

APPLICATION FOR VARIATION/REMOVAL OF CONDITION DELEGATED REPORT

APPLICATION REFERENCE:	PL/2026/02036
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Sir Audley Arms, Audley Road, Chippenham, SN14 0DY
DEVELOPMENT DESCRIPTION:	Variation of condition 2 of PL/2024/11526 (approved plans) to replace the previously approved painted timber windows with white flush casement uPVC windows
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The site relates to the former Sir Audley Arms public house located on Audley Road, within the built-up area of Chippenham. The building is a two-storey detached building constructed in red brick, set beneath a clay tiled roof.

The building is sited within an established residential area and sits prominently within the street scene, making a positive contribution to the character of the locality. The site is not located within a Conservation Area and the building is not listed. However, it is acknowledged to have some heritage value as a non-designated heritage asset by virtue of its architectural character.

PROPOSAL

This report considers a Section 73 application for the variation of condition 2 (approved plans) imposed on planning permission PL/2024/11526 to substitute the approved painted timber windows with white flush casement uPVC windows.

The proposed uPVC windows are described as “conservation style” (flush casement), designed to replicate the appearance of traditional timber joinery. The variation applies to the building approved for conversion into residential apartments.

In other respects, the proposal remains as was approved under PL/2024/11526.

RELEVANT PLANNING HISTORY

Proposal / Summary
PL/2023/08639 - Full planning permission Decision - Approve with Conditions Date: 12/7/2024 – Change of use of existing public house (Sui Generis) to two x four bedroom and one x two bedroom dwellings (Use Class C3), erection of a four bedroom detached dwellings (Use Class C3), including demolition of existing outbuilding and single storey extensi
PL/2024/08631 - Full planning permission Decision - Withdrawn by Applicant Date: 7/10/2024 – Change of use of existing public house (Sui Generis) to five x one bedroom

and three x two bedroom apartments (Use Class C3) along with the erection of a four bedroom detached dwelling (Use Class C3), including demolition of existing outbuilding, utilisin
PL/2024/11526 - Full planning permission Decision - Approve with Conditions Date: 8/5/2025 – Change of use of existing public house (Sui Generis) to five one bedroom and three two bedroom apartments (Use Class C3), utilising the existing access off Audley Road, with associated works, parking and hard and soft landscaping.
PL/2025/05711 - Approval of details reserved by a condition Decision - Approve Date: 3/9/2025 – Discharge of conditions 4 (Biodiversity Mitigation and Enhancement Plan) & 5 (Hard and Soft Landscaping Scheme) of PL/2023/08639 - (Change of use of existing public house (Sui Generis) to two x four bedroom and one x two bedroom dwellings (Use Class C3),
PL/2025/09611 - Non-Material Amendment Decision - Refuse Date: 19/3/2026 – Non material amendment on PL/2024/11526 to amend previously consented timber painted windows with flush casement UPVC windows (Colour: White)
PL/2025/09684 - Approval of details reserved by a condition Decision - Approve Date: 19/3/2026 – Discharge of condition 3 (External Lighting) and condition 5 (Hard and Soft Landscaping) of PL/2024/11526 - Change of use of existing public house (Sui Generis) to five one bedroom and three two bedroom apartments (Use Class C3), utilising the existing ac
PL/2026/00041 - Biodiversity Gain Plan Discharge of Condition Application Decision - Approve Date: 19/3/2026 – Biodiversity net gain for PL/2024/11526 - Change of use of existing public house (Sui Generis) to five one bedroom and three two bedroom apartments (Use Class C3), utilising the existing access off Audley Road, with associated works, parking and hard and
PL/2026/00879 - Full planning permission – Erection of two no.2 bedroom houses (class C3) and associated works.
N/87/00891/FUL - Full planning permission Decision - Approved Date: 15/6/1987 – DIRECT LABOUR ORGANISATION ADMINISTRATION OFFICES AND STORES

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:

1. *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.
2. *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.
3. *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.
4. *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:

Wiltshire Core Strategy 2015 (WCS)

