

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/00618
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Land adjacent 49 The Hyde. Purton, Swindon, SN5 4EA
DEVELOPMENT DESCRIPTION:	Variations of Conditions 2&3 on PL/2023/06960 - Erection of Single Dwelling Access and Parking Following Outline Permission REF PL/2022/03841
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The proposed development site is located outside of any defined settlement boundary but is well related to the settlement of Purton, a larger village. The site itself constitutes an open, undeveloped field between Numbers 49 and 49a The Hyde. It is noted that the land ownership extends beyond the northern site boundary and that there is no formal vehicle access into the site.

Far-reaching views are possible from within the site to the north over open countryside. Limited views of the site are possible from Collins Lane to the north and public footpaths PURT71 and, to a lesser extent, PURT72.

With regard to the site's surroundings, dwellings are located to each side of the proposed development site, 49 The Hyde and 49a The Hyde. Considering the wider context, the site is associated with a collection of dwellings situated a short distance from, but well related to the settlement of Purton which forms a linear pattern of development along The Hyde, ending at Quarry Farm to the east. These dwellings are detached and feature a range of building materials which include brick, render and/or stone to walls and concrete tiled, slate tiled and thatched roofs. Due to the dwellings clustered around the site, the immediate area is read as semi-rural/residential in nature.

The site is not within any designated conservation or heritage area.

It is noted that works had commenced on site and foundations have been laid, thereby holding open the original application from 2023.

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2023/06960. The application relates to the site at Land adjacent to 49 The Hyde, Purton SN5 4EA, and seeks to vary/remove condition(s) 2 and 3. The variation to Condition 2 relates to the design and material detailing of the dwelling and to Condition 3, with is for the materials to be used in the construction the external surfaces of the development as permitted on the extant plans.

RELEVANT PLANNING HISTORY

Proposal / Summary
PL/2023/06960 - Erection of Single Dwelling Access and Parking Following Outline Permission REF PL/2022/03841 Approved with Conditions
PL/2022/03841 - Erection of single dwelling access and parking (Outline application with all matters reserved) - Resubmission of 20/10410/OUT Approved with Conditions
20/10410/OUT – Erection of single dwelling, access & parking 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 19 Spatial Strategy: Royal Wootton Bassett & Cricklade Community Area
- Core Policy 50 Biodiversity and Geodiversity;
- Core Policy 51 Landscape
- Core Policy 56 Contaminated Land;
- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 58 Ensuring the Conservation of the Historic Environment;
- Core Policy 60 Sustainable Transport;
- Core Policy 61 Transport & Development;

Draft Wiltshire Local Plan Policies

At Full Council on 19 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.

Purton Neighbourhood Plan – Made November 2018

Supplementary Planning Documents:

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

Purton Parish Council: No Objection

REPRESENTATIONS

No letters of representation or comment were received in relation to the proposed plans

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.

The proposed variations relate solely to the design of the dwelling only. From the planning history on the site it is noted that some preceding applications were not considered acceptable in relation to the bulk and scale of the proposed dwelling and potential for detrimental impact upon adjacent neighbouring occupiers. However, application PL/2023/06960, was considered to represent a suitable structure which would site appropriately on this edge-of-village site and which enjoys open and far reaching views of the land to the north.

The current scheme is considered to represent a suitable alternative for the dwelling and would result in a pleasing structure which would have visual symmetry and quality detailing. There would be a change to the elevational materials, which would change the scheme to stone elevations and detailing on all four elevations which is considered an improvement. A slate roof is similarly proposed.

Whilst the main central ridge would be marginally higher, at approximately 7.2m rather than the extant 6.8, this increase in conjunction with the set down from the highway is not

considered to result in significant increase in the bulk and scale of the property and is deemed acceptable.

The main ground and first floor fenestration would all limited to the front and rear elevation with only ground floor windows on the side elevations of the narrow, gable end projections on each elevation and due to the degree of separation from the side boundaries, are not considered to result in overlooking or loss of privacy over that which has already been permitted. This is an improvement over that originally permitted, which included a first floor window on the eastern side elevation.

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

With the exception of the Wiltshire Design Guide and Biodiversity requirements being adopted in the interim period, no other local or national policies changes are known which would now make the proposal unacceptable.

Having carried out a full assessment, the revised scheme is considered to accord with the overall design principles of the adopted Design Guide.

As the scheme has already commenced, it is not considered that this scheme would not be subject to BNG and is therefore exempt. Nevertheless, as required by the regulations, any approval must include an Informative reminding the applicants of the biodiversity net gain requirements.

Assessment of Conditions

Condition 1. As development has commenced, it is not considered that the original Condition 1, to require development to commence within 2 years of that date of permission is relevant and can be omitted from any subsequent Decision Notice.

Condition 2 would replace the proposed scheme for the dwelling only. The overall layout and placement of the garage, driveway and garden room would remain as existing. Therefore, only the drawings for that part of the scheme require revision

Condition 3 relates solely to the materials to be used across the whole scheme. As that condition originally stated that the materials were to be as stated on the approved documentation, it is not considered that this conditions requires any further revision and can be carried forward to any subsequent Decision Notice without change.

Condition 4, that condition required a first floor window on a side elevation to be glazed with opaque glazing and fixed with a ventilation stay to restrict opening. In the absence of that

window this condition is now considered redundant and can be removed from any subsequent Decision Notice.

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(s) is considered acceptable. The benefits of the proposal, including enhanced design of the dwelling. 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. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application Form. Received on 29 January 2026

Planning Statement. Received on 29 January 2026

Location Plan. Received on 29 January 2026

2525/2 Proposed Floor Plans and Elevations. Received on 29 January 2026

0024/20/D. Proposed Garage Elevations and Floor Plans. Received on 16 August 2023

0024/20 E. Proposed Garden Room Elevations and Floor Plans. Received on 16 August 2023

Arboricultural Report, Dated 02 June 2023. Received on 21 August 2023

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

2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated on the documentation and plans hereby approved.

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