

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/03959
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Grove Cottage, Nightingale Lane, Wardour, Tisbury, Salisbury, SP3 6RJ
DEVELOPMENT DESCRIPTION:	Variation of Condition 2 (Approved Plans) and wording of Condition 4 (Restriction on use of Garage) relating to application PL/2025/09724
RECOMMENDATION:	Approve

SITE DESCRIPTION/CONTEXT

The application site consists of a detached cottage with the original 1.5 storey 18th Century thatched cottage visible from the street scene and a series of 20th century extensions and additions to the rear of this. In addition to the cottage, the application site consists of several outbuildings on the northern edge of the site. The boundary of Grade II* Wardour Park and Garden lies across the highway to the south of the application site. To the north of the application site lies a field and the open countryside, whereas to the west is Grove Farm House another residential dwelling and on the east is the open countryside with the closest dwelling, Sawmills located approximately 200 metres east of the site.

The site is not located within a conservation area nor is it located within a defined settlement boundary. However, the dwelling has recently been recognised by the LPA as a non-designated heritage asset (NDHA). However, this has not been formally identified as such in either a Local Plan or Local List. Nonetheless, policies and legislation attributable to NDHA's will be taken into consideration below.

The site is within the Cranborne Chase and West Wiltshire Downs national landscape (formerly known as an area of outstanding natural beauty) and lies within a designated Dark Skies area.

The site is in flood zone 1 (i.e. at the lowest risk of flooding) and Council records indicate that it is not at high risk from ground or surface water flooding.

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2025/09724. The application relates to the site at Grove Cottage, Nightingale Lane, Wardour, Tisbury, Salisbury, SP3 6RJ and seeks to vary/remove condition(s) Variation of conditions 2 (Approved Plans) and 4 (Restriction on use of Garage)

RELEVANT PLANNING HISTORY

S/80/1396: Extension at first floor level - Approved.

S/1983/1455: Extension of existing dwelling - Approved.

S/1988/0115: Porch extension to existing dwelling - Approved.

S/1992/1323: Erection of conservatory - Approved.

PL/2024/07477: Replacement dwelling and outbuilding – Refused and Appealed:
APP/Y3940/W/25/3360421: Dismissed

PL/2025/07914: Demolition of extensions on side and rear of cottage and detached outbuildings. Erect single and two-storey extension. Form new vehicular access and close-up existing access point. – Approved with conditions.

PL/2025/09724: Erect garage and store - Approved with conditions.

PL/2026/00623: Discharge of conditions 8 and 12 relating to planning application PL/2025/07914 - Approved with conditions.

PL/2026/01722: Variation of conditions 2 (Approved Plans) and 15 (Change of Material) relating to application PL/2025/07914 - Approve 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:

National Planning Policy Framework (NPPF) August 2026

Wiltshire Core Strategy (WCS)

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 3: Infrastructure Requirements

Core Policy 27: Spatial Strategy for the Tisbury Community Area

Core Policy 41: Sustainable Construction and Low Carbon Energy

Core Policy 45: Meeting Wiltshire's Housing Needs

Core Policy 50: Biodiversity and Geodiversity

Core Policy 51: Landscape

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 and Development
Core Policy 64: Demand Management
Core Policy 67: Flood Risk
Core Policy 69: Protection of the River Avon SAC

Salisbury District Local Plan 2011

- C24: Extensions to Buildings
- H30: Replacement Dwellings in the Countryside
- H31: Extensions to existing dwellings in the Countryside

Other:

- The Planning (Listed Building and Conservation Areas) Act 1990
- The Wiltshire Design Guide Supplementary Planning Document ('the WDG SPD') - adopted March 2024
- Wiltshire Local Transport Plan 2011-2026 Car Parking Strategy
- Wiltshire's Community Infrastructure Levy: Planning Obligations Supplementary Planning Document
- (Planning Obligations SPD); Wiltshire's Community Infrastructure Levy - Charging Schedule
- (Charging Schedule) and Wiltshire's Community Infrastructure Levy - Regulation 123 List
- Cranborne Chase Partnership Plan 2019-2024
- Tisbury Conservation Area Appraisal and Management Plan
- Tisbury and West Tisbury Neighbourhood Development Plan 2019-2036 (Made November 2019)

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

Tisbury Parish Council: Objection.