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

Chippenham Neighbourhood Plan 2024 (CNP)

- No policies relevant to the changes being assessed

North Wiltshire Local Plan 2011 (NWLP)

- No policies relevant to the change being assessed

National Planning Policy Framework (NPPF)

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

Chippenham Town Council: Objection:

The building is considered to be a non-designated heritage asset with the Officer Report for the public house conversion (PL/2024/11516) noting 'There would be minor changes externally to the existing building, particularly with regard to the front elevation which is entirely appropriate given the building is attractive and makes a positive contribution to the streetscene. The original fenestration and entrance doors are being retained on the front elevation.'

There are concerns with regard to the loss of what are likely to be original windows on the front elevation, particularly given these are a key feature of the building's attractiveness, with leaded windows and stained glass in some of the top panes. The proposed UPVC frames would unlikely match the same profile and slimline nature of existing timber frames and would appear chunkier. This would be contrary to CP57 of the Wiltshire Core Strategy, the Wiltshire Design Guide and Paragraph 140 of the NPPF which is clear that 'Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).' As a compromise, the Town Council would be satisfied if existing front windows remained, with either secondary glazing or shutters positioned behind for thermal insulation, and new proposed Heritage style UPVC windows installed on the remainder of the building where they are not visible from the street.

REPRESENTATIONS

None 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 change relates to the substitution of window materials and does not alter the description or nature of the approved development. There are a few minor associated works including minor fenestration changes, repairs and making good works and rainwater goods. The scale, layout, use, and overall design concept remain unchanged. The proposal does not result in a fundamentally different development.

As such, the application is valid under Section 73 and can be determined as a variation of condition attached to the original planning permission.

Compliance with the Development Plan

Core Policies CP57 and CP58 and the NPPF require development to achieve high quality design and conserve heritage significance.

The original permission accepted that the building has some heritage value as a non-designated heritage asset, but concluded that its conversion and retaining key external features would preserve its significance.

The key consideration is whether the change from timber to uPVC windows would materially harm the significance or the quality of the approved design.

Assessment

The proposal seeks to amend the approved plans condition to allow for the replacement of the previously approved timber windows with UPVC windows.

Chippenham Town Council has objected to the proposal, raising concerns regarding the impact of the replacement windows on the building's attractiveness. It is acknowledged that the existing leaded windows, including stained glass within some upper panes, make a positive contribution to the overall appearance of the building. The Town Council considers that uPVC frames would be unlikely to replicate the slimline profile of traditional timber joinery and has suggested, as a compromise, that existing front elevation windows are retained, with heritage-style uPVC windows used elsewhere on less visible elevations.

Chippenham Town Council identify the public house building as a non-heritage asset. However, there is no local list of non-designated heritage assets, and the building is not identified within the Chippenham Neighbourhood Plan as such. Similarly, the building is not within the Chippenham Conservation Area. However, the building's design is of significant merit and has some heritage value.

The NPPF requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application, and a balanced judgment to be made having regard to the scale of any harm or loss and the significance of the heritage asset.

In this case, photographic evidence submitted by the applicant demonstrates that a number of the existing windows are in poor condition. The applicant has advised that the windows have deteriorated over time. Those windows do indeed appear to be slim-line timber and/or metal casements and, as is suggested by the Town Council, are likely to be original in many instances (see below images). It is further noted that there are several instances of replacement uPVC windows present within parts of the building, and which are clearly of an inferior appearance, being of chunky frames and at odds with the architectural style of the building.





Photos provided by applicant

The submitted elevational plans suggest that the proposed replacement uPVC windows will be of a “heritage” type, being flush casement and what appears to be a universal adoption of some form of leaded segmentation. However, very little detail has been provided as to what each of the replacement windows would look like, with the “typical window detail” drawing appearing to be generic and not readily relating to a good number of the very particularly configured existing windows – which include non-standard sizes, a mix of top and side hung casements, and individually leaded lights. Beyond that generic drawing, no large-scale cross-sectional drawings have been supplied and neither has any manufacturer brochure submitted. This does leave the actual final appearance of the windows and the nature of the frames and (presumably faux?) leaded elements largely unknown. Similarly, it is entirely unclear from the submission as what is the intention for the characterful stained glass in the feature windows at the front of the property.

