

APPLICATION FOR VARIATION/REMOVAL OF CONDITION

CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2025/09245
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Antrobus House, 39 Salisbury Road, Amesbury, Salisbury, SP4 7HH
DEVELOPMENT DESCRIPTION:	Variation of Condition 3 of PL/2025/00923 - Formation of bar area in existing store, formation of new opening into Edmund Hall. Removal of internal walls, formation of terrace area and alteration to boundary treatments - Noise Management
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The application site is a large, detached property which is Grade II listed as is its front boundary walls and piers along Salisbury Road, Amesbury. The location is within a residential area of Salisbury and in use as a Village Hall which currently hosts various events.



PROPOSAL

This report considers a Section 73 application for the variation of condition imposed on planning permission PL/2025/00923. The application relates to the site at Antrobus House and seeks to vary condition number 3 in relation to the closing of rear windows and doors during events.

RELEVANT PLANNING HISTORY

Proposal / Summary

PL/2025/00923 - Formation of bar area in existing store, formation of new opening into Edmund Hall. Removal of internal walls, formation of terrace area and alteration to boundary treatments – APPROVED, WITH CONDITIONS.

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 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 58 Ensuring the Conservation of the Historic Environment;

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

Parish/Town Council: Support

Conservation – No objection

Public Protection – 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.

Two letters of objection were received raising concerns in relation to potential noise and disturbance issues.

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.

Assessment of Conditions

The current application seeks to amend the wording of condition 3 which was imposed relating to the timings of the rear doors and windows being closed during events associated with the bar area and terrace.

The condition imposed by Public Protection stated:

Notwithstanding the approved details the following Public Protection recommendations shall be adhered to:

- *All doors and windows to be kept closed, except for access and egress, during events with amplified music, sound or speech.*
- *Rear terrace will be closed to patrons after 2200hrs, and doors leading to the terrace will be kept closed after this time.*

REASON: In the interest of residential amenities.

The application now seeks to amend the wording of the condition to purely condition the already adopted in-house Noise Management Plan. It is considered that this provides more clarity and transparency of the noise control procedures and would be a secure condition which can be fully enforceable. The Noise management plan has been reviewed by the Councils Public Protection Officer who provided the following comments:

I'm satisfied for a condition to be applied to ensure compliance with the approved Noise Management Plan with wording as follows:

- The premises shall operate in full compliance with the approved Noise Management Plan at all times. Upon request by the Licencing Authority the Noise Management Plan shall be reviewed and, where necessary, amended. Any amendments to the Noise Management Plan must be agreed in writing with the Licensing Authority prior to implementation.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

Other Material Considerations/Issues

The objections received have been noted. However, the principle of the venue hosting events has already been determined, and I believe they hold the relevant licenses. In addition, the formation of the bar and terrace have also previously gained permission. The current application solely seeks to amend the wording of the condition and not alter/propose any increase in times of use to that previously approved and therefore, it is not justifiable to refuse. The amended condition would tie the adopted Noise Management Plan to the permission and is considered a more robust document which can be enforceable.

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 benefits of the proposal, including a more robust condition relating to a physical adopted Noise Management Plan, are judged to outweigh any identified harms, which can be appropriately mitigated through planning conditions or other controls. 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

The premises shall operate in full compliance with the approved Noise Management Plan at all times. Upon request by the Licencing Authority the Noise Management Plan shall be reviewed and, where necessary, amended. Any amendments to the Noise Management Plan must be agreed in writing with the Licensing Authority prior to implementation.

Reason: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

