

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2025/04549
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	42-44 York Road, Salisbury, SP2 7AT
DEVELOPMENT DESCRIPTION:	Variation of condition 2 of PL/2024/11020 (approved plans) to amend the front and side elevations by reducing the size of the approved windows.
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The application site consists of two terraced dwellinghouses located on junction of York Road and Meadow Road, to the north of Salisbury's city centre. It falls within the settlement boundary for the Principal Settlement of Salisbury as defined by WCS policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP20 (Salisbury Community Area). There are other residential buildings to the north and west, on the opposite side of the roads, and industrial garage units to the east and south (with further residential buildings beyond).

The site falls within Flood Zones 2 and 3, within an area at increased risk of groundwater flooding. The site falls within the 13.8km Zone of Influence for the New Forest Protected Sites, and within the catchment for the River Avon SAC. The site is not within a Conservation Area, or the setting of any listed buildings.

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2024/11020. The application relates to the site at 42-44 York Road, and seeks to vary condition 2 in relation to the approved plans, to amend the front and side elevations.

RELEVANT PLANNING HISTORY

Proposal / Summary
PL/2025/02140 (Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses) Change of use of single ground floor room from hairdressing salon in Use Class E (a) to bedroom falling within Use Class C3. Approved 06/05/2025.
PL/2024/11020 (Full Planning Permission) Single storey rear extension, rear dormer and associated alterations. Approved 25/03/2025.
S/2009/0732 (44 York Road, Salisbury) (Full Planning Permission) Removal of former workshop units and related lean-to outbuildings, construction of 5 no. flats plus conversion of existing flat into 2 no. two bed flats. Refused 08/01/2010
S/2007/0256 (Full Planning Permission) Change of use from vacant unit to tattoo studio. Approved 04/04/2007.

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

- Core Policy 1 Settlement Strategy;
- Core Policy 2 Delivery Strategy;
- Core Policy 20 Spatial Strategy: Salisbury Community Area
- Core Policy 34 Additional Employment Land
- Core Policy 51 Landscape
- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 60 Sustainable Transport;
- Core Policy 61 Transport & Development;

- Core Policy 67 Flood Risk;
- Core Policy 60 Protection of the River Avon SAC

Neighbourhood Plan:

Salisbury Neighbourhood Development Plan 2020-2038

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

Salisbury City Council: Support

REPRESENTATIONS

None Received

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 attached to the original planning permission.

Compliance with the Development Plan

The application seeks permission to vary condition 2 of PL/2024/11020, which granted consent for single storey rear extension, rear dormer and associated alterations. This application proposes alterations to the elevations, amending the fenestrations on the north and west elevations. The approved and proposed plans and elevations are shown below:

Approved Plans and Elevations (PL/2024/11020)



Proposed Plans and Elevations (PL/2025/04549)



The alterations to the front (north) elevation, and side (west elevation) are shown below for comparison:

Approved



Proposed



The application seeks to implement 2 rooflights, and replacement of the front door with 2 single windows on the north elevation, and reduction in the size of the ground floor window to match that of the first floor window on the west elevation. The alterations to the fenestrations are considered acceptable noting the residential use of the site. The windows to the front elevation are of a similar scale, and consistent style, as those on the attached dwelling, and at first floor across both dwellings. The replacement of the approved ground floor window to the west elevation will implement a window of the same scale and design as the other windows to the west elevation. This will conform to the overall layout and design of the side elevation, and is not, therefore, considered of harm to visual amenity.

The impact of the development on residential amenity has already been assessed in the Case Officer Report for PL/2024/11020, where the potential impacts on residential amenity was assessed in relation to the proposed dormer, with other works falling under Permitted Development.. The proposed alterations and additional fenestrations proposed in this application would not be of further impact on residential amenity for neighbouring dwelling, than the existing. The additional rooflights proposed to the north elevation are of suitable scale, and sited at a level that would not allow for opportunities for overlooking to the north west. The highway provides distance between the application site, and adject dwellings to the north, north west, and south west, due to the sites position at the junction of York Road and Meadow Road.

Assessment of Conditions

The application seeks to vary condition 2, to allow for revised plans to reflect amendments to the front and side elevation fenestrations. No other conditions are affected by this proposed variation, and the proposal is considered acceptable.

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 variation of condition is considered acceptable. The proposal remains in accordance with the development plan and relevant national guidance, and there are no material considerations that indicate otherwise.

RECOMMENDATION:

That Planning Permission be GRANTED subject to the following conditions

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

Flood Risk Assessment Date Received: 24/01/2025

Proposed Plans and Elevations Ref: 1114 – 12 Date Received: 20/05/2025

Location Plan Date Received: 29/05/2025

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

2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those detailed on the application form and approved plans.
REASON: In the interests of visual amenity and the character and appearance of the area.