What can be discerned from the elevations which have been provided is that the replacement windows would perhaps incorporate some of the broader design elements which can be seen on what are the original timber/metal framed windows, particularly those more important and characterful original windows on the front elevation.

Notwithstanding the above, it is clear that the proposal will represent a decline in the quality of the permitted PL/2024/11526 scheme, since that required the retention of the existing windows, many of which appear to be of a slim-line timber/metal casement, and most likely original to the building. This point is, quite understandably, made within the comments of the Town Council, including reference to paragraph 140 to the NPPF, which warns against the quality of approved development being materially diminished between permission and completion.

However, the building does not benefit from statutory or local heritage designations i.e. it is not listed, does not lie within a Conservation Area, and it is not identified within the Neighbourhood Plan. Whilst it is recognised that the use of UPVC windows would erode some of the building’s architectural quality, the degree of harm is considered to be limited in the absence of any formal designation. Furthermore, the quality and detailing of modern

conservation-style UPVC windows can vary significantly. In this context, it is considered that it would be proportionate and necessary to impose a condition requiring the submission of detailed specifications of the frontage windows, where the main significance and public visibility of the building lies. Subject to this condition, it is considered that the reduction in quality would not be unacceptable or materially diminished.

The overall form and architectural composition of the building, including its brickwork, roof form and original doors to the front elevation would remain unchanged from the approved scheme. As such, and with an appropriate control over window detailing by condition, the proposal would not fundamentally alter the character or legibility of the building within the streetscape and would represent a broadly sensitive form of conversion.

The proposed windows offer some practical and sustainability benefits, including improved durability, enhanced thermal performance, and reduced long-term maintenance requirements. These factors support the long-term viable use and upkeep of the building, which weighs modestly in favour of the proposal.

In addition to the window changes, the application proposes a number of minor amendments to the elevations. These include the insertion of a new door within the east and north elevations, the replacement of a window with a door on the south elevation, the installation of black UPVC rainwater goods, and general repair and making good works. Some existing doors are to be replaced with painted timber doors incorporating appropriate detailing (but not on the front elevation). A parapet coping stone is also proposed to the flat roof. These changes are relatively minor in scope and would not result in significant changes to the overall appearance of the building.

The previously approved floor plans remain unchanged, and are consistent with the proposed external amendments.

Other material considerations

No other material planning impacts arise from the proposed variations. The remainder of the approved scheme remains unchanged and acceptable.

Amended conditions

The conditions attached to the original planning permission have been reviewed in light of the proposed variation. Where appropriate, conditions have been re-imposed in their original form. The following conditions have been amended:

1. Time limit for implementation in accordance with original permission
2. Approved plans to incorporate the revised plans and plan submitted under discharge of condition application ref PL/2025/05711
3. External lighting to include the details approved under discharge of condition application ref PL/2025/05711
5. Landscaping detail to include the details approved under discharge of condition application ref PL/2025/05711
6. Additional condition requiring the submission of window detailing

These amendments do not materially alter the overall scope or intent of the original conditions and are considered reasonable and necessary to make the development acceptable in planning terms. The revised conditions have been agreed with the applicant.

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 and has assessed them 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, would materially alter the nature or impacts of the approved scheme.

On balance, whilst some harm would arise from the loss of original windows, this is considered to be limited. Given the poor condition of a number of existing windows, the presence of some existing unsympathetic UPVC replacements, and the use of conservation-style flush UPVC windows, the proposal represents a broadly acceptable solution. This harm is mitigated through the imposition of a condition requiring precise, large-scale details of the replacement windows to the front elevation, including details of the existing stained glass, thereby ensuring that the most architecturally significant and publicly visible elements of the building are subject to appropriate design control and complying with the requirements of paragraph 140 to the NPPF.

