

APPLICATION FOR VARIATION/REMOVAL OF CONDITION DELEGATED REPORT

APPLICATION REFERENCE:	PL/2025/08680
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Brook House, Lower Kingsdown Road, Kingsdown, Corsham, SN13 8BG
DEVELOPMENT DESCRIPTION:	Variation of Condition 2 (Materials) of PL/2024/11463 to allow substitution of zinc roof covering with natural slate tiles
RECOMMENDATION:	Approve with Conditions

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2024/11463, which for the extension and alteration of a domestic dwellinghouse. The application relates to the site at Brook House, Lower Kingsdown Road, Kingsdown and seeks to vary/remove condition number 2 in relation to the materials proposed to be used. As the materials were detailed on the approved plans of the original permission, this applications seeks to vary the approved plans condition on that application..

The original application was for *“Construction of new rear single storey infill extension, enlarged dormer to front elevation together with external window and door alterations and provision of new entrance canopy. Replacement of all existing roof finishes, rainwater goods, windows, and doors. External timber cladding and insulation to all existing external walls”,* and was approved on the 13th May 2025 – the approved elevations are as follows:



The materials agreed under that permission were timber clad elevations and a standing seam zinc roof, with powder coated aluminium windows.

This variation application proposes to use natural slate tiles on the roof instead of standing seam zinc. No other alterations are proposed to the approved design, dimensions, or layout of the building. In their planning statement the applicant advises *“Following further design consideration and consultation with local contractors, the applicant now seeks to use natural slate tiles instead. This reflects both practical considerations and a desire to better align with the traditional materials and character of Lower Kingsdown Road and the wider Corsham area.... Slate offers a long lifespan, low embodied energy, and minimal maintenance requirements, consistent with the sustainable design principles set out in the NPPF and local planning policy.”*

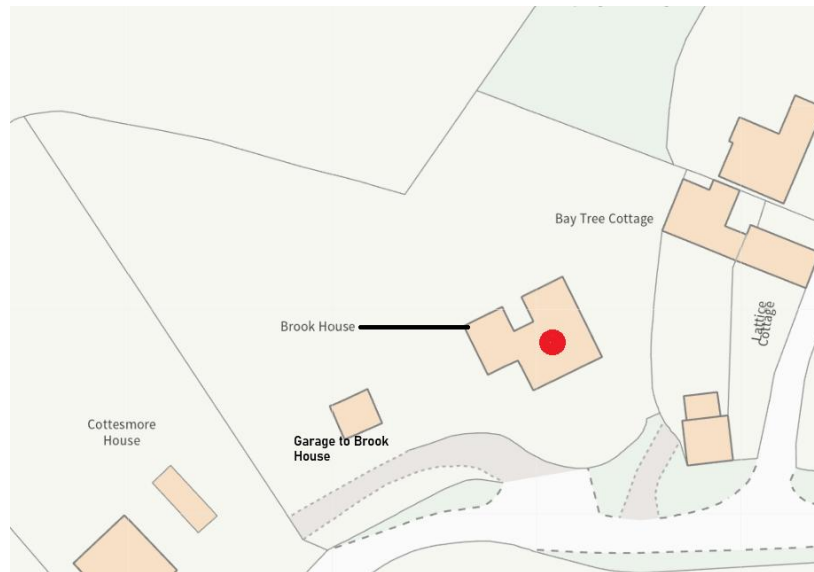
Revised plans have been submitted, with the elevation drawing shown below. The materials schedule within confirms the new roofing material:



SITE DESCRIPTION/CONTEXT

The application relates to Brook House, a bungalow with accommodation in the roof, which has previously been extended, and is located on the northern side of Lower Kingsdown Road within the settlement of Kingsdown. The dwelling is built on elevated ground - the land slopes sharply downhill to the north, such that the dwelling benefits from an undercroft on the northern side and far reaching views across the valley. The dwelling has a detached garage located about 10m to the west. The elevations of Brook House are finished in reconstituted Bath stone, under a brown interlocking concrete tile roof. The existing windows are white upvc.

