall be constructed within 3 months of the date of this permission and maintained at all times thereafter. The soft landscaping shall be carried out in the first planting and seeding season following completion of the bund. 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 the retention of an environment free from intrusive levels of noise and activity and to ensure a satisfactory landscaped setting for the development in the interests of the amenity of the area.

Site Description

The site is located outside any defined settlement boundary. Accordingly, for planning purposes, the site is considered to be within the open countryside.

The site constituted a parcel of agricultural land, associated with 29 Broad Town Road. The site has been subject to development involving a change of use of land to commercial use (Use Class E(b)) in relation to a beverage/bar establishment, known as the Broadtown Brewery. Associated works applied and granted within the original submission included the construction of a decking area with tent, bar and seating area; erection of a toilet block; siting of benches and outdoor seating areas; establishment of a car parking area; and the stationing of vehicles and associated paraphernalia.

The existing residential garage that fronts the Broad Town Road on the site has been repurposed for use as a microbrewery; with the ground floor used for sales/tasting area, fermentation room and brewing room and the first floor used for an office.

The site itself is not within any designated area, but it is visible from the North Wessex Downs Area of Outstanding Natural Beauty (AONB) located to the south.

Policy Considerations

National Planning Policy Framework (NPPF) 2023

Paragraph 11 – Presumption in favour of sustainable development
Paragraph 84a - Supporting a Prosperous Rural Community
Paragraph 130 - Function and form of Development

Wiltshire Core Strategy adopted 2015 (WCS)

Core Policy 1- Settlement Strategy
Core Policy 2- Delivery Strategy
Core Policy 19 - Spatial Strategy: Royal Wootton Bassett and Cricklade Community Area
Core Policy 34 - Additional Employment Land
Core Policy 48 - Supporting Rural Life
Core Policy 51 - Landscape
Core Policy 57- Ensuring High Quality Design and Place Shaping
Core Policy 60 - Sustainable Transport

North Wiltshire Local Plan 2011 (Adopted June 2006)

Saved Policy NE18 – Noise and Pollution

Wiltshire Local Transport Plan 2011 - 2026

Car Parking Strategy

Planning History

The following are the most recent and relevant applications on the site and this is not considered an exhaustive list.

PL/2023/05199 - Discharge of Condition 8 on PL/2022/07367 (Retrospective change of use from agricultural and extension of commercial curtilage (class e (b) with retention of car parking, toilet facilities, covered canopy and decking area & associated works.
Under consultation.

PL/2023/00830 - Retrospective use of Hop Chapel (Sales and tasting area (Class A1) + Micro Brewery (Class B2) and change of use to be used as Class E(b).
Under consultation.

PL/2022/07367 - Retrospective change of use from agricultural and extension of commercial curtilage (Class E(b)) with retention of car parking, toilet facilities, covered canopy and decking area + associated works
Approved with Condition 19 April 2023

PL/2021/08484 - Retrospective application for a change of use from agricultural and extension of commercial curtilage (Class A1) with retention of car parking, toilet facilities, covered canopy and decking area and associated works.
Refused 26th April 2022.

20/00419/FUL - Part retrospective change of use from domestic garage (C3) to sales and tasting area (A1) and micro-brewery (B2) and change of use of 1st floor to staff office (B1) and change of use of outbuilding to be used as micro-brewery (B2).
Approved with conditions 12th March 2020.

Key Issues
Principle of Development
Impact on the character and appearance of the area
Impact on adjacent neighbouring occupiers

Assessment

Principle of Development

The application site is located within the open countryside outside of any defined settlement. In this instance, Core Policies 1 & 2 of the WCS state that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development. It advises that outside the defined limits of development that development will not be permitted other than in circumstances as permitted by other policies in the plan. Core Policy 19 states development in the Royal Wootton Bassett and Cricklade Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1.

Other policies referred to include Core Policy 34 of the WCS which seeks to support the retention or expansion of existing businesses within or adjacent to Principal Settlements, Market Towns, Local Service Centres and Large and Small Villages. This reflects Paragraph 84a of the NPPF which requires planning policies and decisions to enable the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings. In addition, Core Policy 48 of the WCS provides limited exceptions to the generally restrictive strategy of the plan with respect to new development in the open countryside.

In accordance with the Council's previous assessment of PL/2021/08484 and in particular PL/2022/07367, (which it is now subject to the proposal for variation of Condition 2) the proposals were considered to be acceptable in principle and not in conflict with the development strategy of the plan.

However, whilst the principle of the original proposal was viewed as acceptable, it is now necessary to undertake a site specific assessment and related compliance in relation to the variation and with other policies of the plan and the provisions of the NPPF.

Impact on the Character and Appearance of the Area

The planning system promotes high quality development through good inclusive design and layout and the creation of safe, sustainable mixed communities. Good design should be indivisible from good planning and recognised principles of good design seek to create a high-quality built environment for all types of development.

In this case, the proposed development would not change and would be implemented in line with the plans approved on the original permission. The acoustic fence and bund would not be altered and are required to be installed as per those details. In this respect there would be no change to the impact on the character and appearance of the area. It in this respect it is considered that the revised condition is acceptable.

