

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2025/09064
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Lydiard Farm, The Street, Lydiard Millicent, Swindon, SN5 3LU
DEVELOPMENT DESCRIPTION:	Variation of conditions 2 & 3 of planning permission PL/2025/06065 to change the approved windows and doors material from timber to UPVC timber effect
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The site relates to a detached residential property set in spacious grounds on the edge of the Small Village of Lydiard Millicent, which is classified as a Small Village within the Wiltshire Core Strategy. As the village does not benefit from a settlement boundary it is therefore considered to be in the open countryside for planning purposes. The site lies within the village's conservation area, but itself does not represent a heritage asset and there are no heritage assets within the vicinity of the site.

The site bounds The Street, a main thoroughfare through Lydiard Millicent which passes along the north/northeast of the site. This boundary includes several mature trees, which are protected by virtue of the conservation area status. To the west, south and east the site is bounded by fields and woodland.

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2024/03183 and by a subsequent Section 73 application, ref: PL/2025/06065 and it is considered pertinent to discuss the two preceding applications and the evolution the scheme in relation to the current proposal.

The original permission from 2024 granted permission to extend and alter the existing dwelling by way of a two-storey side extension, two-storey rear extension, a ground floor rear extension to replace a conservatory, a new slate roof finish, new pentice roof and stone cladding to frontage and render to external walls. That application also granted permission for a new hipped roof over an annexe and a new garage with ancillary accommodation over.

The Section 73 application from the early part of 2025 granted permission for a small extension of the garage towards the south and towards the dwelling to internalize a staircase to the first floor accommodation above the garage. That application also included a small revision to the ground floor of the dwelling to an external utility room wall to match the extent of rear elevation of the existing annexe and to install a flat roof over, which would match the permitted extension to the kitchen area.

This current proposal, subject of this report, is to change the materials of the windows and doors only, from the previously approved timber to a timber effect UPVC on both the dwelling, the extant permission for the extension and the detached garage. The proposed fenestration would be coloured Painswick Grey, which is a light grey with subtle green undertone.

As the plans subject of the two preceding applications detailed a schedule of materials, it is considered appropriate and necessary to amend both Condition 2: Plans and, Condition 3: Materials.

RELEVANT PLANNING HISTORY

Proposal / Summary
PL/2023/03323 - Householder planning permission Decision - Approve with Conditions Date: 18/12/2023 – Proposed widened access to property
PL/2024/03183 - Householder planning permission Decision - Approve with Conditions Date: 27/9/2024 – Extensions and alterations to the existing buildings to include a two-storey side extension, two-storey rear extension, ground floor rear extension to replace a conservatory, new slate roof finish, new pentice roof and stone cladding to frontage and render
PL/2025/02189 - Outline planning permission: All matters reserved – 1No new build, two storey infill dwelling - with accompanying detached garage with room in roof.

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 1 Settlement Strategy;
- Core Policy 2 Delivery Strategy;
- Core Policy 19 Royal Wootton Bassett & Cricklade Community Area
- Core Policy 50 Biodiversity and Geodiversity;
- Core Policy 51 Landscape
- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 58 Ensuring the Conservation of the Historic Environment;
- Core Policy 60 Sustainable Transport;
- Core Policy 61 Transport & Development;
- Core Policy 64 Demand Management

Draft Wiltshire Local Plan Policies

The Council's draft Local Plan, (Regulation 19 stage, 2023) is a materials consideration but carried limited weight at this stage.

Lydiard Millicent Neighbourhood Plan – Made May 2021

LM1 - Managing Design in Lydiard Millicent

National Design Guide - 2021

H1, B1, B2 & B3

Wiltshire Design Guide – Adopted 2014

Chapter 9 Homes and Buildings

Wiltshire Local Transport Plan 2011 - 2026

Car Parking Strategy

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

Lydiard Millicent Parish Council: No comments to make

REPRESENTATIONS

No letters of representation or comment were made by adjacent neighbouring occupiers.

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 principle of providing and extending facilities in association with existing residential accommodation is considered acceptable in principle and in accordance with policies CP1, CP2 and CP57 of the adopted Wiltshire Core Strategy, subject to assessment of site-specific impacts, related policy considerations and compliance with the other policies contained within the development plan and the guidance and provisions as contained within the National Planning Policy Framework.

The principle of the development for the erection of additional habitable accommodation, the remodelling of the property and that of a three bay, detached garage forward of the front elevation of the dwelling has already been established by way of a preceding application granted in 2024. Furthermore, changes made by the preceding Section 73 application in 2025 were also considered acceptable in this instance.

Whilst there are no changes to the building envelope and the current proposal comprises a material change to the finish of the windows and doors only, it is considered appropriate to carry out a full assessment in relation to adopted policies in place at the time of writing.

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.

Compliance with the Development Plan

There are not considered to be any policy changes, locally or nationally since the time of the original permission in 2024 and the preceding Section 73 application in 2025 which would now make the amended proposal unacceptable.

Assessment of Conditions

The current proposal would update the elevation plans only which are included at Condition 2 and, in Condition 3, there is a reference to the proposed materials relating back to those schedules on the drawings in Condition 2.

