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Ms V Giles-Franklin
Wiltshire Council
County Hall,
Bythesea Road,
Trowbridge,
BA14 8JN

Our Ref: 23118_D01_002

05 February 2024

Dear Ms Giles-Franklin,

VARIATION OF CONDITION APPLICATION TO PLANNING PERMISSION: 19/05498/FUL, INWOODS, 3 BATH ROAD, FARLEIGH WICK, BA15 2PU

Introduction

We enclose an application to vary Condition 2 (approved drawings/documents list) associated with planning permission 19/05498/FUL for the erection of 1 ½ storey extension and 1 storey courtyard extension at the above address. We consider that the proposed changes are of a scale and nature which results in a development which is not substantially different from the one which has been approved and thereby appropriate to determine as a minor material amendment (S73).

Draft proposals under this S73 application have been supplied the case officer prior to this submission to confirm that the changes comply with the limitations for variations to Planning Permissions under a S73.

As the application to which this amendment applies was originally submitted before 6 December 2023, confirmation of the fee payable for this application is awaited by the local authority, as noted on the Planning Portal, following the planning fee changes on this date.

In addition to the planning fee and this cover letter, the submission comprises:

- Application form and certificates
- CIL Form 1: CIL Additional Information
- CIL Form 7: Self Build Exemption Claim Form – Part 1

The following drawings, produced by Nash Partnership:

- 23118_1001_P1_Site Location Plan
- 23118_1120_P2_Proposed Ground Floor Plan

Designated Members
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■ ARCHITECTURE ■ HERITAGE ■ PLANNING ■ PLACEMAKING ■

- 23118_1121_P2_Proposed First Floor Plan
- 23118_1122_P2_Proposed Roof Plan
- 23118_2200_P2_Proposed Elevation NW & SE
- 23118_2201_P2_Proposed Elevation NE & SW

Background

Planning permission was sought for the erection of 1 ½ storey extension and 1 storey courtyard extension (application reference: 19/05498/FUL).

The case officer's report from the application highlights that there were six main planning considerations, at the point of consideration for this proposal: development in the green belt, impact on the openness of the green belt, visual impact, impact on the special landscape area, impact on the non-designated heritage asset and impact on neighbouring amenity.

The visual impact, impact on the special landscape area and on the non-designated heritage asset were all seen as acceptable, with the design, scale, and mass appropriate to the dwelling, acting as a subservient addition and not adversely affecting or dominating the Special Landscape Area or the non-designated heritage asset.

In terms of development within the designated Green Belt, the report noted that the original dwelling (as defined as the dwelling present on the 1 July 1948), was considered to have a volume of approximately 3220m^3 and the extensions under application ref: 19/05498/FUL, were seen as appropriate based on the property being one single dwelling. This triggered a pre-commencement condition attached to the approval which stated that no development shall commence until the property is reinstated a single dwelling.

Condition 4, attached to the approval restricted Permitted Development rights for further additions and extensions to any building forming part of the development permitted, the Condition wording was as follows:

> 'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions to any building forming part of the development hereby permitted.
>
> REASON: In the interests of preventing the construction of disproportionate additions in the Green Belt and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions.'

Current Situation

The building is now used as a single dwellinghouse, in accordance with the previous permission, shown in Appendix 1 of this letter.

In accordance with standard procedure, Condition 1 of the previous permission required the development permitted to have commenced before the expiration of three years from the date of the permission, on the 8th August 2019. Therefore, in order for this Planning Permission to remain valid the development would need to have been commenced before the 8th August 2022.

The photograph shown in Appendix 2 of this letter show that the development under this permission has been implemented with the construction of the 1 storey courtyard extension to the Loggia. The applicant bought the site with this change already implemented and it appears likely that development of this addition would have commenced before August of last year.

Proposed Variations

The applicant has recently acquired the property and wishes to implement the previous proposals under Planning Permission ref: 19/05498/FUL, albeit with some changes.

