

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/04640
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	8 Gaston Lane, Sherston, Malmesbury, SN16 0LY
DEVELOPMENT DESCRIPTION:	Variation of condition 3 on PL/2026/03144 - amended roof to hip roof
RECOMMENDATION:	Approved with Conditions

SITE DESCRIPTION/CONTEXT

The application site comprises a three-storey, terraced dwelling constructed of stone, with a stone-tiled roof and a single stone gable dormer at second-floor level. An existing porch is located on the principal (front) elevation of the dwelling.

The property is situated along a residential road within the Sherston Conservation Area in the Cotswolds. The property does not benefit from a rear garden; however, it has a generous front garden of approximately 21 metres in depth, which sets the building well back from the highway.

The surrounding area is characterised by terraced properties of a similar scale, form, and appearance. A number of properties within the terrace incorporate front porches of varying designs and layouts. Several of the terraced properties have been subject of planning permissions for front extensions in the recent past, including the end-terrace property (no.14), where a garden room added to the front elevation.

The application site is located within the Sherston Conservation Area, but with no nearby listed buildings. The application site is also located in the Cotswolds National Landscape.

PROPOSAL

This report considers a Section 73 application for the variation of condition imposed on planning permission PL/2026/03144. The application relates to the site at 8 Gaston Lane, Sherston, Malmesbury, SN16 0LY, and seeks to vary condition 3 in relation to amended the roof from a flat lead roof to a hipped roof with reconstructed stone tiles and lead, with some additional windows.

The approved scheme permitted:

- PL/2026/03144: Demolish existing porch and replace with garden room.

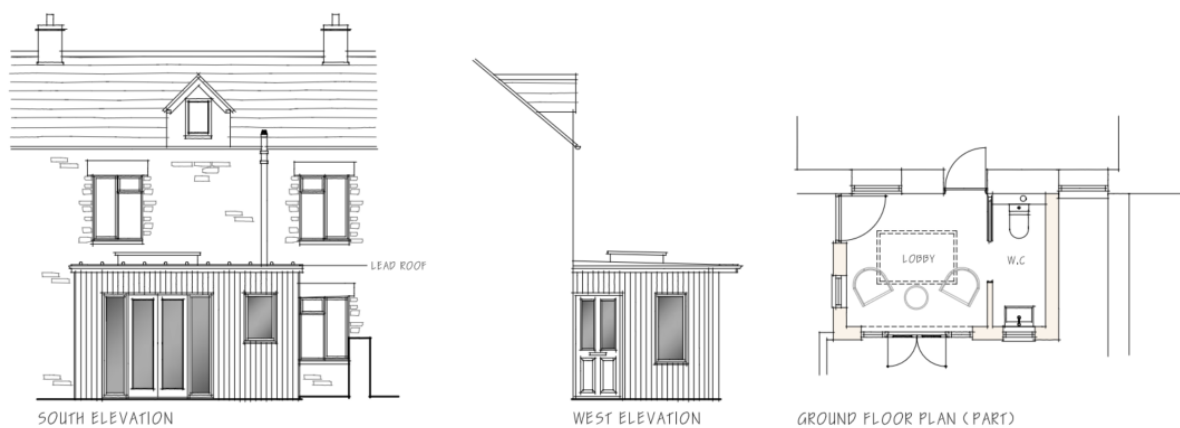
The current proposal seeks:

- Variation of condition 3 on PL/2026/03144 - amended roof to hipped roof and introduction of new windows.

