

APPLICATION FOR VARIATION/REMOVAL OF CONDITION CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/04597
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	63 Moberly Road, Salisbury, SP1 3BX
DEVELOPMENT DESCRIPTION:	Variation of condition 2 (Approved Plans) and 3 (To allow new timber cladding) & the Removal of condition 7 (Car Parking Spaces) relating to application PL/2025/08006
RECOMMENDATION:	PLANNING PERMISSION GRANTED SUBJECT TO CONDITIONS

SITE DESCRIPTION/CONTEXT



The application relates to 63 Moberly Road, a detached two storey dwelling situated within an established residential area. The site is within the settlement boundary of the principal settlement of Salisbury. The property has a front garden, driveway and enclosed rear garden. The dwelling is elevated from street level and due to topography changes, the dwellings on the east side of Moberly Road are a prominent feature of the street scene and wider views. The neighbouring dwellings are detached with varying design styles.

The application site is subject to the following planning policy constraints:

- Countryside Character Areas - Salisbury Plain and West Wiltshire Downs
- Historic Buildings Sites and Monuments Records - Moberly Road
- Hampshire River Avon Catchment - Avon Hampshire
- Archaeology Monuments Points - Romano-British Pottery, Moberly Road
- Flood Zone 1
- 13.8km New Forest Recreational Zone of Influence

PROPOSAL

This report considers a Section 73 application for the variation/removal of condition(s) imposed on planning permission PL/2025/08006. The application relates to the site at 63 Moberly Road, Salisbury, SP1 3BX, and seeks to vary conditions 2 and 3 and remove condition 7 in relation to minor alterations to the approved design.

Condition 2:

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

DWG No: 1175-20-03 Location Plan and Block Plan, received 06.10.2025

DWG No: 1175-20-01 Plans & Elevations as Proposed, received 06.10.2025

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

Condition 3:

The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

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

Condition 7:

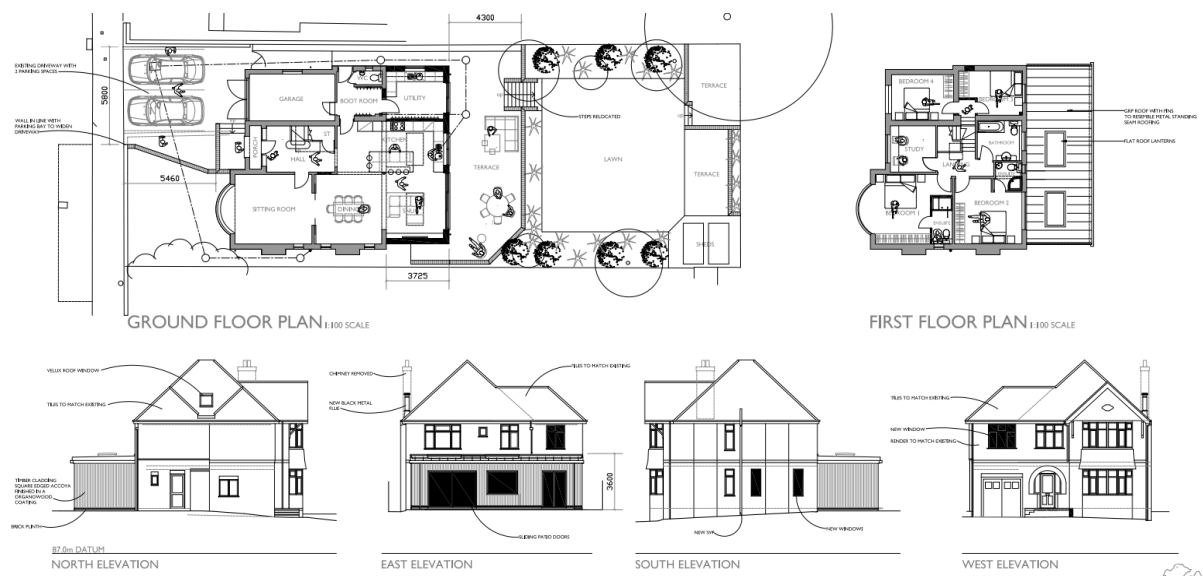
No part of the development hereby permitted shall be first brought into use until the access & parking spaces [2] have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.