In summary the proposals encompass the following changes:

- Remove gable from north elevation of swimming pool/garage building
- Alter dormers to north elevation of swimming pool/garage building
- Widen the south (rear) outshot of the pool building
- Minor internal alterations
- Minor external alterations to windows and doors

Please see below table for the revised list of drawings which this S73 application seeks to change in the approved drawings/document list in Condition 2 of Planning Permission reference: 19/05498/FUL:

Approved	**Revised under this S73 application**
3954/01, Rev B, Location Plan	23118_1001_P1_Site Location Plan This drawing is submitted to satisfy the validation requirements. A location plan is supplied for this in order to adhere to OS licensing requirements, however, there is no change on the red and blue line between this submitted location plan and the one as part of the extant planning permission.
3954/3, Existing Ground Floor Plan	Unchanged
3954/4, Existing First Floor Plan	Unchanged
3954/5, Existing Elevations	Unchanged
3954/6, Rev B, Proposed Ground Floor Plan	23118_1120_P2_Proposed Ground Floor Plan
3954/7, Rev B, Proposed First Floor Plan	23118_1121_P2_Proposed First Floor Plan

3954/2, Rev C, Proposed Roof/Block Plan	23118_1122_P2_Proposed Roof Plan
3954/8, Rev D, Proposed Elevations; as received on 6 June 2019	23118_2200_P2_Proposed Elevation NW & SE 23118_2201_P2_Proposed Elevation NE & SW

Principle of a Section 73 Variation

There is no definition within the Town and Country Planning Act 1990 of what is deemed to be "a fundamental variation" to the Planning Permission, as indicated in the recent Armstrong v Secretary of State for Levelling-Up, Housing and Communities & Anor [2023] EWHC 142 (KB). This Case Law acknowledges that a 'S.73 applies to any application for planning permission for development of land "without complying with conditions subject to which a previous planning permission was granted"' and thus 'limits the local planning authority's consideration to the "question of conditions subject to which planning permission should be granted' and that 'there is nothing in the language used that restricts an application to vary or remove a condition to "minor material amendments", or to what a decision-maker considers to be a "non-fundamental variation'. This point concludes by noting that 'provided the application is limited to non-compliance with a condition (rather than any other part of the permission) it falls within the stated scope of S.73 of the TCPA 1990'. This case shows that the determination decision for a variation sought through a S.73 is not dependent on the individual decision-maker's perception of what they consider to be 'fundamental'.

As such, the proposed variations are entirely within the scope of S73 of the Act. The recent High Court judgement referred to above confirmed that S73 does not limit the extent of variation of a planning condition though changes to attached conditions, provided the variations do not impinge on the operative description of development.

The proposed changes to the conditions attached to planning application 19/05498/FUL do not alter the operative description of the approved development and therefore, the changes sought should be permittable through a S73 application, if the proposals are seen to satisfy the officer's other material planning considerations.

Furthermore, communications with the case officer prior to this S73 application have established this S73 route for the proposed changes as long as evidence is submitted confirming the planning permission 19/05498/FUL was implemented in the required time period stated in condition 1, which requires the permitted development to be begun before the expiration of three years from the date of the permission. As previously noted, the photograph shown in Appendix 2 of this letter show that the development under this permission has been partially implemented with the construction of the 1 storey courtyard extension to the Loggia, and as such the development permitted under this permission remains valid.

As it has been established that the proposed changes fall within the scope of a S73 variation, we will now discuss the principal planning policy provisions relevant to these proposed variations.

Principal Planning Policy Provisions

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Other material considerations comprise the NPPF, updated September 2023.

Local Policy- Development Plan

The Development Plan for the site currently comprises Wiltshire Core Strategy, adopted January 2015. Other material considerations comprise the National Planning Policy Framework and Supplementary Planning Guidance.

Planning Policies form part of the Local Plan, putting in place a strategic planning framework to be used in the determination of planning applications.

Policies within the Local Development Plan identified to be relevant to these proposals are as follows:

CP51: Landscape, sets the requirement for development to protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, with proposals using sensitive design and landscape measures were appropriate.

CP57: Ensuring High Quality Design and Place Shaping, requires as high standard of design for all new development, including extensions and alterations to existing buildings. This requires development to enhance local distinctiveness by responding to the natural and historic environment, retain and enhance existing landscaping and natural features and respond positively to existing building layouts/built form/height/mass/scale/building line/plot size/elevational design/materials/streetscape and rooflines. Development should also be sympathetic to historic buildings/historic landscapes, maximise sustainable construction techniques, make efficient use of land, have regard to levels of amenity and have high standards in the use of building materials, finishes and landscaping.

CP58: Ensuring the Conservation of the Historic Environment, sets the requirement to conserve and were possible enhance non-designated heritage assets which contribute to a sense of local character and identity.

Other Material Considerations: National Planning Policy Framework

The current iteration of the National Planning Policy Framework (NPPF) was revised on 5 September 2023 and sets out the Government's most up to date vision for future growth. It is a material consideration when determining planning applications.

Paragraph 137 attaches great importance to Green Belts and protection of their characteristics such as their openness and permanence.