As previously advised, the current proposal would change the windows and doors from timber to that of timber effect UPVC, coloured Painswick Grey. No changes are proposed to the window design, their opening size, the stone dressing around the window openings, the conservation grade roof lights on the garage, or the vehicle doors on the garage.

Core Policy 57 states a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality.

Core Policy 58 states that designation of a conservation area or listed building does not preclude the possibility of new development. In considering applications for new development, the council will seek to ensure that the form, scale, design and materials of new buildings are complementary to the historic context.

There is no adopted conservation area appraisal for Lydiard Millicent, and there is little commentary within the neighbourhood plan to confirm the significance of the conservation area beyond a character appraisal in appendix A that discusses particular buildings. However, in appeal decision for application 17/08735/FUL (APP/Y3940/W/18/3205367) the inspector provided the following description.

'The Lydiard Millicent Conservation Area (the CA) covers a fairly extensive area to the western side of the village. It includes the historic core, but the bulk of the housing in the settlement is located outside of the CA. Notably, significant areas of agricultural land are contained within the CA. The rural setting of the village, particularly the historic core, is a defining characteristic of the CA'.

It therefore appears that the significance of the conservation area is derived from its historic core and open rural setting, as well as specific historic buildings and their architecture.

The preceding Section 73 application which elongated the garage structure in a minor way and internalized the first-floor staircase was considered satisfactory. It was accepted that the extended part of the garage would be towards the dwelling and in terms of visual impact, would not result in significant further impact upon the character and appearance of the site, setting or designated Conservation Area, and that this part of the development was considered acceptable.

The amendments to the habitable accommodation of the dwelling is to the rear (south) of the property and is in a discrete area, set between the extant permission for the kitchen and dining area and where the adjoining annexe already projects. As the property is set back from the highway, overlooks open fields and there are no nearby residential properties, this element of the proposal was also considered satisfactory.

The current proposal, along with those already accepted, is also considered acceptable and would be barely discernible from the public realm. The nearest part of the development to the adjacent highway would be the garage, which is approximately 27m from that boundary with the dwelling much further still. At this distance, it is not considered that quality timber effect windows would be that discernible or would result in visual harm to the dwelling, its extant alterations or to the character and appearance of the area.

As such, the impact of the proposal on the heritage assets of the designated Conservation Area are considered to be neutral and the requirements of current conservation legislation, policy and guidance are considered to be met

Due to the nature of the development, its location and the use of appropriate material detailing, the proposal is considered to be in compliance with CP57, CP58, the Wiltshire Design Guide, the Made Lydiard Millicent Neighbourhood Plan and the guidance and provision as contained within the NPPF.

Other Material Considerations/Issues

The proposed material changes are not considered to have any impact upon adjacent neighbouring occupiers, would not result in changes to highway access, on-site parking or parking provision and in this respect is deemed acceptable on these elements.

Conditions which were imposed upon the original permission and brought forward on the preceding Section 73 application for tree retention and protection, and the use of the first floor area above the garage are still considered appropriate, necessary and can be brought forward on any subsequent Decision Notice resulting from this current proposal.

Biodiversity Net Gain

Since the time of the original applications, the requirement for assessment and provision of Biodiversity Net Gain has been brought forward on all applications.

However, the proposal is a householder application for development within the curtilage of a dwellinghouse, and is therefore understood to be exempt from the statutory requirement regarding biodiversity net gain. Nevertheless, as required by the regulations, any approval must include an Informative reminding the applicants of the biodiversity net gain requirements.

RECOMMENDATION:

That Planning Permission be GRANTED subject to the following conditions;

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of the original permission. Ref: PL/2024/03183, 27 September 2024

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 and documents:

Application form. Received on 17 July 2025

Design and access statement. Received on 24 November 2025

Location plan Drg no 2227 001-A. Received on 24 November 2025

Proposed ground floor plan Drg no 2227 203-A. Received on 17 July 2025

Proposed first floor plan Drg no 2227 204-A. Received on 17 July 2025

Proposed elevations N and W Drg no 2227 205-B. Received on 24 November 2025

Proposed elevations S and E Drg no 2227 206-B. Received on 24 November 2025

Proposed garage plans Drg no 2227 210-B. Received on 17 July 2025

Proposed garage elevations Drg no 2227 211-C. Received on 24 November 2025

Proposed site plan and roof plan Drg no 2227 202-B. Received on 17 July 2025

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

- 3 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture, those detailed on the application form and plans hereby approved.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 4 No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998:2010 "Tree Work – Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: To ensure the retention of trees on the site in the interests of visual amenity.

- 5 The outbuilding for use as a games room and garage hereby permitted shall not be used or occupied at any time other than for purposes incidental to the residential use of the host dwelling known as Lydiard Farm, The Street, Lydiard Millicent, Swindon, SN5 3LU. The development shall not be used as habitable accommodation or for commercial purposes or as a separate planning unit.

REASON: The additional accommodation 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 unit of accommodation or commercial use.