

3rd August 2026

Our Ref: SWLC.LPC6189

Development Services – North
Wiltshire Council
Monkton Park
Chippenham
Wiltshire
SN15 1ER



Dear Sir/Madam

Town and Country Planning Act 1990
Journey's End, Moor Lane, Charlton, Wiltshire, SN16 9DR

As your records will confirm the above property was the subject of the recent grant of a Certificate of Lawfulness (LPA ref; PL/2026/03376) described at Schedule 1 therein as follows;

'Certificate of lawfulness (Existing) to confirm the on-going, and unrestricted occupation of the above property'

The case agreed was that the submission demonstrated that the unrestricted residential use of the dwelling known as Journeys End, Moor Lane, Charlton, in breach of condition 2 of planning permission 31/NW/66, has been ongoing for a period in excess of 10 years prior to the date of the application, and is thus immune from enforcement action. Obviously, the lawfulness established is based on the continuous breach and condition No 2 has not been formally removed.

Accordingly, it is the purpose of the enclosed application to seek to modify the terms of the original application so as to effectively remove condition No 2. The enclosed application is therefore made pursuant to section 73B of the Town and Country Planning Act 1990.

Section 73B of the Town and Country Planning Act 1990, seeks to provide a statutory route for making material changes to an existing planning permission, provided that the resulting development would not be, "substantially different" from the development already permitted. Section 73B was inserted by the Levelling-up and Regeneration Act 2023.

Section 73B was introduced to effectively address a gap in the law. Previously, Section 73 allowed the variation or removal of planning conditions but could not change the description of the development itself. In this case the original application is rather nebulously described as, 'An agricultural dwelling', where arguably the agricultural reference is not operative, but for the avoidance of doubt it would be preferable if it had more clearly confirmed by the approved development concerned as 'erection of dwelling'.

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Case law has determined that if a proposed amendment requires changing the description of development (the "operative part" of the permission), section 73 cannot be used.

Section 73B is intended to:

- allow applicants to make material amendments to an existing planning permission;
- allow changes to both the description of development and planning conditions;
- avoid requiring a completely fresh planning application where the revised proposal remains substantially the same as the approved scheme;
- provide greater flexibility for developments that evolve through detailed design or changing circumstances

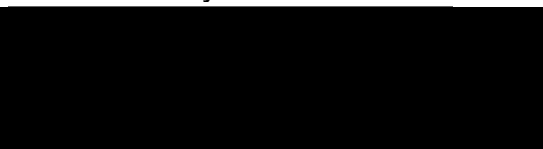
A section 73B application can therefore amend the description of development and in so doing creates a new permission, where condition No 2 referred to above is not justified. The grant of the above mentioned Certificate is a material consideration in this regard, allowing the unrestricted residential use of the existing property, and thus ensuring that the resulting new planning permission, that sits alongside the original permission reflects the lawfully unrestricted nature of the residential use.

It is noted that the local planning authority may only grant permission if the new development is not substantially different from the existing permission. In that regard the Class C3 unit and scale of development are unchanged, and the established lawful impacts are unchanged too. The material change in circumstances that have evolved and is reflected by the Certificate's grant ensures that the correction sought falls within the scope of the intention to permit material changes, without creating a fundamentally different development.

For the avoidance of doubt therefore the application enclosed seeks to confirm the description of development modifying application 31/NW/66 to read 'erection of dwelling', and this new permission should attract no conditions.

I trust the above comments explain the simple application enclosed noting clearly the ability of the section 73B submission to change the description and remove the occupancy condition, that cannot be enforced. However, if you have any questions to ensure the prompt grant of permission, please do not hesitate to contact me direct

Yours faithfully



Simon Chambers
Director

Enc.

Cc Mr and Mrs Baker