Paragraph 138 sets out the 5 purposes of the Green Belt, to check unrestricted sprawl of large built-up areas, prevent neighbouring towns merging into one another, assist in safeguarding the countryside from encroachment, to preserve the setting and special character of historic towns and assist in urban regeneration.

Paragraph 147 notes that inappropriate development is harmful to the Green Belt and will not be permitted, whilst paragraph 148 requires local planning authorities to ensure substantial weight is given to any harm to the Green Belt.

Paragraph 149 requires local planning authorities to regard the construction of new buildings as inappropriate in the Green Belt, subject to a number of exceptions. Exception 149c allows for the extension or alteration of a building if it does not result in disproportionate additions over and above the size of the original building.

Paragraph 203 sets the requirement for a balanced judgement to evaluate the scale of any harm or loss and the significance of the heritage asset when weighing applications that directly or indirectly effect non-designated heritage assets.

Key Planning Issues and Assessment

Having regard to the provisions of the Development Plan and material considerations it is considered that the key issues are Green Belt (including the principle of development and any impact on openness), the impact on the Special Landscape Area, and Design (visual impact and impact on the non-designated heritage asset).

Development in the Green Belt

The main consideration is understood to be any impact on the designated Green Belt.

The proposals fall under the scope of exception 149c of the NPPF (updated 2023), which allows for the extension or alteration of a building if it does not result in disproportionate additions over and above the size of the original building.

The NPPF defines the 'original building' as *"a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was originally built."*

The case officer's report for the extant permission ref: 19/05498/FUL notes how the original dwelling is considered to have a volume of approximately 3220m3, with the west wing (formerly known as 'West Inwoods') understood to have been added in 1947, prior to the 1 July 1948 date stipulated within the NPPF's definition of original building and therefore is included in the assessment of the original building.

The proposed submitted elevations show the volume increase (and decrease) changes proposed, including the widening of the pool building, the 2no. new proposed dormers to the north-west elevation, the removal of the northern gable and all other changes results in a small volume increase of c.1.4% from the permitted scheme.

Whilst it is understood that there is a restriction on Permitted Development Rights in terms of extending or creating further additions to the permitted scheme, in the interests of protecting the designated Green Belt and prevent the construction of any disproportionate additions, the reason on the condition also allows for the Local Planning Authority to be able to consider individually whether planning permission should be granted for any additions or extensions to what has been permitted.

It is perceived that such a change to the permitted extensions would not result in the extensions/additions being viewed as a disproportionate addition in the Green Belt and does not adversely affect or compromise the key principles of the Green Belt such as its openness or permanence, as embedded in National Policy.

Impact on the openness of the Green Belt

Firstly, the proposals for minor internal alterations and alterations to windows and doors are not relevant to the openness of the Green Belt.

The relevant parts of the proposals for consideration to the openness of the Green Belt include the altering of the dormers and removal of the gable to the north-east elevation of the swimming pool/garage building, the widening of the south (rear) outshot of the pool building. The minor changes to the dormers on the north-east elevation do not conflict with the openness of the Greenbelt or obstruct any key views. Moreover, the removal of the gable on this elevation offsets gains in volume from this part of the proposal. The slight widening of the rear outshot is not seen as contrary to the principles of the Green Belt, being a small

proportionate addition to a already proportion extension to the existing building under the extant planning permission. This change does not adversely affect views from the public footpaths, neither public right of way ref: MFAR13 to the western edge of the site, public right of way ref: MFAR7 to the east of the site or those in the forested area to the south are adversely affected by the proposals. Long reaching views across the open countryside are also not compromised.

Visual impact

The proposals visually improve the extant planning permission by removing the gable and altering the dormers from northeast elevation of the poolhouse/garage. This helps to visually balance the principal elevation in comparison to the permitted scheme and is visually easier to read with more regular window rhythm across the elevation. The south elevation of the proposed pool building has also been more refined, with the feature gable principle retained from the extant planning permission and slightly widened, whilst retaining the principle of a similar roof pitch to reflect the existing gable roof pitches of the original house. The windows on this elevation have been simplified to a singular window to offset the glazing increase on this elevation. The minor changes are not seen to cause any adverse visual impact on the building and are seen to be a visual improvement to the extant planning permission. The extension remains subservient to the host dwelling and is clearly set apart as a addition with the principal of the walkway passage from the existing building to the extension kept as a lowered roofline to show a distinction between the host building and the addition, allowing the building's history to be read. The design, scale, massing and details of the proposed addition reflect the character of the host building without being considered pastiche.

