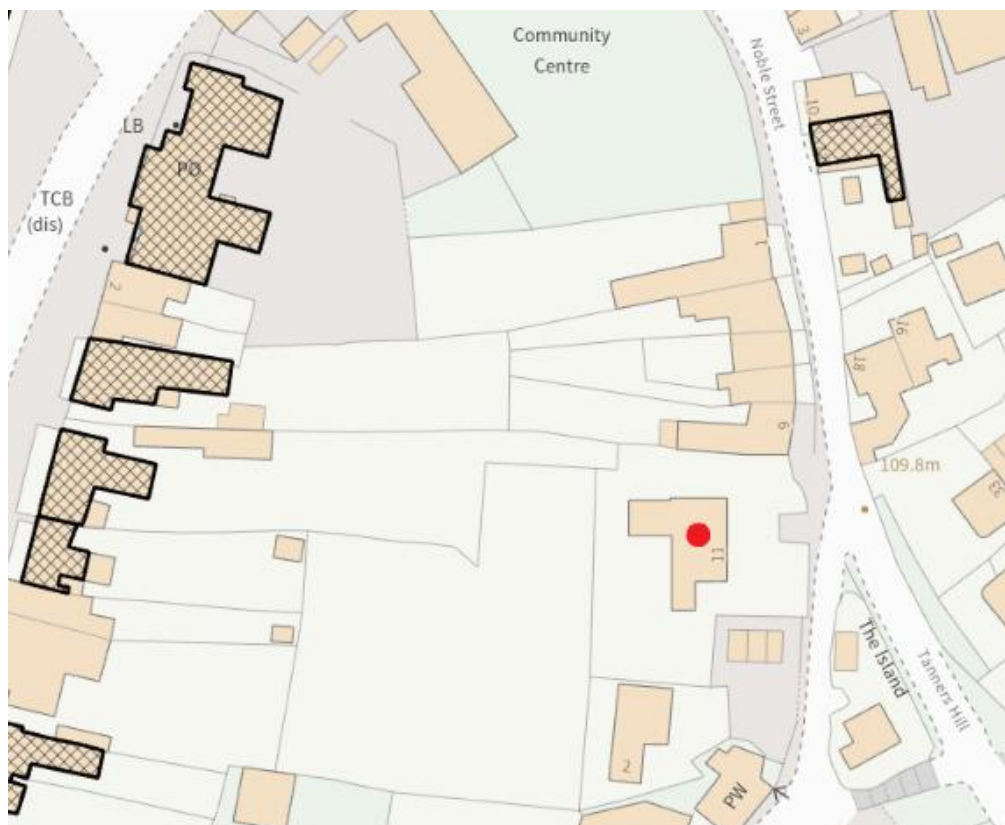


APPLICATION FOR VARIATION/REMOVAL OF CONDITION DELEGATED REPORT

APPLICATION REFERENCE:	PL/2025/09189
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Apple Wood House, Noble Street, Sherston, Malmesbury, SN16 0NA
DEVELOPMENT DESCRIPTION:	Variation of condition 2 (approved plans) on PL/2024/10746 to accommodate proposed solar panels to the rear south facing roof slope and changes to the proposed wall materials.
RECOMMENDATION:	That Planning permission be GRANTED

SITE DESCRIPTION/CONTEXT

The site is Apple Wood House, a detached single storey dwelling set within the village of Sherston and marked in red on the plan below:



It was built c.1970 and is constructed of reconstituted stone elevations under a concrete plain tile roof. The windows have reconstructed stone mullions, with metal framed glazed units.

The property is set on an elevated site with a double garage set under the property. The boundary to the highway is of natural stone walls retaining the front gardens. The property is set back within the site by approximately 12 metres beyond the driveway. The property has a

second side driveway within its ownership to the north of the site. See photographs of dwelling, below:



The application site is subject to the following planning policy constraints:

- Sherston Conservation Area
- There are a number of listed buildings nearby – hatched in black on the plan above, the nearest being Nos.12-14 Noble Street, c55m to the northeast.
- Cotswold National Landscape (CNL).

PROPOSAL

Permission is sought under s73 to The Act to vary condition 2 to planning permission PL/2024/10746 to allow the installation of solar panels on the rear elevation of the roof slope, and to change the external finish of the dwelling.