Tisbury Parish Council objects to both elements of this application:

It objects to a Variation of Condition 2 on the grounds that:

The Design and Access Statement for application PL/2025/09724 describes the outbuilding as 'a modest, single-storey outbuilding'. The stated design approach is: 'subordination, sustainability and sensitivity to the heritage dwelling' and the siting and scale of it 'ensures the main dwelling retains primacy in the landscape' and 'does not create visual competition with the heritage asset'.

The revised plans of the outbuilding (now described as a garage), which the Council had to request from the architects, shows a height of 5.695 metres, an increase of 1.695 metres. As its stated location is within 20 metres of the host dwelling, it is the Council's view that the garage will no longer be a modest, subordinate building which is sensitive to the non-designated heritage asset and as a result the main dwelling will no longer retain primacy in the landscape. The proposal would therefore be contrary to Core Policy 58 of the Wiltshire Core Strategy.

Tisbury Parish Council also objects to any change to the wording of Condition 4 on the grounds that it correctly expresses/represents the Council's stated intention to restrict the use of the outbuilding so that it could 'not form part of the living accommodation'. Again, the Design and Heritage Statement for application PL/2025/09724 makes it clear that the building will contain 'a plant room (housing the air source heat pump), a general store and a garage' and it was therefore reasonable for the Council to request such a condition.

As the architect's letter for the revised application states that the reason for the increased height of the garage is 'so that use can be made of the attic space for storage purposes', there is no reason for the Council to amend its view.

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 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

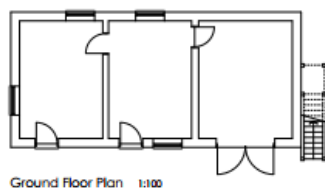
fundamentally different development from that originally approved, nor do they seek to alter the description of development or extend the time limit for implementation. As such, the application is valid under Section 73 and can be determined as a variation of condition(s) attached to the original planning permission.

Compliance with the Development Plan

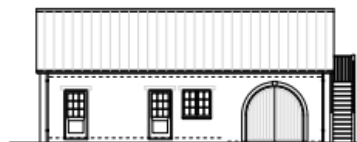
The proposed variation of condition is for the change of condition 2: Schedule of approved plans and the wording of condition 4: usage of the garage. This is considered to be in accordance with the adopted development plan, including:

- Wiltshire Core Strategy (WCS) policies;
- Neighbourhood Plans (where applicable);
- The National Planning Policy Framework (NPPF) August 2026

As approved: PL/2025/09724



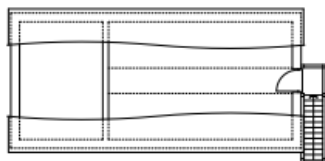
Ground Floor Plan 1:100



South West / Front Elevation 1:100



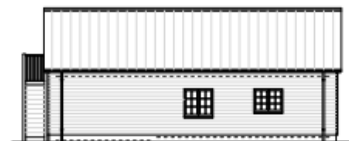
South East / Side Elevation 1:100
Facing Road



First Floor Plan 1:100

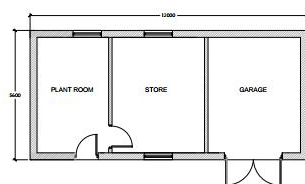


North West / Side Elevation 1:100

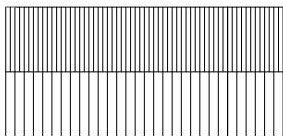


North East / Rear Elevation 1:100

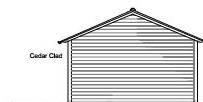
Current : PL/2026/03959



FLOOR PLAN AS PROPOSED



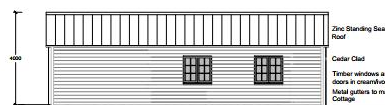
ROOF PLAN AS PROPOSED



SIDE ELEVATION AS PROPOSED



SIDE ELEVATION AS PROPOSED
(Facing Road)



