

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2025/09647
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Promised Cottage, Heddington, Calne, SN11 0PQ
DEVELOPMENT DESCRIPTION:	Variation of condition 2 (Approved Plans) relating to application PL/2023/05602 - To re-site the Garage/Store.
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The site consists of a detached 1950-1966 bungalow found within a small cluster of residential dwellings in the northwestern area of Heddington. The site is set back from the main road (accessed from a large driveway) situated on a large plot, flanked by grass verge that forms a relatively large area of amenity space to the sides. The site is surrounded by residential home to the south and west and agricultural land to the north and east. The properties in the area are not set within a building line with many properties having a various changes done throughout the years.

The dwelling is located within the Countryside Character Area of Avon Vale but is not covered by any archaeological or ecological designations.

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2023/05602. The application relates to the site at Promised Cottage, Heddington, Calne, SN11 0PQ, and seeks to vary/remove condition 2 in relation to amendments to the appearance and revised siting of the approved garage/workshop.

RELEVANT PLANNING HISTORY

Proposal / Summary
PL/2023/05602 - Householder planning permission Decision - Approve with Conditions Date: 26/9/2023 – REAR EXTENSION WITH INTRODUCTION OF ROOMS IN THE ROOF PLUS ERECTION OF GARAGE/STORE BUILDING

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 50 Biodiversity and Geodiversity;

- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 60 Sustainable Transport;
- Core Policy 61 Transport & Development;

Draft Wiltshire Local Plan Policies

The examination of the emerging Wiltshire Local Plan has been paused and the weight to be afforded to any part of the emerging plan can be no more than very limited. A decision on how to proceed will be made by the Council in May 2026.

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

Heddington Parish Council: No adverse comments.

Highways: No objection.

REPRESENTATIONS

Below is a summary of the representations received during the consultation period. Only material planning considerations have been taken into account in the assessment of this application. Non-material issues, such as property values or private legal disputes, cannot be considered in the determination process.

No comments 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?

Where the Proposal Can Be Considered Under Section 73

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.

The principle of providing ancillary domestic facilities within the curtilage of an existing dwelling is considered acceptable and is supported by Core Policies CP1, CP2 and CP57 of the adopted Wiltshire Core Strategy, subject to a detailed assessment of site-specific impacts and compliance with other relevant development plan policies and the provisions of the National Planning Policy Framework (NPPF).

The principle of the development for the erection of a garage/workshop within the domestic curtilage has already been established through the granting of planning permission PL/2023/05602. The permission was lawfully commenced in September 2024 through the implementation of the approved dwelling extension, although construction of the garage/workshop had not begun at the time of this application.

The current proposal seeks to amend the external appearance of the approved garage/workshop and to relocate it further down the garden, on lower ground within the curtilage. While these changes affect siting and appearance, the footprint, scale and function of the building remain unchanged. It is therefore appropriate to assess the proposal in relation to adopted policies in place at the time of this application.

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.

Accordingly, 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 approved plans listed under Condition 2, which secure the siting, layout and external appearance of the garage/workshop permitted under PL/2023/05602. As the proposed amendments relate specifically to the revised siting of the building within the garden and changes to its external appearance, it is necessary for Condition 2 to be updated to reflect the substituted drawings submitted with this application. No other conditions directly reference these details.

As previously noted, the proposal does not alter the approved footprint, scale, or use of the garage/workshop. The changes instead comprise a relocation of the building further down the garden where ground levels are approximately one metre lower than the originally approved position, along with amendments to its external appearance, including material finishes. The existing driveway is altered to suite the new layout. No other aspects of the design, including overall size, height, or intended domestic function, are affected by this application.

Core Policy 57 of the Wiltshire Core Strategy requires a high standard of design in all development, including alterations to existing permissions. Proposals are expected to respond positively to their local context, reinforce local distinctiveness, and be sympathetic to the character of the area. In this instance, the amended siting on lower ground reduces the visual impact of the structure when viewed within the rural surroundings. The revised external appearance is modest and remains consistent with the domestic garden setting and wider rural character of this part of Heddington.

The site is not within a conservation area, nor does it contain or adjoin designated heritage assets. It lies within the wider landscape character area of Avon Vale, though without specific ecological or archaeological constraints. The amended siting, being more discreet and set further into the spacious garden plot, does not result in unacceptable harm to landscape character or visual amenity. The proposal therefore continues to comply with the design and landscape provisions of Core Policy 57 and relevant NPPF guidance.