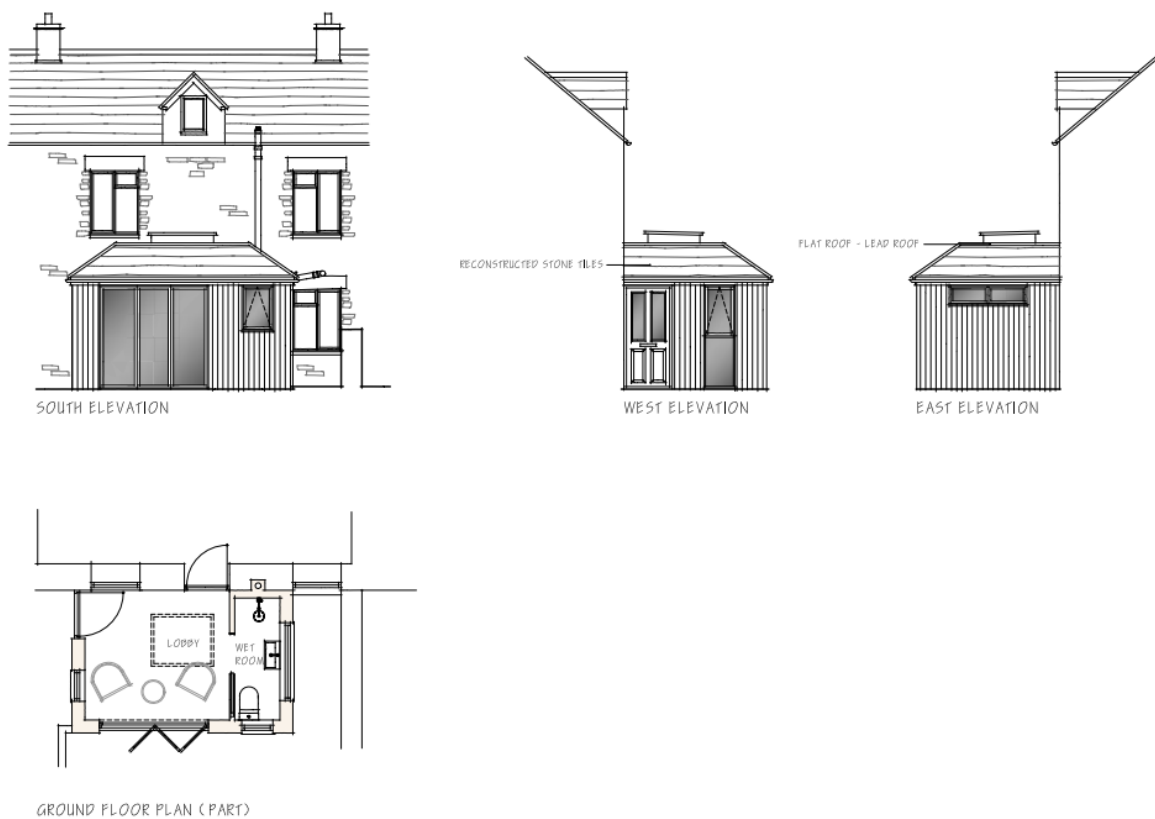
The principal changes comprise:

Replacement of the previously agreed flat roof with a hipped roof incorporating a flat section, finished in reconstructed stone tiles and lead. The proposal also includes the introduction of clerestory windows to the east elevation and the replacement of the previously approved window on the west elevation with a full-height window.

The assessment below considers both the proposed amendment and the acceptability of the development as amended.



PL/2026/03144: Proposed Elevations and Floor Plan



Current Proposal: Proposed Elevation and Floor Plan

RELEVANT PLANNING HISTORY

Planning Reference	Proposal / Summary	Decision
PL/2026/04281	Discharge of condition 3 (Roofing Material) relating to application PL/2026/03144	Approved August 2026
PL/2026/03144	Demolish existing porch and replace with garden room	Approved with Conditions June 2026
15/02303/PDENQ	PD Enquiries Decision - PD Rights Intact Date: 16/3/2015 - Conservatory porch question.	Planning permission required May 2015

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.

When determining a Section 73 application, the Local Planning Authority must consider the development plan and all other material considerations at the time of determination. This includes considering whether any changes in planning policy, guidance, site circumstances, consultation responses or technical evidence affect the acceptability of the development as amended.

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 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 51 Landscape
- Core Policy 58 Ensuring the Conservation of the Historic Environment;

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. The said Plan has no material weight for the purposes of the application.

In accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2026, on 30th June 2026 Wiltshire Council published a notice of intention to prepare a new local plan for Wiltshire. The next stage is a Scoping Consultation which commences on 2nd September 2026. This plan is at a very early stage and currently carries no weight for decision making.