Subject to this condition, the replacement windows would preserve the building's overall form and appearance and its positive contribution to the streetscene, whilst facilitating its continued active use and supporting its long-term maintenance.

The limited harm arising from the loss of some original detailing is therefore outweighed by the benefits of securing a controlled and appropriately detailed replacement scheme, preserving the character and appearance of the building, and enabling its viable use and ongoing upkeep. Accordingly, the proposed variation is considered acceptable.

The other minor amendments are modest and acceptable, would help with the upkeep of the building, and would not cause any adverse harm in design or amenity terms. With no material considerations indicating otherwise, the application is recommended for approval.

RECOMMENDATION: That Planning Permission be GRANTED subject to the following conditions

1. The development hereby permitted shall be begun no later than 08 May 2028.

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:

Plans as received by the LPA 02/04/26:

Location Plan 3277 01

Proposed West Elevation 3277 203

Proposed South Elevation 3277 204

Proposed East Elevation 3277 205

Proposed North Elevation 3277 206

Typical Window Details 3277 301

Plan as received by the LPA 09/12/25:

Landscaping, External Works & Enclosures Plan 3277 701

Plan as received by the LPA 25/04/25:

Proposed Site Plan 23 – 3468 – 150 P9

Plan as received by the LPA 17/04/25:

Proposed Floor Plans 23 – 3468 – 151 P5

Document as received by the LPA 03/02/25:

Protected Species Report & BNG Assessment dated 27th January 2025

Plans and Document as received by the LPA 30/01/25:

Location and Block Plans 23 – 3468 – 155 P3

Arboricultural Method Statement dated 29th January 2025

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

3. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing, with the exception of the lighting details shown on Landscaping, External Works & Enclosures Plan 3277 701, which may be implemented as approved.

The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals (ILP) Guidance Notes on the Avoidance of Obtrusive Light (GN 01/2021) 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 conserving biodiversity

4. Before Apartment 8 hereby permitted is first occupied, the two new larger windows in the north elevation that serve bedroom 1 and a hallway, shall be glazed with obscure glass only [to an obscurity level of no less than level 3] and the windows shall be maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

5. The hard and soft landscaping should be carried out either:

(a) in accordance with the details shown on Landscaping, External Works & Enclosures Plan 3277 701; OR

(b) an alternative detailed scheme of hard and soft landscaping to be submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any trees and hedgerows to be retained, together with measures for their protection in the course of development;
- a detailed planting plan and specification showing all plant species, supply and planting sizes, and planting densities along with means of temporary support;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- retained historic landscape features and proposed restoration, where relevant.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43 metres to the right and left from the centre of the access in accordance with the approved plans. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 600 mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety

7. No building or use hereby permitted shall be occupied until pedestrian visibility splays of 2 metres x 2 metres to the rear of the footway, shall be provided at the proposed access (or drive). Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.6 metres to the rear of the footway which

would obstruct the visibility splay. The visibility splays shall be maintained free of obstruction at all times thereafter for the lifetime of the development.

REASON: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety.

8. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the flats or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

9. Notwithstanding the details shown on the approved plans, no replacement windows shall be installed in the front elevation of the building until precise details of their design and appearance have been submitted to and approved in writing by the Local Planning Authority.

The details shall include:

- Large-scale drawings (minimum 1:20) of each window type;
- Cross-sectional drawings (minimum 1:5) showing frame profiles, glazing bars, and method of opening;
- Details of materials, finishes and colour;
- Details of the treatment, retention, repair, or replication of the existing stained glass panels;

The windows shall thereafter be installed strictly in accordance with the approved details and retained as such thereafter.

REASON: To safeguard the character and appearance of the building, having regard to its architectural significance and visual prominence within the streetscape.

Informative

1 The application involves an extension to the existing/creation of a new vehicle access/dropped kerb. The consent hereby granted shall not be construed as

authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

Informative

2 The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2017) 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.

Informative

3 The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

Informative

4 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 landowners consent before such works commence