The nearest dwellings to the east are Lattice Cottage and Bay Tree Cottage, the nearest corner of which is c15m from Brook House, with a stone wall and deciduous trees along the boundary between the two. To the southwest is Cottesmore House, over 50m from Brook House and separated from the application site by its detached garage/outbuilding:



The site is not within a conservation area, and there are no listed buildings in the area. The site is, however, within the Green Belt, the Cotswold National Landscape and the Bath and Bradford On Avon Bat Special Area of Conservation (SAC).

RELEVANT PLANNING HISTORY

Proposal / Summary
N/93/00068/FUL - Full planning permission Decision - Approved Date: 24/2/1993 – DEMOLITION OF SINGLE GARAGE AND ERECTION OF DOUBLE GARAGE DEMOLISH AND ERECT NEW GARAGE
PL/2024/11463 - Householder planning permission Decision - Approve with Conditions Date: 13/5/2025 – Construction of new rear single storey infill extension, enlarged dormer to front elevation together with external window and door alterations and provision of new entrance canopy. Replacement of all existing roof finishes, rainwater goods, windows, and
N/96/00196/FUL - Full planning permission Decision - Refused Date: 11/3/1996 – REPLACEMENT REAR EXTENSION TO DWELLING EXTENSION
N/96/00813/FUL - Full planning permission Decision - Approve Date: 6/6/1996 – EXTENSIONS TO DWELLING EXTENSIONS
N/98/01284/FUL - Full planning permission Decision - Approve with Conditions Date: 20/7/1998 – EXTENSION TO DWELLING AND REPLACEMENT GARAGE EXTENSION/REPLACEMENT GARAGE

RELEVANT LEGISLATION, POLICIES AND GUIDANCE

Town and Country Planning Act. 1990 (as amended)

Section 73 of the Town and Country Planning Act. 1990 (as amended) relates to the determination of applications to develop land without compliance with conditions previously attached. It states that:

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

- a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

The National Planning Practice Guidance (PPG) states the following:

- *Nature of the Application:* A Section 73 application is treated as a new planning permission, although it does not alter the original permission itself. The original permission remains intact and can still be implemented unless it has expired or been superseded.
- *Limitations:*

- Section 73 cannot be used to change the description of development or the operative part of the permission (e.g. the nature or extent of the approved use).
- It cannot be used to extend the time limit for implementing the original permission.
- If the proposed changes go beyond what can reasonably be considered under Section 73, a new planning application under Section 70 would be required.
- *Decision-making:* The local planning authority must consider the application only in relation to the conditions subject to which the original permission was granted. However, it may impose new or revised conditions if granting a new permission.
- *Legal Agreements:* Because a Section 73 application results in a new permission, any existing Section 106 agreement may need to be varied or replaced via a deed of variation to ensure obligations continue to apply to the new permission.

National Planning Policy:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide

Development Plan:

The development plan for Wiltshire comprises the Wiltshire Core Strategy (WCS) (adopted January 2015) and any made neighbourhood plans, which remains the principal statutory planning document guiding development across the county. In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

Though the development plan is considered as a whole, those parts deemed to be particularly relevant to this application are listed below:

The adopted Wiltshire Core Strategy (WCS), with particular regard to:

- Core Policy 41 Sustainable Construction and Low-Carbon Energy;
- Core Policy 50 Biodiversity and Geodiversity;
- Core Policy 51 Landscape
- Core Policy 57 Ensuring High Quality Design and Place Shaping;

Neighbourhood Plan:

Box Neighbourhood Plan Status: Designated

Supplementary Planning Documents:

Wiltshire Design Guide.

ISSUES

The key considerations in the assessment of this application are as follows:

- Determining whether the proposed amendments fall within the scope of Section 73 of the Town and Country Planning Act 1990 which allows for the variation or removal of conditions attached to an existing planning permission.
- Assessing whether the development, as amended, remains in accordance with the relevant policies and provisions of the development plan, and whether the changes materially alter the nature or impacts of the approved scheme.

CONSULTATION RESPONSES

Box Parish Council: No objection

REPRESENTATIONS

The application was publicised by direct neighbour letter. No representations had been received at the time of writing.

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

In accordance with this statutory requirement, this application has been assessed against the relevant policies of the Development Plan, including the Wiltshire Core Strategy (2015) and, where applicable, any made Neighbourhood Plans. Consideration has also been given to the policies of the National Planning Policy Framework (NPPF) as a material consideration in the assessment.