There have been no preceding Section 73 applications for this element of the development; however, the principle of the garage/workshop itself has already been established under the extant planning permission. The commencement of the associated dwelling extension in September 2024 renders the permission implementable, and the current amendments simply refine the details of an already-approved structure. The repositioning of the building further down the garden is considered a positive change in terms of visual impact, as it results in a less prominent position within the domestic plot. The driveway changes will be largely imperceptible beyond the confines of the site.

Given the generous plot size, the separation from neighbouring properties, and the absence of any overlooking or overshadowing concerns, the amended proposal would be barely perceptible from the public realm. Views from Church Road are limited due to the dwelling's setback and intervening landscape features, and the revised building position does not give rise to any harmful effects on residential or visual amenity.

The proposal also raises no highway concerns, as the Highway Authority has indicated no objection. The revised siting does not alter the access, parking arrangements, or functionality of the domestic curtilage.

As such, the impact of the proposed changes is considered neutral in planning terms and does not introduce any additional unacceptable harm beyond that accepted under the original approval.

Due to the nature of the amendments, their discrete location within the garden, and the continued use of appropriate materials consistent with rural character, the proposal is considered to remain in compliance with Core Policy 57, the Wiltshire Design Guide, and the relevant provisions of the NPPF. The variation of Condition 2 is therefore appropriate and justified, and the updated set of approved plans accurately reflects the amended development.

Other Material Considerations/Issues

The proposed amendments are not considered to give rise to any adverse impacts upon neighbouring occupiers. The revised siting of the garage/workshop further down the garden does not introduce any issues of overlooking, overshadowing, noise, or loss of privacy, and the separation distances to adjacent properties remain generous. The proposal would not result in any changes to the existing access arrangements, on-site parking layout, or overall parking provision. In this respect, the amendments are considered acceptable.

Conditions imposed on the original permission remain relevant to the amended scheme. In particular, the condition requiring that the garage/workshop shall remain ancillary to the main dwelling and shall not be converted to habitable accommodation is still considered necessary, appropriate, and enforceable. This condition continues to ensure that the building is used solely for purposes incidental to the enjoyment of the dwellinghouse and prevents the creation of an independent unit of accommodation.

No other conditions are affected by the proposed variation, and the remaining conditions attached to the original permission may be carried forward unchanged on any subsequent decision notice issued in connection with this application.

Biodiversity Net Gain

The original planning application for this development was submitted on 10 July 2023, which was prior to the commencement of the mandatory Biodiversity Net Gain (BNG) requirements introduced through the Environment Act 2021 and implemented from February 2024.

While BNG is now a statutory requirement for most new developments, the current proposal is a Section 73 application relating to a previously approved householder development within the curtilage of an existing dwellinghouse. Such proposals are exempt from the statutory BNG requirement.

CONCLUSION

The proposed alterations as discussed throughout are acceptable in terms of their design, scale, and relationship with the surrounding area and would not result in any unacceptable harm to the character of the locality. Neither would there be any harm to the amenities of neighbouring occupiers, or the interests of highway safety or ecology.

The proposed alterations are therefore considered to comply with the relevant policies of the Wiltshire Core Strategy, the Wiltshire Local Plan, and the National Planning Policy Framework. As such, the application is recommended for approval, subject to the conditions set out below.

RECOMMENDATION:

That Planning Permission be GRANTED subject to the following conditions:

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

Planning Statement: Received on 9 December 2025

Site Location plan: Received on 9 December 2025

Proposed floor and elevation plan: DWG No. 0105/23 F Rev A. Received on 9 December 2025

Application Form: Received on 9 December 2025

Existing Floor Plans & Elevations: DWG No. 0105/23 A; Received 10 July 2023

Proposed Elevations: DWG No. 0105/23 B ELES; Received 10 July 2023

Proposed Floor Plans & Elevations: DWG No. 0105/23 C LAYOUTS; Received 10 July 2023

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

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, approved drawings and email correspondence.

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

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or reenacting or amending that Order with or without modification), other than as hereby approved by the approved plans, the building hereby permitted shall not be converted to habitable accommodation.

REASON: In the interests of reasonable standards of residential amenity.

The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the use of the main dwelling, known as 'Promised Cottage' and it shall remain within the same planning unit as the main dwelling.

REASON: The additional structure 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 dwelling.