REAR ELEVATION AS PROPOSED

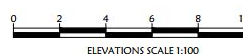
Asse



FRONT ELEVATION AS PROPOSED



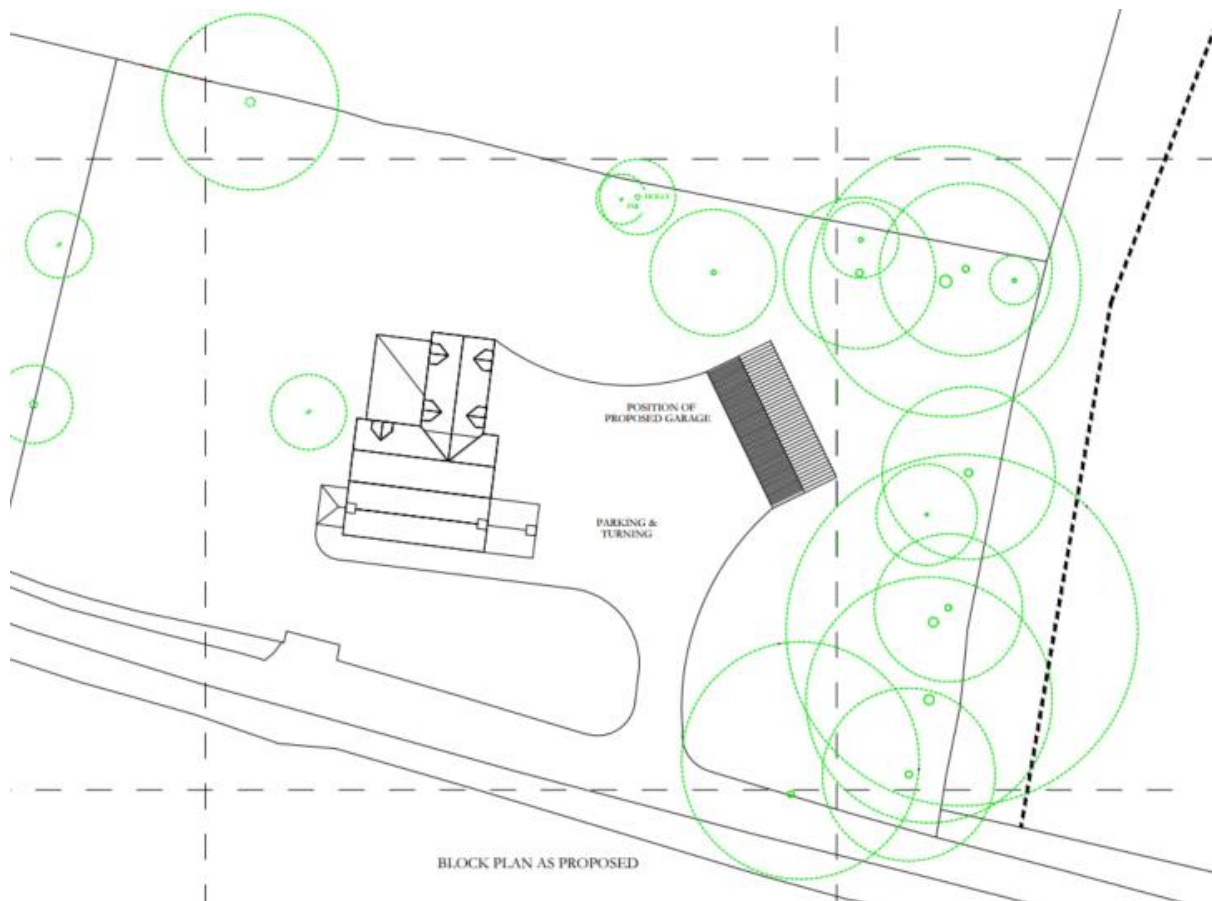
Roofit Solar
Integrated Solar
Roof system



ELEVATIONS SCALE 1:100

PLANNING PERMISSION
Client: Georgina Whissell
Location: Grove Cottage Wardour
Proposal: Garage/Store & Plant
Scale: 1:100
Date: November 2025

Grove Cottage, Nightingale Lane, Wardour, SP3 6RJ



Condition 2:

This VAR application proposes to raise the eaves and change the angle of the roof to allow for storage in the attic space and proposes to create an external staircase to access the new attic area. The materials used on the southeast side elevation is proposed to be changed from stone to timber boarding to allow the external staircase to be fixed on to this elevation. There are no proposed changes to the footprint or location of the approved garage.