Principle of the Development – Do the proposed amendments fall within the scope of s73?

The proposed amendments have been reviewed and are considered to fall within the scope of Section 73 of the Town and Country Planning Act 1990. The changes do not result in a fundamentally different development from that originally approved, nor do they seek to alter the description of development or extend the time limit for implementation. As such, the application is valid under Section 73 and can be determined as a variation of condition(s) attached to the original planning permission.

Green Belt

The amendment relates solely to the external finish of the roof and does not increase the footprint, volume, height or overall size of the approved addition. For this reason, the proposal will continue to comply with paragraph 154(c) to the NPPF and be considered appropriate development in the Green Belt.

Design and impact on character and appearance of area

The proposed development retains the same form, scale, and massing as previously approved. The amendment to the roof material from standing seam zinc to Spanish slate is considered visually appropriate and more consistent with surrounding traditional buildings. The proposed Spanish slate is a natural, durable material with a long lifespan and low maintenance requirements. It is considered no less sustainable than the previously proposed standing seam zinc in terms of longevity, embodied energy, and maintenance, and therefore aligns with the principles of sustainable construction set out in Core Policy 41 of the Wiltshire Core Strategy.

Ecology

During the course of the originally approved application, a Preliminary Ecological Assessment and Bat Survey were submitted. The Council's Ecologist highlighted the need for additional controls to protect the Bath and Bradford on Avon Bat SAC, which were secured via a suitably worded lighting condition. The change of materials proposed would not require any additional ecology mitigation, and subject to the lighting condition being added to this permission, the development is considered to comply with Core Policy 50 of the WCS.

Cotswold National Landscape

The change in roofing material will not alter the scale, siting, or visibility of the building in the wider landscape. Slate is a traditional material in the area, and the modification would not result in harm to the special qualities or visual amenity of the Cotswolds National Landscape.

Amenity

The amendment to the roof material does not affect the height, massing, or window arrangement of the building. Consequently, there will be no increase in overlooking, overshadowing, or loss of light, and neighbour amenity will remain unaffected.

CONCLUSION

In determining this application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority has considered whether the proposed amendments fall within the scope of Section 73. The proposed amendments have been assessed against the relevant policies of the Wiltshire Core Strategy, any applicable Neighbourhood Plan, and the National Planning Policy Framework. The assessment has also considered whether the development, as amended, materially alters the nature or impacts of the approved scheme.

The proposed amendment to the roof material from standing seam zinc to Spanish slate constitutes a minor material amendment under Section 73 and does not alter the scale, footprint, or use of the approved development. The change is therefore acceptable in principle and falls within the scope of Section 73 of the Town and Country Planning Act 1990.

The development, as amended, has been assessed against the relevant provisions of the development plan, including Wiltshire Core Strategy Policies CP41 (Sustainable Construction), CP50 (Biodiversity and Geodiversity), CP51 (Landscape), and CP57 (Ensuring High Quality Design and Place Shaping), together with the National Planning Policy Framework. The use of natural slate is visually appropriate, durable, and sustainable, and would not adversely affect the character and appearance of the area, neighbour amenity, the openness of the Green Belt, or the special qualities of the Cotswolds National Landscape. Accordingly, the proposed amendments are considered to accord with the development plan and national planning policy, and it is recommended that the Section 73 application be approved subject to the relevant conditions.

RECOMMENDATION: That Planning Permission be GRANTED subject to the following conditions:

- 1) The development hereby permitted must be begun not later than the expiration of three years from the date of the original planning permission (13th May 2025) referenced PL/2024/11463, unless the development has already been lawfully commenced before that date.

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:

Location plan received 13 November 2025
Proposed site plan received 13 November 2025
Proposed elevations received 13 November 2025
Proposed roof plan received 13 November 2025
Planning statement received 13 November 2025

And the following plans approved under PI/2024/11463:

Basement Plan as Proposed Drawing No 1525 029 B received 17 December 2024
Ground Floor Plan as Proposed Drawing No 1525 127 A received 8 May 2025
First Floor Plan as Proposed. Drawing No 1525 128 A received 8 May 2025

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

- 3) No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. Any lighting must be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILP,2021)", and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals. 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.