

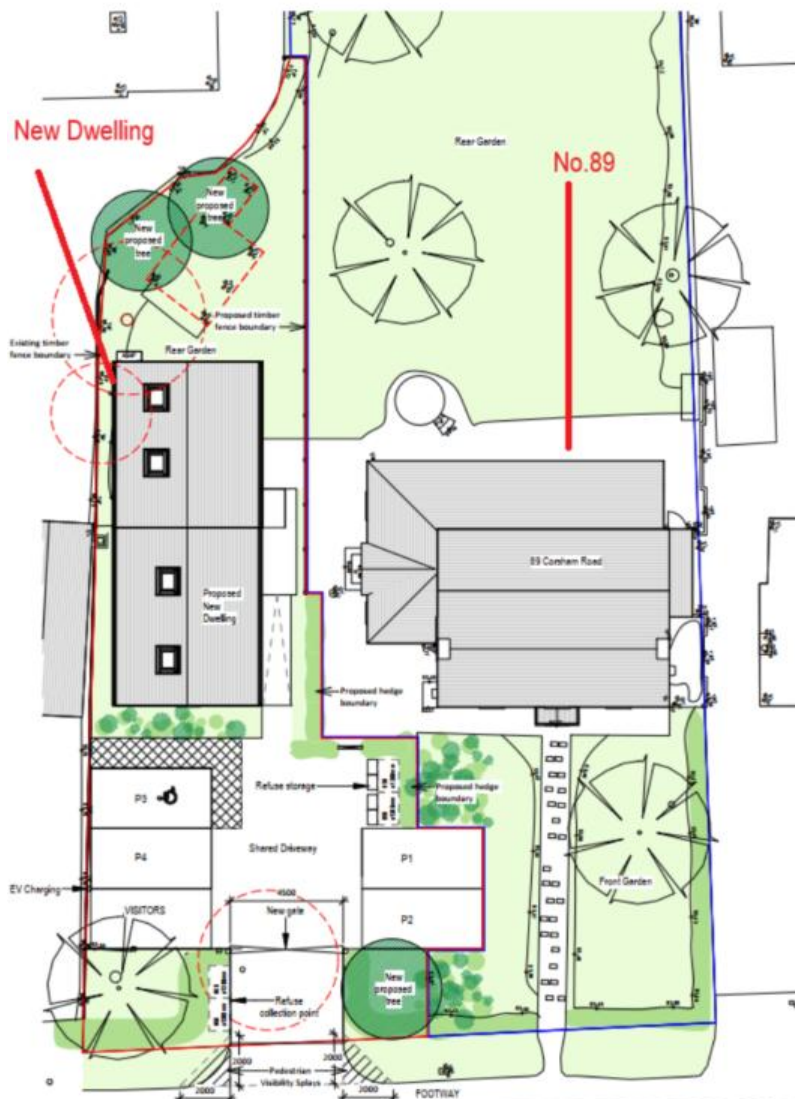
APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/00767
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	89 Corsham Road, Whitley, Melksham, SN12 8QF
DEVELOPMENT DESCRIPTION:	Variation of condition 2 (Approved Plans) relating to application PL/2025/03261.
RECOMMENDATION:	Approve

PROPOSAL

This report considers a Section 73 application for the variation of condition (2) imposed on planning permission PL/2025/03261. The application relates to the site at 89 Corsham Road, Whitley, Melksham, SN12 8QF

Application PL/2025/03261 sought permission to erect a new dwelling on an area of land to the south of – and within the existing curtilage of – No.89 Corsham Road:

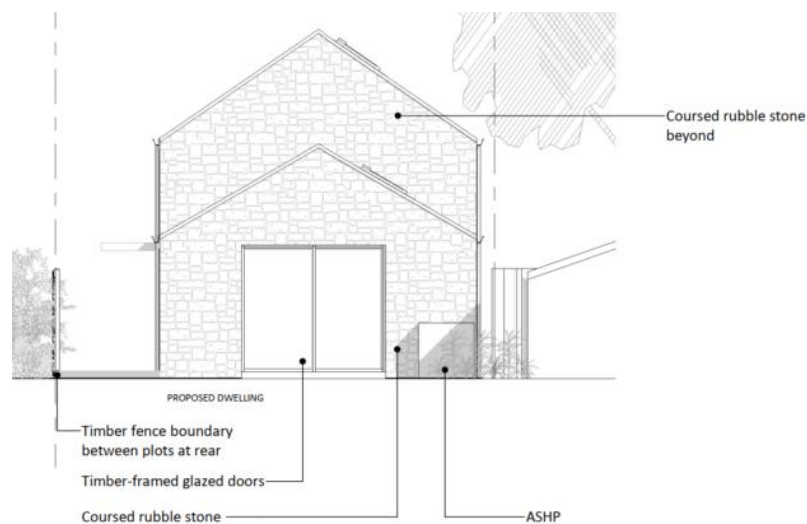


That application was approved on 01/07/2025, subject to 10no conditions. Condition 2 was the standard “approved plans” condition, which this current application seeks to vary. The S73 statement accompanying the application advises the changes sought comprise:

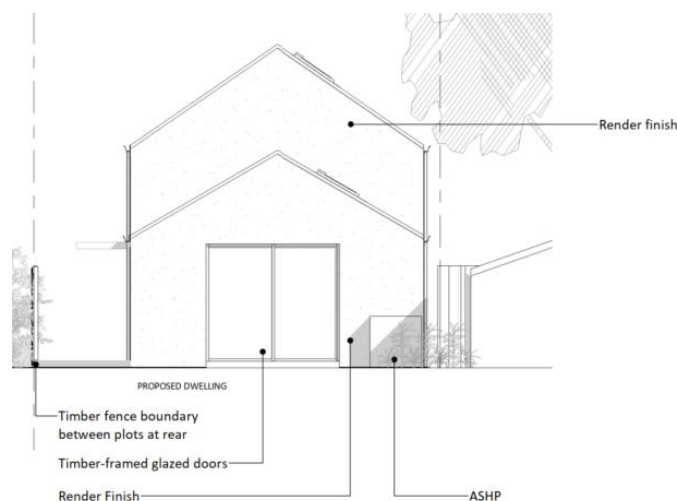
- Change of material on the rear elevations from stone to render (Drawing L104-P02).
- Change of material on the side elevation from stone to timber (Drawing L105-P04).
- Addition of a high-level bedroom window with a cill height of 1.7m, to provide natural cross-through ventilation and daylight (Drawings L102-P02 and L105-P04).

The statement advises that *“The revised drawings reflect minor refinements that arose during the technical design and tender process. No changes are proposed to the footprint, height, scale, massing, access, or drainage strategy.”*

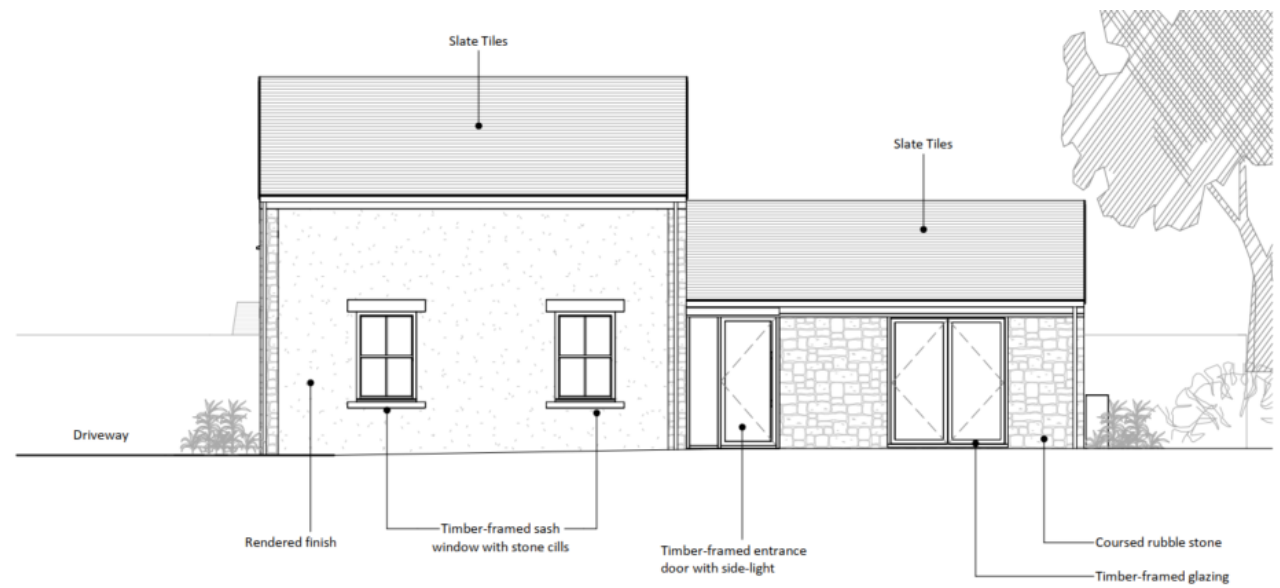
There are no changes to the front elevation. The following shows the approved rear elevation:



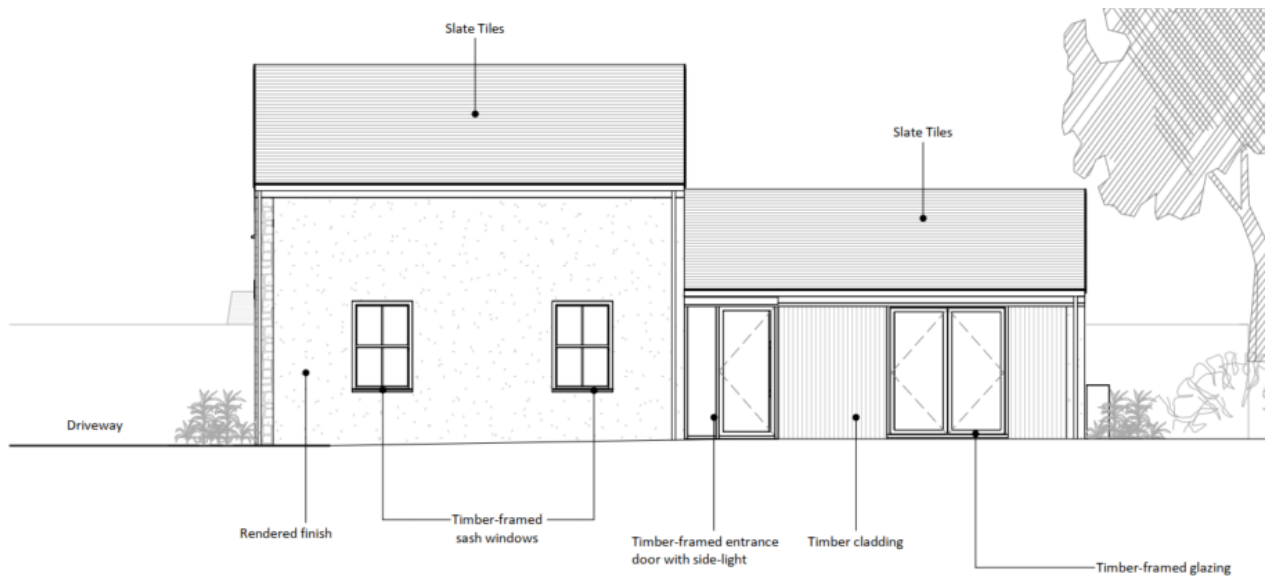
The following plan shows the proposed rear elevation with render in place of rubble stone:



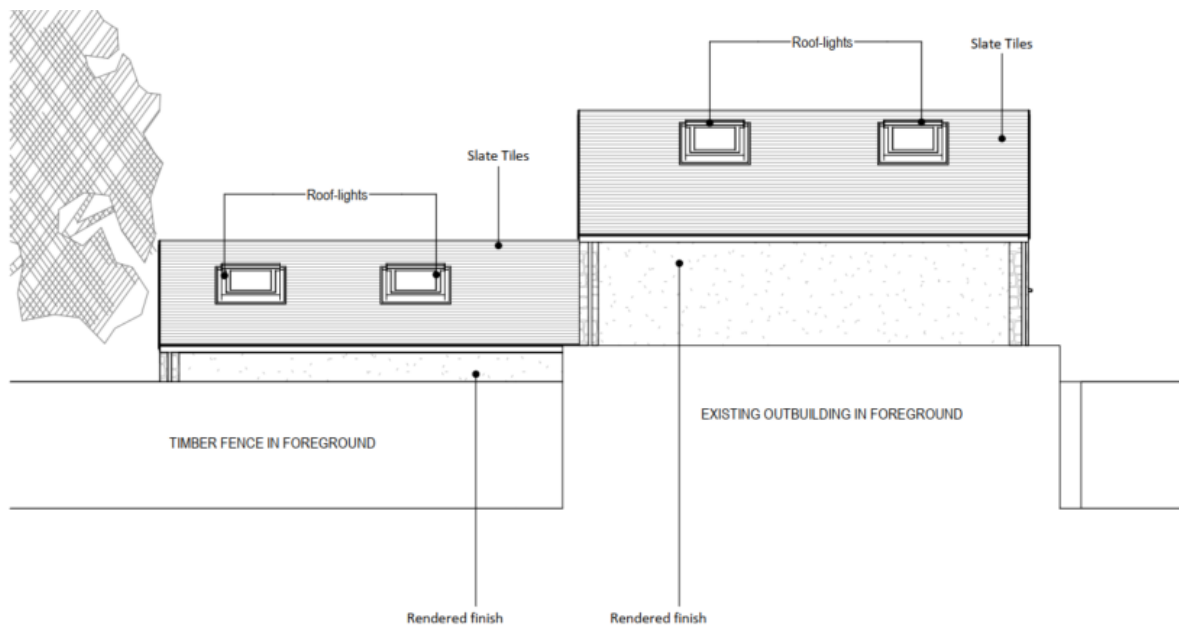
Below: North elevation, facing towards 89 Corsham Road, as approved:



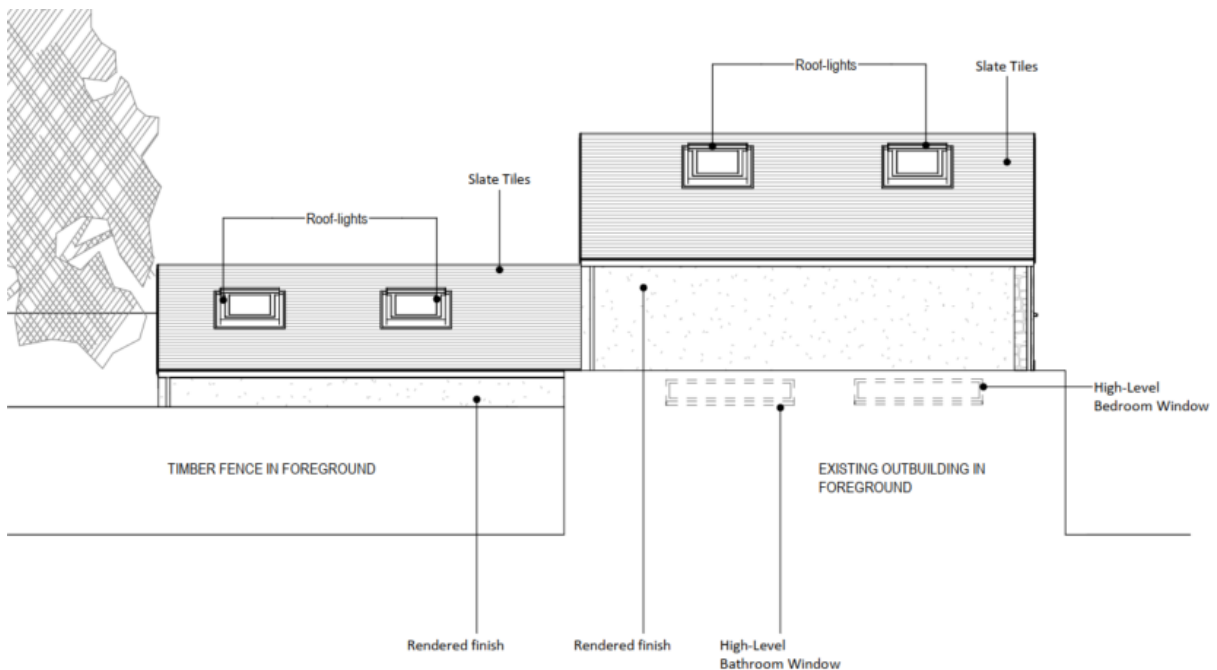
Below: North elevation, facing towards 89 Corsham Road – proposed. Timber cladding in place of rubble stone walls:



Below: South elevation with boundary fence with No.88 shown – as approved:



Below: South elevation with boundary fence with No.88 shown. Two new high level windows introduced.



SITE DESCRIPTION/CONTEXT

The application site is a piece of land to the south of No.89 Corsham Road in Whitley, shown on the location plan below. The site is on the western side of Corsham Road, beyond which the village has expanded with post war estates.



Whitley is, along with Shaw, defined as a large village in the Melksham Community Area, and is within the defined development boundary. Whitley, despite being a settlement that has been significantly extended to the west, presents the character of a linear settlement with a number of older properties, variously altered and infilled by more recent insertions spread along Corsham Road.

No.89 Corsham Road is the southernmost of a small group of 3 very similar nineteenth-century two-storey villas (Nos.89, 90 and 91), each constructed in a combination of cut and coursed local stone with a pantile roof and sliding sash windows to three bays in the principal (front) elevation and a central porticoed entrance. The following photograph shows the grouping of the three dwellings from the public realm, with number 89 being to the left, and the application site left of that dwelling: -



The site is not within a Conservation Area and there are no listed buildings in the vicinity. A previous application has made reference to the three villas being non-designated heritage assets (NDHA) however the "Joint Melksham Neighbourhood Plan (JMNP) 2 Locally Valued Non-Designated Heritage Assets" list does not identify this group as NDHA.

There are no other landscape, ecological or historical designations on the site, which is in Flood Zone 1 according to the Environment Agency maps. However, during the life of a previous application on the site it was noted that the south-east corner of the plot falls within

an area at risk of surface water flooding in the Council's Strategic Flood Risk Assessment.

RELEVANT PLANNING HISTORY

Proposal / Summary
16/08649/FUL - Full planning permission Decision - Approve with Conditions Date: 25/10/2016 – Proposed single storey side & rear extension.
ENQ/2024/01126 - Pre-Application enquiry Decision - Pre-App Response Date: 24/10/2024 – Addition of a detached annexe building to provide sleeping and living accommodation for a wheelchair user and overnight carer arranged over 1.5 storeys.
PL/2025/03261 - Full planning permission Decision - Approve with Conditions Date: 1/7/2025 – Erection of a new dwelling.
PL/2025/07018 - Non-Material Amendment Decision - Refuse Date: 24/9/2025 – Non-Material Amendment to planning application PL/2025/03261-Replacement of the stonework on the rear and side elevations. Addition of a high-level window (cill height min 1.7m) to front bedroom.
15/07896/OUT - Outline Planning Decision - Approve with Conditions Date: 1/10/2015 – Demolish exsiting outbuilding and erect a New Dwelling (Outline application to determine access only)

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 57 Ensuring High Quality Design and Place Shaping;

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.

Joint Melksham Neighbourhood Plan 2:

- Policy 20: Locally Distinctive, High Quality Design

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

Melksham Without Parish Council – No objection:

“Melksham Without Parish Council has no objection to this application.”

REPRESENTATIONS

This application was publicised by direct neighbour letter. A representation has been received from one address, the neighbouring property to the south raising concerns regarding visual amenity and heritage impact, residential amenity, and noise/disturbance.