Impact on Adjacent Neighbouring Occupiers

Section vii of Core Policy 57 of the WCS refers to the need to protect the amenities of existing occupants and to make sure that appropriate levels of amenity are achievable within development. Additionally, Paragraph 130 (f) of the NPPF states planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and do not undermine the quality of life or community cohesion and resilience. The provisions of Core Policy 57 (vii) and NPPF Paragraph 130 (f) are also required under Core Policy 34 iv (b) of the WCS.

Within the course of the preceding two applications, significant concern was raised in relation to the potential for noise impacts upon neighbouring properties. The aforementioned acoustic barrier and bund where therefore considered fundamental to the successful integration of the development into the site and its surroundings.

Whilst, by way of this variation, the installation of the fence and bund would be delayed, it is noted that the grant of permission by way of Condition 3 is limited to emission of noise levels and of particular note is Condition 5, which states that the use permitted can only be undertaken from April to September between the hours of 17:00 and 23:00 on Thursdays and Fridays ,12:00 and 23:00 on Saturdays and 12:00 and 17:30 on Sundays.

It is therefore concluded that the use cannot commence until April 2024 and the proposed variation of Condition 2 would still ensure that the approved noise attenuation features would be in place prior to that date and retained in perpetuity.

It is noted that the Parish Council and Wiltshire Council's Public Protection Officer have not raised any objection to the proposal.

Consultations

Broad Town Parish Council – No Objection

Providing the decking as per the (original) application is not brought into use until this condition has been satisfied.

Public Protection - No concern with the proposed Variation to Condition 2.

Letters of Representation

One Letter of Representation was received in relation to the proposed development.

Main Reason for Support

• The variation is acceptable as such works should not be undertaken during nesting season

Conclusion

As such, the proposals would not conflict with the statutory requirements, as well as the national and local planning policies and the Malmesbury Neighbourhood Plan and can be supported. The proposal would not result in harmful impacts to the residential character of the locality or to residential amenity.

It is therefore recommended that the application should be permitted subject to relevant conditions.

Conditions: (8)

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

Location Plan – Drawing No. 001 – Dated Aug' 2022
Proposed Site Plan – Drawing No. 150 – Dated Aug' 2022
Proposed Decking Area – Drawing No. 155 – Aug' 2022
Proposed Toilet Block – Drawing No. 156 – Dated Aug' 2022

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

2 The proposed 3m high timber acoustic fence along the northern boundary of the site and the bund on adjoining land, as shown on the Proposed Site Plan Drawing No. 150, shall be constructed and completed by 31 March 2024 and maintained at all times thereafter. The soft landscaping shall be carried out in the first planting and seeding season following completion of the bund. 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 the retention of an environment free from intrusive levels of noise and activity and to ensure a satisfactory landscaped setting for the development in the interests of the amenity of the area.

3 The level of noise emitted from the site shall not exceed 67dB LAeq 15 minute as measured on the northern boundary of the site, identified in Appendix F of the Acoustic Consultancy Report 08394/3/2/14, dated 09 September 2022, by LCP (this equates to 40dB LAeq 15 minute 1m at the façade of the nearest residential dwelling). The sound level is to be determined using a sound level meter that conforms to BS EN 61672-1 (as amended), at a measured height of 1.5 metres above ground level.

REASON: To ensure the retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

4 The site shall be used solely for the purposes of a drinking establishment ancillary to the use of 29 Broad Town Road as a micro-brewery and it shall remain within the same planning unit.

REASON: The proposed use is acceptable as an expansion of the existing business, but it is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access and planning policies pertaining to the area, would not permit a wholly separate commercial use.

5 The use hereby permitted shall only take place from April to September between the hours of 17:00 and 23:00 on Thursdays and Fridays, 12:00 and 23:00 on Saturdays, and 12:00 and 17:30 on Sundays.

REASON: To ensure the retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

6 The parking areas, shown as gravel and grass reinforcement matting on the Proposed Site Plan Drawing No. 150, shall be maintained and remain available for such use at all times. The site shall not be used at any time for the parking or stationing of public service vehicles or catering trailers.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety, and in the interests of the amenity of the area.

7 No materials, goods, plant, machinery, equipment, temporary structures, waste containers or vehicles shall be placed or parked on the site which obstruct, or adversely affect use of, the public right of way (footpath BTOW12).

REASON: To ensure the public right of way remains available and convenient for public use, in accordance with section 130 of the Highways Act 1980.

8 Within three months of the date of this permission, details of all external lighting, including the type of light 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 Guidance Note GN01/21 'The Reduction of Obtrusive Light', shall be submitted to the Local Planning Authority for written approval. Thereafter, the approved lighting only shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: To ensure there is no unnecessary light spillage above, outside or within the development site, in the interests of the amenities of the area and conserving biodiversity.

Informatives: (5)

9 The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy.

10 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.

11 Please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site. You are advised to contact the PROW officer on [INSERT]

12 The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

13 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.