The change the consented wall materials of the permitted scheme from render throughout to a mix of render, vertical timber cladding and Cotswold limestone walling, and to add 10 solar panels to the rear south facing roof slope which faces the private garden. The planning statement submitted with the application suggests that this revised palette of materials has *“been carefully selected to enhance the consented scheme by introducing more material variety and to break up the massing of the garage and house.”*

The garage is proposed to be finished in Cotswold oolitic limestone with a new oak lintel over the existing door openings with a central oak post. The new stonework will match the existing garden walls adjacent to be in keeping with the immediate surroundings.

The existing subservient side extension to the south is proposed to be clad in high quality vertical timber cladding which will be untreated and left to silver naturally.

The east and north elevations of the house, which are most public, will be retained in render as already consented. The elevations facing the private garden to the rear are proposed in a mix of render and untreated high quality timber cladding.

The new solar panels are a novel feature, not shown on the permitted plans. The submitted plans appear to show the new panels to be of a conventional type and are described as being fitted flush with the roof tiles.

RELEVANT PLANNING HISTORY

- PL/2024/10746 - Householder planning permission Decision - Approve with Conditions
Date: 22/4/2025 – Full refurbishment and Attic and Garage Conversion of Apple Wood House

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 and guidance:

- 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.

Wiltshire Core Strategy (WCS):

- Core Policy 41 Sustainable Construction and Low-Carbon Energy;
- Core Policy 51 Landscape
- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 58 Ensuring the Conservation of the Historic Environment;

Sherston Neighbourhood Plan 2006 to 2026 (Made 17th May 2019)

- No relevant policies

Sherston Conservation Area Statement (April 1999)

Supplementary Planning Documents:

- The 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

Sherston Parish Council: No objection

REPRESENTATIONS

At the time of writing, two representations have been received, both supporting the proposal:

“Apple wood house would definitely benefit from this planning proposal, solar panels and wood cladding would be a huge asset to the house.”

“Adding solar panels is a sensible addition in a way that won't adversely affect the look and feel of the property. The wood cladding is more attractive than the current appearance and far more in keeping. Fully support the proposed works.”

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 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 conditions attached to the original planning permission.

Design and impact on character and appearance of area

The proposed change relates solely to external materials and does not alter the approved form, scale or massing of the dwelling. The introduction of a mixed palette of render, timber cladding and natural stone is considered acceptable in design terms, providing visual articulation and helping to break up the built form without resulting in an incongruous or overly prominent appearance.

Condition 3 of approval PL/2024/10746 required the submission of a 1-metre square sample panel of render, reflecting the fact that the dwelling was previously approved to be wholly rendered. The varied external material palette now proposed, comprising render, vertical timber cladding and natural stone, means that render would no longer be the dominant or continuous finish. In this context, the condition is no longer considered necessary or

proportionate, and the proposed materials can be adequately assessed through the submitted drawings and material specifications. The removal of the condition would therefore accord with the tests set out in the National Planning Policy Framework, in that it would no longer be necessary to make the development acceptable in planning terms.

The addition of solar panels would align with the aims of Core Policy 41 of the Wiltshire Core Strategy, and the fact that the panels would be flush-mounted with the roof slope is welcomed. Such features are reasonably common on domestic dwellinghouses. In any event, they will be positioned at the rear thereby not being overtly visible in the public realm.

Heritage

The application site lies within the Sherston Conservation Area. The proposal relates solely to a change in external materials and does not involve any alteration to the approved form, scale or massing of the dwelling.

The site is set back from the public highway and is partially screened from wider public views, limiting the extent to which the proposed changes would be perceived within the Conservation Area. The introduction of a mixed palette of materials, including render, natural Cotswold limestone and vertical timber cladding, is considered appropriate in this context. In particular, the use of natural stone is a positive design response, reflecting locally characteristic materials and representing an improvement over the existing reconstituted stone present on the building.

The use of timber cladding is also considered acceptable in heritage terms. As noted by the applicant in their planning statement, a similar design approach has been recently approved nearby at The Old Flower Shop, within the Conservation Area, demonstrating that timber cladding can be successfully accommodated where it is used in a controlled and subservient manner and is largely screened from public viewpoints.