Impact on the Special Landscape Area

The site is situated within a designated Special Landscape Area. As such the proposals must not conflict with the landscape character and context principles as set out in the relevant Landscape Character Assessment for the area. The extant planning permission noted that the proposal did not dominate the existing host dwelling and conserves the special landscape area. This remains unchanged with the minor changes proposed under this variation application.

Impact on the non-designated Heritage Asset

The existing dwelling is considered to be a non-designated heritage asset due to it maintaining some architectural and historic merit. As such, it is a material consideration in accordance with Paragraph 203 of the NPPF to access the impact of the proposed variations on the non-designated heritage asset.

Early engagement with the case officer prior to this submission has helped to guide the design proposals. Although the case officer noted full assessment against the relevant policies of the development plan and Framework would be required for a planning application to access the acceptability of the proposals, the case officer was able to offer some useful comments on the initial draft proposals which have been carried into the submitted design. Such changes carried forward include a reduction of the amount of glazing on the south elevation via the change from previously proposed patio doors to be revised to a window to complement the non-designated asset. Furthermore, the case officer requested specific details of the north elevation to be included in the formal submission and a request for natural stone along this elevation due to it being the principal elevation. This has also been carried forward in the submitted proposals. A comment was offered on the ground floor walls to be broken up with windows to a design to complement those on the existing elevation. The submitted proposals show a combination of garage doors and fixed panels along this elevation, to a similar arrangement as permitted under the extant planning permission.

The lower ridge line of the addition has been carried forward into this proposal, this was a element which was commented as being a characteristic which the officer's report from the previous permission noted as making the addition subordinate in nature to the main dwelling. The small changes between the previous proposal and this variation are seen to complement, rather than negatively impact upon, the non-designated heritage asset.

Impact on Neighbouring Amenity

The proposals for minor changes to the extant planning permission do not impact on neighbouring amenity. The site does not have mainly neighbouring properties, with the nearest neighbouring properties situated approximately 30m north-east of the poolhouse/garage which is where the most of the changes sought under this application are. The proposals do not impact negatively on the privacy of neighbouring properties, causing no overlooking concerns, overshadowing, creating any overbearing impact or causing any nuisance or noise concerns.

Conclusion

Overall, the proposed amendments set out to improve the quality and amenity of the development without negatively impacting on the existing neighbours, visual amenity or character and appearance of the area and we request approval as minor material amendments to the approved scheme.

I trust all is in order and would be grateful if you could acknowledge receipt of this submission. If you have any queries or require any further information, please do not hesitate to contact me.

Yours sincerely



Verity Beament

Senior Planner

Enc.

c.c. Client

Appendices

Appendix 1: Planning Permission ref: 19/05498/FUL

Wiltshire Council
Where everybody matters

Town & Country Planning Act 1990

Notification of Full Planning

Application Reference Number: 19/05498/FUL

Agent LLewellyn Harker Lowe Office Home Farm Kennel Lane East Pennard SHEPTON MALLET BA4 6TT	**Applicant** Mr & Mrs P Bertram Inwoods 3 Bath Road Farleigh Wick BA15 2PU
Particulars of Development: Erection of 1 1/2 storey extension and 1 storey courtyard extension	
At: Inwoods, 3 Bath Road, Farleigh Wick, BA15 2PU	

In pursuance of its powers under the above Act, the Council hereby grant PLANNING PERMISSION for the above development to be carried out in accordance with the application and plans submitted (listed below).

In accordance with paragraph 38 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.

Subject to the following 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:

Drawing Nos: 3954/01, Rev B, Location Plan; 3954/2, Rev C, Proposed Roof/Block Plan; 3954/3, Existing Ground Floor Plan; 3954/4, Existing First Floor Plan; 3954/5, Existing Elevations; 3954/6, Rev B, Proposed Ground Floor Plan; 3954/7, Rev B, Proposed First Floor Plan; 3954/8, Rev D, Proposed Elevations; as received on 6 June 2019

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

3 No development shall commence on site until the property has been reinstated into a single dwelling.

REASON: In the interests of preserving the openness of the Green Belt and preventing the construction of disproportionate additions in the Green Belt.

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions to any building forming part of the development hereby permitted.

REASON: In the interests of preventing the construction of disproportionate additions in the Green Belt and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions .

INFORMATIVE TO APPLICANT: 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.

Signed

Alistair Cunningham

Executive Director Growth, Investment & Place
Dated: 08 August 2019

Appendix 2: Photograph showing implementation of Planning Permission ref: 19/05498/FUL

