

APPLICATION FOR VARIATION/REMOVAL OF CONDITION

CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/02140
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Lype Fields Farm, Bullocks Horn, Charlton, Malmesbury, Wiltshire, SN16 9DZ
DEVELOPMENT DESCRIPTION:	Variation of Condition 2 (Approved Plans) of PL/2025/00898 - Erection of a rural workers dwelling.
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The application site comprises an area of grassland within countryside located to the north-west of an existing group of agricultural buildings (now known as Lype Fields Farm). The Applicant's freehold extends to approximately 26ha (65 acres) of land and farm buildings adjacent to the application site. In addition to the freehold land, the Applicant farms a further 202ha (500 acres) in the locality under a variety of short-term agreements. It is understood that the Applicant has held those agreements for a number of years.

The farm is located a short distance (1.5km) to the east of the rural village of Chalton, with the town of Malmesbury approximately 4.5km to the west. Site access is from the B4040 (the public highway) via Bullocks Horn Lane that extends 250m to the north to the site before continuing on to provide access to a number of residential and agricultural properties.

The site is not located within any designated sensitive areas (in terms of heritage, landscape protections or flood risk). Site specific matters are assessed within the report below.

Planning permission was granted in March 2026 for the constriction of a rural worker's dwelling (ref: PL/2025/00898).

PROPOSAL

This report considers a Section 73 application for the variation of condition 02 (approved plans) planning permission PL/2025/00898. A set of revised drawings has been submitted proposing a number of minor amendments.

The changes included within the submitted drawings are:

- Minor layout amendments to better suit the applicant's occupation of the space;
- Development of details around materials, including natural stone detailing and dressing to enhance visual appearance;
- Minor amendments to fenestration;
- Inclusion of Solar PV panels as required to achieve compliance with Approved Document Part L (Building Regulations).

RELEVANT PLANNING HISTORY

Proposal / Summary

PL/2025/00898 - Erection of a rural workers dwelling – 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 1 Settlement Strategy;
- Core Policy 2 Delivery Strategy;
- Core Policy 3 Infrastructure Requirements;
- Core Policy 13 Malmesbury Community Area
- Core Policy 48 Rural Life
- 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;
- Core Policy 62 Development Impacts on the Transport Network;
- Core Policy 67 Flood Risk.

Saved policies of the North Wiltshire Local Plan (NWLP)

- H4 – Residential Development in the Open Countryside

Neighbourhood Plan

The parish of Charlton are currently not preparing a neighbourhood plan.

Emerging Wiltshire Local Plan

At Full Council on 19th May 2026, the elected members of Wiltshire Council agreed to withdraw the emerging Wiltshire Local Plan. It will now be subject to a legal process to finalise its withdrawal - which is likely to happen in July or August (2026). The said Plan has no material weight for the purposes of the application.

Supplementary Planning Documents:

- *Wiltshire Design Guide* (Adopted April 2024).

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

Charlton Parish Council: No objection

WC Drainage: No comment

WC Highways: No objection.

REPRESENTATIONS

No responses to the public consultation were 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(s) attached to the original planning permission.

Compliance with the Development Plan

The changes sought to the design would be material, but are not considered to give rise to any harmful impacts on the visual appearance of the development nor impact on neighbouring residential amenities, parking or access arrangements over and above those assessed as acceptable under the original permission.

Ensuring the dwelling is in compliance with Part L, Building Regulations is considered to be a broad benefit of the scheme that the changes will secure.

The scheme therefore remains in compliance with the relevant policies of the development plan and NPPF.

Assessment of Conditions

When issuing a new permission under s.73 of the TCPA, the LPA must reapply all conditions of the original consent that remain reasonable and necessary. This can include reapplying conditions varied to reflect the approval of condition details (that have been approved by the LPA since approval of the original application).

As such, it is pertinent to briefly go over the conditions of the planning permission to assess whether they should be reapplied, varied or removed.

1. Time Limit – Reapplied but retained as original commencement date;
2. Approved plans – Varied to reflect revised plan numbers;

All remaining conditions are relevant and will be reapplied as the original wordings as they are either directive/compliance or no details have been previously submitted or agreed to partially discharge any of the conditions.

Whilst some new materials details have been submitted with this variation, full materials details are still required to be agreed so condition 04 is not varied, but reapplied.

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 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. Three Year Time Limit

The development hereby permitted shall be begun before the 5th March 2029.

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. Approved Plans

The development hereby approved shall be implemented in accordance with the details of approved plan numbers and documents:

- Site Location Plan - RH-JS-01;
- Site Plan - RH-JS-02 (received by the LPA on 17th February 2026);
- P-1-01 P01 – Proposed First Floor Plan;
- P-0-01 P02 – Proposed Ground Floor Plan;
- E-01 P04 – Proposed North-East Elevation;
- E-02 P05 – Proposed South-West Elevation;
- E-03 P03 – Proposed South-East Elevation;
- E-04 P03 – Proposed North-West Elevation.

Reason: In the interests of proper planning and to define the planning permission.