The objector considers that the proposed changes to external materials, including the replacement of natural stone with render and timber cladding, would be harmful to the character and appearance of the area. It is argued that the application site forms part of a visually cohesive group of historic stone-built cottages, and that the introduction of modern materials would appear incongruous and erode the established local character. The objector also contends that their property, a historic stone-built cottage believed to date from the 16th or 17th century, should be regarded as a non-designated heritage asset, and that the proposal would result in harm to its setting and significance.

Concerns are also raised regarding the impact on residential amenity, particularly in relation to overlooking and loss of privacy. The objector states that their dwelling and garden sit at a lower ground level than the application site and that the introduction of additional high-level windows, combined with proposed changes to ground levels, would result in direct and perceived overlooking of their property and private garden, leading to a loss of privacy. It is considered that the proposal fails to demonstrate a satisfactory relationship with neighbouring properties or good neighbourly design.

Further objections relate to noise and disturbance arising from the use of the development, particularly given the proximity of the proposed dwelling to the objector’s home office, which is used for full-time home working. The objector expresses concern that the additional windows and close relationship between the buildings would increase noise transmission and adversely affect the continued use of the office and enjoyment of the garden. Concerns are also raised regarding the extremely close proximity of the proposed dwelling to the boundary, which is said to limit access for future maintenance of the objector’s stone-built office and garage and increase the risk of damage during maintenance works.

The objector requests that these matters are taken into account and that appropriate mitigation is secured.

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.

Compliance with the Development Plan

Impact on the Character and Appearance of the Area

Core Policy 57 (i) of the Wiltshire Core Strategy requires development to respond positively to the character and appearance of the area, reinforcing local distinctiveness. Paragraphs 135 and 203–206 of the National Planning Policy Framework (NPPF) similarly seek high quality design that is sympathetic to local character, while recognising that development should be assessed in proportion to its context and visibility.

The Section 73 application seeks to vary Condition (2) only, to allow changes to materials on secondary elevations and the introduction of a limited number of high-level windows. The overall scale, form, siting, massing and design of the approved dwelling remain unchanged.

Street Scene and Public Views

The principal elevation of the dwelling, which fronts Corsham Road and contributes most directly to the public character of the area, remains unaltered. Stone cladding is retained on this elevation, ensuring that the development continues to reflect the established material palette and architectural rhythm of nearby properties when viewed from the public realm.

The proposed changes relate solely to rear and side elevations, which are not readily visible from Corsham Road or wider public vantage points. As such, the amendments would not result in any discernible harm to the character or appearance of the street scene or the linear settlement pattern that characterises this part of Whitley.

Materials on Secondary Elevations

The proposal includes the use of render to the rear elevation and a limited area of timber cladding to part of the side elevation. These elevations are visually contained within the private garden environment of the site and do not form part of the public-facing aspect of the development.

It is common and acceptable for secondary elevations to utilise a more varied material palette, provided the overall design hierarchy is maintained. In this case, the continued use of stone on the principal elevation ensures that the dwelling remains visually subordinate to the historic frontage of No. 89 Corsham Road and respects the prevailing character when viewed from Corsham Road.

The area of timber cladding is modest in extent and would form only a small proportion of the overall building. Given its location, limited visibility and context within a garden setting, it would not appear visually intrusive or incongruous.

Heritage Considerations and Objections Raised

The objector has raised concerns regarding the impact of the proposal on the setting of their property at No. 88 Corsham Road, which they consider to be of heritage significance. While the historic interest of the neighbouring dwelling is acknowledged, it is not a listed building and is not identified as a Non-Designated Heritage Asset within the adopted Joint Melksham Neighbourhood Plan 2 (2020–2038) Locally Valued Non-Designated Heritage Assets list.

At present, the neighbouring property therefore carries no formal heritage designation for the purposes of decision-making. In any event, the proposed amendments would not alter the spatial relationship between the buildings, nor would they affect public views or the appreciation of the neighbouring dwelling within the wider streetscape. The principal elevations of the approved dwelling and the adjacent villas remain unchanged and continue to read as the dominant elements in public views.

The amendments would not erode the established character of the area, nor would they result in harm to the setting or significance of any designated or non-designated heritage assets.