The proposed solar panels are not uncommon features in residential areas such as this, including in conservation areas. In this case, the panels will be positioned to the rear of the property and away from the overt visibility in the public realm from Tanners Hill. For this, they are not considered to cause harm to the Sherston Conservation Area as a heritage asset.

Cumulatively and individually, the proposed changes and additions would not result in harm to the significance of the Sherston Conservation Area, nor would they adversely affect the setting of any listed buildings (all of which are located more than 50 metres from the site). As such, the proposal would preserve the character and appearance of the Conservation Area, and will meet with the requirements of policy CP58 to the Wiltshire Core Strategy as well as section 16 to the NPPF.

Cotswold National Landscape

The changes in external materials will not alter the scale, siting, or visibility of the building within the wider landscape, and the modification would not result in harm to the special qualities or visual amenity of the Cotswolds National Landscape.

Consideration has been given to the potential impact from reflective glare from the solar panels. While it is often appropriate to condition an anti-reflective finish on PV arrays in open landscape settings, the siting of this dwelling within the built up area of the village and on a single storey dwelling ensures that the features will not be individually seen at distance and would likely not result in a material impact on the visual amenity of the wider landscape.

Accordingly, the proposed development is considered to comply with policy CP51 to the Wiltshire Core Strategy.

Amenity

The amendment to the external materials does not affect the height, massing, or window arrangement of the building. Consequently, there would be no increase in overlooking, overshadowing, or loss of light, and there would be no unacceptable impact on neighbour amenity.

Due to their distance from the neighbouring property to the South (No.2), there is not considered to be any impact from the new solar panels upon the amenity or living conditions of that neighbour.

It is noted that a condition was attached to the original permission regarding obscure glazing to a first-floor window on the north elevation, and it is necessary to retain this condition in connection with the current application.

PLANNING BALANCE AND 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 change to the external materials has been carefully considered in terms of its impact on the character and appearance of the area, the Sherston Conservation Area, and the Cotswolds National Landscape. The introduction of a mixed palette of render, vertical timber cladding, and natural Cotswold limestone is considered acceptable, providing visual articulation, breaking up the massing of the dwelling and garage, and improving the quality of materials relative to the existing building. The amendments would preserve the significance of the Conservation Area and would not harm the setting of nearby listed buildings.

The solar panels, being flush-mounted and sited on a single storey dwelling, would not give rise to adverse visual impacts or glare in the wider landscape. The proposal would also have no adverse impact on neighbour amenity, and the retention of the obscure glazing condition ensures that existing safeguards are maintained. Overall, the amendments do not materially change the nature or impacts of the approved development.

The development, as amended, has been assessed against the relevant provisions of the development plan, including Wiltshire Core Strategy Policies CP41 (Sustainable Construction), CP51 (Landscape), CP58 (Ensuring the Conservation of the Historic Environment) and CP57 (Ensuring High Quality Design and Place Shaping), together with the National Planning Policy Framework. 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.

In line with the nature of the amendments proposed, it is considered that only a limited number of conditions are necessary to make the development acceptable. These include the revised time limit to reflect the original permission, approved plans to secure the revised external materials, and the previously approved obscure glazing condition to ensure continued protection of neighbour amenity. Other conditions attached to the original permission are no longer relevant to the amended scheme and are therefore not carried forward.

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 (22nd April 2025) referenced PL/2024/10746 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 plans approved under PL/2024/10746:
 - Proposed Topographical Survey Plan 2919-1100-A – received 25th November 2024
 - Proposed Studio Plan 2919-1107-A - received 25th November 2024
 - Proposed Site Plan 2919-1100-C – received 18th February 2025
 - Proposed Ground Floor and First Floor Plan 2919-1106-B – received 18th February 2025.

And the following plans received with this application:

- Location Plan received 20 November 2025
- Proposed elevations 2919-1150-C received 20 November 2025
- Proposed Roof plan 2919-1105-C received 26 November 2025

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

- 3) Before the development hereby permitted is first occupied the proposed first floor north elevation window (facing towards no. 9 Noble Street) shall be glazed with obscure

glass only no less than level 3 obscurity. The window shall be maintained with obscure glazing at all times thereafter.

REASON: In the interests of residential amenity and privacy.