3. Ecological Construction Management Plan

The construction shall proceed in accordance with the terms of the District Level Great Crested Newt License or in accordance with a Construction Method Statement (CMS) that shall first be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development (including any vegetation removal or works to existing structures). As a minimum, the CMS shall include all precautionary measures to be implemented during the construction period, for the protection of sensitive habitats and species known to be present within or adjacent the site, with particular reference to Great Crested Newts (GCN).

REASON: To ensure adequate protection, mitigation and compensation for protected species and priority habitats throughout the construction period in accordance with the aims of Core Policy 50 of the Wiltshire Core Strategy.

Construction Phase

4. External Materials (above slab level)

Construction of the dwelling hereby approved shall not proceed beyond finished floor/slab level until details of the external wall and roof materials have been submitted to and approved in writing by the local planning authority.

As a minimum, the details shall include manufacturer/supplier and material name and a photographic sample.

The development shall be completed and maintained in accordance with the approved details thereafter.

REASON: To ensure a satisfactory design and landscape impact in accordance with the aims of Core Policies 51 and 57 of the Wiltshire Core Strategy.

5. Ecological survey compliance

The development will be carried out in strict accordance with the following documents:

- Sections 4 and 6 of the Preliminary Ecological Assessment (PEA). 06 June 2024. Ellendale Environmental. Version CIC v1.0.

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity in accordance with the aims of Core Policy 50 of the Wiltshire Core Strategy.

Prior to occupation

6. Surface Water Drainage (details and implementation)

The dwelling hereby approved shall not be occupied or brought into use until a surface water drainage system serving all impermeable surfaces (roofs, patios, parking/manoeuvring areas) has been installed/constructed in full in accordance with details that shall first be submitted to and approved in writing by the local planning authority.

As a minimum, the written details shall include:

- a drainage plan (drawn to a recognised scale);
- technical details of all measures to be installed;
- Details of any overland exceedance or discharge routes.

Thereafter, the development shall be maintained in accordance with the approved details.

REASON: To ensure future occupiers of the site and adjacent land are not put at greater risk of surface water flooding than the existing situation in accordance with the aims of Core Policy 67 of the Wiltshire Core Strategy.

7. Provision of car parking and manoeuvring

The dwelling hereby approved shall not be occupied or brought into use until the site access to the public highway and areas for the parking and manoeuvring of vehicles have been provided in the locations shown on the approved plans. The development shall be maintained in that state thereafter.

REASON: To ensure the development is provided with safe access and sufficient areas for the parking and manoeuvring of vehicles in the interests of highway safety in accordance with the aims of Core Policies 61 and 64 of the Wiltshire Core Strategy.

8. Ecological enhancements (bat and bird boxes)

The dwelling hereby approved shall not be occupied or brought into use until a scheme of ecological enhancements (i.e. bat and bird boxes) has been implemented in full in accordance with details of the number and locations that shall first be submitted to and approved in writing by the local planning authority. The development shall be maintained in that state thereafter.

REASON: To ensure the scheme delivers some integral ecological enhancements in accordance with the aims of Core Policy 50 of the Wiltshire Core Strategy.

Compliance conditions

9. Agricultural worker occupancy

The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependents.

REASON: The site is in an area where residential development for purposes other than the essential needs of agriculture or forestry is not normally permitted and this permission is only granted on the basis of an essential need for a new dwelling/residential accommodation in this location having been demonstrated.

10. PD removal

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A, AA, B, C, E, F, G and H shall take place on the dwellinghouse hereby permitted or within their curtilage.

REASON: In the interests of the amenities and landscape character of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

11. External lighting

All external lighting provided on site shall be in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note GN08/23 "Bats and artificial lighting at night", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

REASON: In the interests of the amenities of the area and to minimize impacts on biodiversity caused by light spillage to areas above and outside the development site.

Informative Notes

General Notes

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required, it will be necessary for the applicant to obtain the landowner's consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

Protected Species

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Conservation of Habitats and Species Regulations 2017 (as amended) it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

Community Infrastructure Levy

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy> .

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Wiltshire Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

In this case, a Biodiversity Gain Plan needs to be submitted and approved prior to the commencement of the development. Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

For further information please refer to:

<https://www.gov.uk/government/collections/biodiversity-net-gain#developer-guidance>

Drainage Information

Condition 06 of this consent requires the submission of surface water drainage details. In order to discharge the drainage condition, the following additional information must be provided:

Evidence that soakage tests have been undertaken in accordance with BRE 365 to demonstrate that infiltration is feasible by the provision of calculations that demonstrate that the soakaway has been designed for:

- 1 in 10yr + cc flows (for individual properties);
- Half drain time <24hrs;
- Appropriate factor of safety in line with CIRIA C753 (Table 25.2) guidance has been included.

Evidence that the highest groundwater level (taking into account seasonal variations) has been determined and this is at least 1m below the proposed bottom of the soakaway.

Soakaways must be designed in line with CIRIA C574 and the Wiltshire Guidance.

All new drainage will need to comply fully with Building Regulations Part H.

In line with the NPPF the applicant should seek to use SuDS wherever practicable as part of the surface water drainage strategy.

Any new connections to sewers will be subject to S 106 agreement under the Water Industry Act with the Sewerage Undertaker.

Discharge to a watercourse will require land drainage consent. This must be sought from Wiltshire Council acting in their capacity as Lead Local Flood Authority.