Conclusion on Character and Appearance

Overall, the proposed amendments are modest in nature and confined to elevations with limited or no public visibility. The retention of stone on the principal elevation ensures that the development continues to respect the established character of Corsham Road, while the revised materials on secondary elevations would not result in unacceptable visual harm.

The proposal therefore remains consistent with Core Policy 57 of the Wiltshire Core Strategy and the design objectives of the NPPF, and the impact on the character and appearance of the area is considered acceptable.

Residential Amenity (Section 73 Assessment)

Core Policy 57 (vii) of the Wiltshire Core Strategy requires that new development does not have an unacceptable adverse impact on the amenity of neighbouring occupiers. This principle is reinforced by Paragraph 135 of the National Planning Policy Framework (NPPF), which seeks to ensure a high standard of amenity for both existing and future occupants.

The Section 73 application seeks to vary Condition (2) only, to allow minor amendments to the approved scheme comprising changes to materials on secondary elevations and the addition of a limited number of high-level windows. There are no changes proposed to the footprint, height, scale, massing, siting or orientation of the dwelling, all of which were previously assessed and found acceptable under planning permission PL/2025/03261.

Impact on Neighbouring Amenity

An objection has been received from the occupiers of No. 88 Corsham Road raising concerns relating to overlooking, loss of privacy and noise disturbance arising from the introduction of two additional high-level windows.

The proposed windows serve a bathroom and a bedroom respectively and are shown to have cill heights of approximately 1.7 metres above finished floor level. Given their elevated position, narrow vertical proportions (approximately 0.37m in height), and functional nature, these windows would not enable direct or meaningful overlooking of neighbouring habitable rooms or private garden areas.

Furthermore, the submitted elevation drawings indicate that the proposed windows would be positioned below the height of the existing boundary treatment between the application site and No. 88 Corsham Road. The neighbouring dwelling at No. 88 is also set significantly further back within its plot relative to the proposed dwelling, further limiting the potential for intervisibility. The relationship between the two properties has therefore been carefully considered and is such that unacceptable overlooking or loss of privacy would not arise.

Noise and Disturbance

Concerns have been raised regarding potential noise disturbance arising from the occupation of the dwelling and its proximity to the neighbouring garage/home office. However, the Section 73 application does not introduce any changes to the approved use of the dwelling, its scale, or its layout that would give rise to materially greater noise impacts than those already assessed and accepted under the original permission.

General noise associated with the domestic occupation of a dwelling is not, in itself, sufficient to warrant refusal of planning permission, particularly where the proposal accords with the established residential character of the area. The limited and high-level nature of the additional windows is not considered to materially increase noise transmission beyond what would reasonably be expected from a single dwelling in this location.

Conclusion on Amenity

Taking the above into account, it is considered that the amendments proposed through this Section 73 application would not result in an unacceptable impact on the residential amenity of neighbouring occupiers. The relationship between the proposed dwelling and No. 88 Corsham Road would remain acceptable in terms of privacy, outlook and noise, and the proposal continues to comply with Core Policy 57 of the Wiltshire Core Strategy and relevant provisions of the NPPF.

Other

The objector has also raised concerns regarding access for future maintenance of their garage and home office building, which sits close to the shared boundary. Matters relating to access

onto neighbouring land for maintenance purposes are private civil matters and fall outside the scope of planning control. The siting of the dwelling has already been assessed and approved under planning permission PL/2025/03261, and the Section 73 application does not propose any change to the position of the building.

Assessment of Conditions

The application seeks to vary Condition (2) only. All other conditions attached to planning permission PL/2025/03261 remain relevant and are proposed to be re-imposed without amendment.

PLANNING BALANCE AND CONCLUSION

This application has been submitted under Section 73 of the Town and Country Planning Act 1990 to vary Condition (2) (approved plans) of planning permission PL/2025/03261. The proposed amendments comprise changes to materials on secondary elevations and the introduction of two high-level windows. No changes are proposed to the footprint, height, scale, massing, siting, access arrangements or drainage strategy of the approved dwelling.

The principle of development has already been established through the extant planning permission, and the assessment therefore focuses on whether the proposed variations would result in material harm when assessed against the relevant development plan policies and the National Planning Policy Framework.