Sherston Neighbourhood Plan:

No policies which are directly relevant, but objective 2:

- Conserves or enhances Sherston's significant heritage assets;
- Respects the high quality of the local environment by employing the use of building materials in sympathy with the Cotswold AONB;
- Is of the highest quality of design – utilising wherever possible traditional styles and proportions;
- Safeguarding those parts of the settlement that have been identified as being worthy of protection from development by reason of their landscape quality, ecological importance, historic interest or local significance.

Supplementary Planning Documents and other Guidance:

- Wiltshire Design Guide: Appendix D – Design Guidance for Householder Extensions

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

The views of consultees are material considerations in the determination of the application. However, the decision-maker must exercise their own planning judgement. Where consultees raise concerns or recommend conditions, these have been considered and are addressed within the assessment section of this report.

Sherston Parish Council: No objection

REPRESENTATIONS

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the application was publicised by way of:

- Neighbour notification letters sent to adjoining and nearby properties;
- A site notice displayed near the site;

These methods were used to inform interested parties and provide a period of 21 days for comments to be submitted.

Below is a summary of the representations received during the consultation period. Only material planning considerations have been taken into account in the assessment of this

application. Non-material issues, such as property values or private legal disputes, cannot be considered in the determination process.

No representations have been made.

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 conditions attached to the original planning permission.

Whilst the proposed amendment forms the basis of this application, the Local Planning Authority must consider the acceptability of the development as amended and the planning impacts arising from the scheme as a whole.

Compliance with the Development Plan - Is the development as amended still acceptable?

The proposed amendments seek to replace the previously approved flat roof with a hipped roof incorporating a flat section. The pitched elements of the roof would be finished in reconstructed stone tiles with the flat section finished in lead. In addition, alterations are proposed to the fenestration. The approved window on the west elevation would be replaced with a full-height window, and a new clerestory window would be introduced on the east elevation. Although the east elevation window represents a new opening, its clerestory design will limit opportunities for overlooking towards the neighbouring property, 10 Gaston Lane, and is therefore not considered to result in an unacceptable loss of privacy.

The revised design incorporates materials that reflect those used on the existing porch to be removed, including the continued use of reconstructed stone roof tiles. All other design elements and materials remain as previously approved under planning permission PL/2026/03144 and the discharge of Condition 3 application PL/2026/04281. As such, the

proposed materials are considered sympathetic to the host dwelling and would preserve the character and appearance of the Sherston Conservation Area.

PLANNING BALANCE AND CONCLUSION

In determining this application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority has first considered whether the proposed amendments fall within the lawful scope of Section 73.

Where the proposed amendments are considered capable of being determined under Section 73, the Local Planning Authority must then consider whether planning permission should be granted subject to revised conditions.

In this case, the proposed changes do not alter the description of development and do not result in a fundamentally different form of development to that previously approved. Accordingly, the proposal can be determined through the Section 73 process.

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. Consideration has also been given to whether the development, as amended, would materially alter the nature or planning impacts of the approved scheme and whether any changes in planning policy or other material considerations since the grant of the original permission affect the acceptability of the proposal.

Significant weight is afforded to the extant planning permission, which remains capable of implementation. The assessment has therefore focused on whether the proposed amendments would give rise to any material planning impacts beyond those previously considered and accepted.

The proposed variation of condition is considered acceptable, as the amendments would not result in harm to the character or appearance of the dwelling, the surrounding conservation area, or the amenities of neighbouring occupiers.

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

All conditions imposed have been assessed against the tests set out in Policy DM6 of the NPPF and are considered to be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

1. The development hereby permitted shall be begun before the expiration of three years from the date of permission granted under PL/2026/03144, on 25 June 2026.

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:

Site Location Plan ref: 5921 02 received 23 July 2026

Proposed Block Plan drawing no. 5921/51 received 15 May 2026

Proposed Elevations and Floor Plan drawing number 5921 60B received 04 September 2026

Design and Access Statement ref 5921/1MM A received 04 September 2026

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