

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/01670
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	1 Heath Road, Salisbury, SP2 9JS
DEVELOPMENT DESCRIPTION:	Variation of condition 2 (Approved Plans - Materials) and 11 (Wording for Overnight Accommodation) relating to application PL/2025/09496.
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The application site consists of a two-storey semi-detached dwelling located on the corner of Devizes Road and Heath Road within the built-up area of Salisbury. The site has a modest front garden, a large mature hedge boundary on the north going across to the northeastern boundary, a detached single garage with a dropped kerb on the northeastern side, and a wooden shed in the centre of the garden. On the eastern side of the site which lies along Devizes Road, the site currently has a close boarded fence set back from the boundary by approximately 6 metres after which is a grass area with an existing utility pole and a hydrant marker within this area with the topography sloping downward towards the footpath.

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2025/04697. The application relates to the site at 1 Heath Road, Salisbury, SP2 9JS and seeks to vary/remove condition(s) Variation of condition 2 (Approved Plans - Materials) and 11 (Wording for Overnight Accommodation) relating to application PL/2025/09496.

RELEVANT PLANNING HISTORY

Proposal / Summary
S/1993/0657 - Full planning permission Decision - Approve with Conditions Date: 17/6/1993 – TWO STOREY EXTENSION, GROUND FLOOR KITCHEN AND CONSERVATORY AND REPLACEMENT SINGLE GARAGE
PL/2025/04697 - Householder planning permission Decision - Approve with Conditions Date: 13/8/2025 – Proposed Single Storey Rear Extension
PL/2025/09496 - Full planning permission Decision - Approve with Conditions Date: 5/2/2026 – Demolition of existing garage, and erection of replacement detached two bay garage with ancillary playroom, change of use of advertising land to form residential curtilage and associated works

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 20: Salisbury Community Area
 - Core Policy 57 Ensuring High Quality Design and Place Shaping
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- Neighbourhood Plan: Salisbury Neighbourhood Development Plan 2020 to 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

Parish/Town Council: Salisbury City Council object to the application and support the objections of the comments of the neighbours. SCC has concerns about adding further dropped kerbs and loss of parking for residents.

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.

2 comments of objection were received for this application. They can be summarised as follows:

- **Harm to street scene and character:** The positioning and scale of the garage are out of character with the established building line of the street. Most properties in this area are set back from the road. Placing a large, solid structure so close to the highway creates a "tunnel effect" and an overbearing visual impact that harms the open character of our neighbourhood. The design does not respect the local context or the proportions of surrounding buildings. A two-storey garage is considered inappropriate for the location, and the future use of the existing garage is unclear.
- **Overbearing impact and Loss of amenity:** Due to its height and proximity to neighbouring boundaries, the garage would be overbearing, reduce light, and create a sense of enclosure for nearby properties.
- **Parking and existing garage issues:** The property already has a garage and dropped kerbs that are not being used. The objector argues this existing structure should be redeveloped instead of adding new garages, as additional dropped kerbs would affect the highway.
- **Highway safety and Visibility splays:** Proposed location of the garage would obstruct visibility splays for drivers exiting nearby properties. The proposed location would also force the vehicles to reverse directly onto the highway or wait on the carriageway while opening garage doors, causing an obstruction and increasing the risk of collisions.

This application is a variation of condition application to vary condition 3 – materials of the proposed garage/outbuilding and condition 11 – use of the proposed garage/outbuilding for incidental overnight accommodation. The 2 objections received from the members of the public and the consultation response from the parish council object to the principle and proposed development of the garage/outbuilding. However, the proposed garage/outbuilding has already been approved and remains extant after planning permission PL/2025/09496. The previous application also consulted the members of the public and parish council; however, no objections or representations were received during the course of that application. The parish council agreed with the consultation response received from the highways officer during the initial planning permission. There are no changes to the highways impact of the proposed extant permission as part of this variation of condition application. As the change of materials and changing the wording of condition 11 to allow incidental overnight accommodation in the first-floor room would not impact the highway. Therefore, it is considered that as the previous conditions stipulated by the highway officer remain as they are, these conditions are considered to mitigate and ensure the highway safety of the proposed development.

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

The proposed variation of condition is for the change of condition 2: Materials to construct the garage walls from the extant materials of a brick band with rendered walls to be a fully bricked wall to match the bricks of the host dwelling. And Condition 11 Wording for Overnight Accommodation. This is considered to be in accordance with the adopted development plan, including:

- Wiltshire Core Strategy (WCS) policies;
- Neighbourhood Plans (where applicable);
- The National Planning Policy Framework (NPPF).

Assessment of Conditions

Condition 2:

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

Site and Location Plan Received: 15 Dec 2025

Proposed Site Plan Reference: 25/0435/300 Rev A Received: 13 Jan 2026

*Proposed Ground Floor, First Floor and Roof Plan Reference: 25/0435/301 5/302
Rev A Received: 03 Dec 2025*

Proposed Elevations Reference: 25/0435/302 Rev A Received: 13 Jan 2026

BNG Metric Received: 15 Dec 2025

Preliminary Ecological Appraisal Received: 15 Dec 2025

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

The approved extant permission allowed for the materials of the proposed garage to have a brick plinth and rendered walls. This VAR application proposes to amend the wall materials of the garage to be brick to match existing host dwelling. This amendment will allow visual connection between the proposed garage and the associated host dwelling and other brick buildings within the local vicinity. It is not considered that this amendment is detrimental to the extant permission.

The second condition which this VAR application proposes to amend is condition 11.

Condition 11:

The proposed outbuilding hereby approved shall only be used for purposes incidental to the residential use of the dwelling known as 1 Heath Road, Salisbury, SP2 9JS and shall not at any time be occupied for overnight accommodation and it shall remain within the same planning unit as the main dwelling of 1 Heath Road, Salisbury, SP2 9JS.

REASON: The nature of the proposed works having regard to the reasonable standards of residential amenity, access, parking provision and planning policies pertaining to the area including the River Avon catchment, would not permit overnight accommodation and would not permit a wholly separate dwelling

The extant application proposed for the erection of a two-bay garage on the ground floor with a single room on the first floor for a playroom incidental to the host dwelling. Condition 11 restricted the use of the first-floor area to not allow overnight accommodation as the application site is located within River Avon Catchment area and any new overnight accommodation within this area requires phosphate mitigation measures which the original application did not assess.

This proposed variation of condition now proposes to amend the wording of condition 11 to allow for the use of the first-floor playroom area as infrequent incidental overnight use by visiting family members being incidental use associated with the host dwelling. Additionally, the proposed garage does not propose additional bathrooms. Incidental overnight use such as this is not considered to add any additional phosphate burden.

The wording of condition 11 has been amended to remove the wording that no overnight accommodation can occur within the garage; however, the use of the first-floor area has been conditioned to remain as incidental use associated with the host dwelling and remains within the same planning unit. The assessment of the principle of development for incidental use of the garage/outbuilding remains as such, a wholly separate dwelling at this location is not considered as part of the assessment of this variation of condition nor the extant permission.

As such, the proposed variation of condition(s) 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.