In respect of character and appearance, the principal elevation fronting Corsham Road would remain unaltered, retaining its stone finish and ensuring that the development continues to respond positively to the established character of the street scene. The revised materials are confined to secondary elevations with limited or no public visibility and would not result in unacceptable visual harm. The proposal would therefore continue to accord with Core Policy 57 of the Wiltshire Core Strategy and the design objectives of the NPPF.

With regard to residential amenity, the proposed high-level windows are modest in size, positioned below the height of the boundary treatment, and set at a cill height designed to prevent direct overlooking. The siting, separation distances and relationship between the proposed dwelling and neighbouring properties remain unchanged from the approved scheme. The amendments would not result in an unacceptable impact on privacy, outlook or noise levels, and the proposal continues to comply with Core Policy 57 and relevant national guidance.

Concerns raised by a neighbouring occupier have been carefully considered. While the objection raises matters relating to perceived heritage value, overlooking, noise and maintenance access, it is concluded that the proposed amendments would not result in material planning harm. The neighbouring property is not a designated or identified non-designated heritage asset, and the changes proposed through this Section 73 application would not affect public views, the street scene, or the established spatial relationships between buildings.

Matters relating to access for maintenance are private civil issues and fall outside the scope of planning control.

In the planning balance, the proposed amendments are minor and proportionate, would not undermine the design principles or conclusions of the original approval, and would not result in harm to the character of the area or the amenity of neighbouring occupiers. All other conditions attached to the original permission remain relevant and enforceable.

The proposal is therefore considered acceptable in planning terms and complies with the policies of the Wiltshire Core Strategy and the National Planning Policy Framework. Approval of the Section 73 application is recommended, subject to conditions.

RECOMMENDATION:

That Planning Permission be GRANTED subject to the following conditions:

1. The development hereby permitted shall be begun before 1 July 2028, being three years from the date of the original planning permission (PL/2025/03261).

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:

- L102-P02 – Proposed Ground Floor Plan
- L104-P02 – Proposed Elevations 1
- L105-P04 – Proposed Elevations 2

and all other plans approved under planning permission PL/2025/03261, except where superseded by the drawings listed above.

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

3 No development shall commence above ground floor slab level until details of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

4 The development hereby permitted shall be carried out in strict accordance with the Arboricultural Survey, Impact Assessment, Method Statement and Tree Protection Plan, prepared by Wood & Vale Tree Consultancy and dated February 2025.

REASON: In the interest of maintaining healthy trees and the visual amenity and character of the local area.

5 Prior to the commencement of the development hereby approved, details of the following must be provided to the local planning authority and agreed in writing. The development shall be completed in accordance with the agreed details:

i) Clearly labelled drainage layout plan showing the pipe networks and any attenuation tanks. The plan should show any pipe node numbers.

ii) Detailed drawings (including cross sections) of any attenuation/soakaways, conveyance, or infiltration drainage features. These should detail ground and water levels, inlet and outlet structures, and construction details.

iii) Details of how overland exceedance flows for storms in excess of the 1 in 100yr + cc event will be managed on site to prevent an increase in risk to people or property.

iv) Details of finished floor level which should be set above the maximum predicted 100-year flood level or if no flooding is predicted, at a sufficient height above the SW drainage cover levels. The minimum is 600mm above whichever of the following levels is the highest:

1. The average ground level of the site
2. Adjacent road levels to the building
3. Estimated river or sea level for the site

v) The applicant shall submit clear arrangements for the ownership and ongoing maintenance of the proposed drainage system

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of flood prevention from surface water.

6 No part of the development hereby permitted shall be occupied until the access, turning area & parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter

REASON: In the interests of highway safety.

7 The development hereby permitted shall not be occupied until the first 5m of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety

8 Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

REASON: To ensure that the highway is not inundated with private water.

9 No part of the development hereby approved shall be occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.

REASON: In the interests of highway safety.

10 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), there shall be no additions/extensions or external alterations, including additional first floor windows, to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations, in order to prevent overdevelopment of the site.