This VAR application proposes to change the ridge height of the garage from 4.21 metres high to 5.68 metres high. It is noted that the parish council have objected to this application and they consider that the increase in height of approximately 1.7 metres will no longer make the garage a modest subordinate building. The host dwelling has varying roof heights with the topography of the land sloping in places. The approved rear extension measures approximately 7 metres high on the east elevation. The increased height of the garage would make it 5.68 metres high. The footprint of the host dwelling is substantially larger than the footprint of the proposed garage. However, it is noted that the garage is of a large footprint and is of a substantial height. However, in comparison with the scale and height of the associated host dwelling which is a two-storey dwelling located to the west of the garage, the height, scale and massing of the garage remains as a subservient addition to this. Additionally, the application site consists of a substantial plot of land, as such it is not considered that a garage of this size and height would be an overdevelopment of the plot.

The change of material of the south east elevation from stone which matched the host dwelling to horizontal timber cladding to allow for this elevation to match the now proposed timber external staircase is considered minimal in nature.

The closest neighbouring dwellings from the application site and the location of the proposed garage is at a significant distance away. As such, it is not considered that any additional overlooking will be generated from the proposed external staircase.

The second condition which this VAR application proposes to amend is condition 4.

Condition 4:

The proposed garage hereby approved shall only be used for purposes incidental to the residential use of the dwelling known as Grove Cottage, Nightingale Lane, Wardour, Tisbury, Salisbury, SP3 6RJ and shall not at any time be occupied for overnight accommodation and it shall remain within the same planning unit as the main dwelling of Grove Cottage, Nightingale Lane, Wardour, Tisbury, Salisbury, SP3 6RJ.

REASON: The nature of the proposed works having regard to the reasonable standards of residential amenity, access, parking provision and planning policies pertaining to the area would not permit overnight accommodation.

The extant application proposed for the erection of a garage and store associated with the associated host dwelling. As such, the condition indicated that the use as a garage and store would be incidental to the use of the host dwelling with the floor plans indicating that the outbuilding will be used as a plant room, store and a garage. It was noted however that while the use was indicated as a garage, the doors being 2.5 metres in width and a curved shape with 1.6 metres curving to 2.55 metres would struggle to fit an average sized car. The submitted cover letter for this application now indicates that they would like to use the garage for ancillary purposes to use part of the store as an office and accommodation for guests. The use as a home office is an incidental use to the associated host dwelling.

In terms of parking arrangements, this application does not propose any additional footprint nor does it propose to alter the location of the approved garage. The approved parking and turning space is retained as such. There is ample space for parking and turning within the site, therefore the use of the garage outbuilding for parking is not necessarily something which would need to be retained.

The previous condition 4 included a restriction on use of the garage for overnight accommodation. No indication of overnight accommodation usage was included in the previous application with the floor plan and cover letter indicating use as a plant room, store and garage. The application site is located within River Avon Catchment area and any new overnight accommodation within this area requires phosphate mitigation measures which the original application did not assess. However, as the application was under a householder planning application, this would be exempt from phosphate mitigation as the use of the garage is associated with the host dwelling. Additionally, the proposed garage does not propose additional bathrooms.

The wording of condition 4 has been amended to remove the wording that no overnight accommodation can occur within the garage. Although parish council's objections have been noted, ancillary use of the outbuilding associated with the host dwelling does not warrant a refusal. The garage is retained for household ancillary use and remains associated with the use of the host dwelling. There is ample space for parking, there is no concerns regarding neighbour amenity with this change, and the garage remains subservient to the host dwelling with no adverse impacts on the AONB/NL.

The revised condition continues to ensure that the garage would not be severed from the main dwelling or used as independent accommodation in this open countryside location, where such use would be contrary to policies within the Wiltshire Core Strategy (2015) and saved policies from the Salisbury District Local Plan (2011) without planning permission.

As such, the proposed variation of condition(s) is considered acceptable. The proposal remains in accordance with the development plan and relevant national guidance, and there are no material considerations that indicate otherwise.