

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/03596
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Wood Cottage, Pythouse, Tisbury, Salisbury, SP3 6PA
DEVELOPMENT DESCRIPTION:	Variation of condition 2 (approved plans) on PL/2025/03321 to change the roof from flat to pitched on the extension
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The application site is a detached residential dwelling located down a private road, in an isolated, rural position and set within a substantial sized plot which falls within the National Landscape and falls within the Chilmark Quarries Bat SAC buffer zone.

PROPOSAL

This report considers a Section 73 application for the variation of condition 2 (approved plans) imposed on planning permission PL/2025/03321. The current application seeks to vary to condition to allow for design alterations to the roof of the extension. The original approval incorporated a flat roofed design with roof lantern.



North East Elevation

The revised plans propose a pitched roof design with the insertion of 3 Conservation rooflights.



RELEVANT PLANNING HISTORY

Proposal / Summary

PL/2025/03321 - Householder planning permission Decision - Approve with Conditions
 Date: 11/7/2025 – Replace existing garage with a new single storey extension with internal alterations. One new dormer window to existing dwelling.

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 23 Southern Wiltshire Community Area
- Core Policy 50 Biodiversity and Geodiversity;
- Core Policy 51 Landscape
- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 60 Sustainable Transport;
- Core Policy 61 Transport & Development;
- Core Policy 64 Demand Management

Supplementary Planning Documents:

- *Wiltshire Local Transport Plan – Car Parking Strategy: Chapter 7: Parking Standards*
- *Wiltshire Design Guide*
- *Creating Places, Supplementary Design Guidance, adopted April 2006.*

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

REPRESENTATIONS

Below is a summary of the representations received during the consultation period. Only material planning considerations have been considered in the assessment of this application. Non-material issues, such as property values or private legal disputes, cannot be considered in the determination process.

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 alterations do not include any increase in footprint of the extension and relates solely to the roof form.

The proposed pitched roof remains stepped down from the existing ridge height of the property and therefore, although an increase in built form upon the front elevation the roof alteration is not considered to be of any significant harm visually to warrant a refusal.

There do not appear to be any proposed alterations to the proposed materials and the agent has confirmed that the roof materials will be to match those of the existing dwellinghouse.

Furthermore, considering the large rooflight approved on the original approval the now proposed three rooflights can be considered comparable in terms of roof glazing and the agent has confirmed that these would be fitted with automatic blinds to ensure minimal light spillage within the National Landscape.

In addition, due to position of the extension in relation to any nearby residential properties, the altered roof form would not result in any adverse impacts upon any residential amenities.

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

There have not been any policy changes since the original planning permission which would be fundamental to this variation.

Conclusion

The proposed alterations to the roof are considered appropriate for such a Variation of Condition application and the new roof design is not considered to pose any harm upon the character and appearance of the area which would warrant a refusal.

RECOMMENDATION:

That Planning Permission be GRANTED subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 11/07/2028.

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 and documents:

Location plan dated 08/06/26

AK_217_01 Existing Elevations dated 31/03/25

AK_217_02 Existing floor plans dated 31/03/25

AK_217_06 Existing site plan dated 08/04/25

10588-PL-02 A PROPOSED FLOOR PLANS received 08/06/26

AK_217_05B Proposed site plan dated 26/06/25

10588-PL-03 A PROPOSED ELEVATIONS received 08/06/26

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

3. Notwithstanding the approved details the works shall be carried out in strict accordance with the recommendations set within the Lowans Ecology and associates appraisal submitted within application PL/2025/03321 dated 10/07/25.

REASON: In the interest of Biodiversity and the protection of Bats.

4. The roof tiles to be used in the development hereby permitted shall match those of the existing building in terms of their material, colour, texture, profile and pattern of laying.

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

INFORMATIVE: 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. 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.

INFORMATIVE: 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.