REASON: In the interests of highway safety.

The approved scheme permitted:



The current proposal seeks:



The principal changes comprise:

- Change to proposed materials and design of the single storey rear extension from facing brick with a parapet to vertical timber cladding and a flat roof finished with GRP with fins to resemble a metal standing seam roof.
- Removal of the existing chimney on south elevation and replacement with metal flue
- Relocation of terrace steps to garden, moving to the north
- Clarification that existing driveway accommodates two spaces.

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

RELEVANT PLANNING HISTORY

Proposal / Summary

PL/2025/08006 - Householder planning permission Decision - Approve with Conditions
Date: 3/12/2025 – Single storey rear extension, first floor side extension, garden terracing & retaining walls.

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 1: Settlement Strategy
- Core Policy 2: Delivery Strategy
- Core Policy 20: Spatial Strategy for the Salisbury Community Area
- Core Policy 57: Ensuring High Quality Design and Place Shaping
- Core Policy 50: Biodiversity and Geodiversity
- Core Policy 61: Transport and New Development

Neighbourhood Plan:

Salisbury Neighbourhood Development Plan 2020 to 2038, made 3 March 2025

Supplementary Planning Documents and other Guidance:

- Wiltshire Design Guide (adopted April 2024)
- Wiltshire Local Transport Plan 2011-2026, adopted 2015 - including the Car Parking Strategy and Cycling Strategy, adopted 2015

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.

WC Highways: No objection subject to conditions

I refer to the above planning application for the variation of condition 2 (Approved Plans) and 3 (To allow new timber cladding) & the Removal of condition 7 (Car Parking Spaces) relating to application PL/2025/08006.

I note that the property frontage can already accommodate 2 off street parking spaces and that the proposal is for this area to be extended to allow more space around the parking area.

I recommend that condition be amended to the following:

The area for the two off street parking spaces on the property frontage shall be maintained and widened in accordance with the details shown on the approved plans.

The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.

REASON: In the interests of highway safety.

Salisbury City Council: Support

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.

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.

Changes in Circumstances - Has anything changed since the original permission?

Since the grant of planning permission PL/2025/08006, consideration has been given to:

- updates to national policy;
- consultation responses;

Officers conclude that these changes do not materially affect the acceptability of the amended development as the proposals are for alterations to an existing dwelling.

Compliance with the Development Plan

The first variation is for Condition 2, minor alterations to the approved design. The variations are as follows:

- Change to proposed materials and design of the single storey rear extension from facing brick with a parapet to vertical timber cladding and a flat roof finished with GRP with fins to resemble a metal standing seam roof.
- Removal of the existing chimney on south elevation and replacement with metal flue
- Relocation of terrace steps to garden, moving to the north

The second variation relates to condition 3 and proposes that the material for the ground floor rear extension change from facing brick (to match existing building) to vertical timber cladding.

Scale and design

Core Policy 57 aims to achieve a high standard of design in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality.

The proposed change to the materials and roof design of the single storey extension are considered acceptable. The footprint and overall height would remain the same.

The proposed change in materials from facing brick to vertical timber cladding is also considered acceptable as the extension lies to the rear of the property and is not visible from public vantage points.

The revised proposals include to move the location of the external steps, leading from the terrace to the lawn, from the centre of the garden, north by approximately 3.5m. A separation to the boundary of 1.9m would still be maintained, this is considered acceptable.

Impact to residential amenity

The adopted Wiltshire Core Strategy CP 57 requires development proposals to have 'regard to the compatibility of adjoining buildings and uses, the impact on the amenities of the existing occupants, and ensuring that appropriate levels of amenity area achievable within the development itself, including the consideration of privacy, overshadowing; vibration, and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter)'.

The application site is surrounded by other residential properties; Officers note that no letters of representation have been received in relation to this current application.

No additional windows are proposed as part of the alterations to the approved design. A window on the north elevation (utility room) has been removed from the proposals. There are therefore no concerns regarding impact on neighbouring occupiers.

Highways Impact

Core Policy 57 (xiv) of the Wiltshire Core Strategy seeks to ensure that development must meet the requirements of Core Policy 61. This policy requires proposals to be capable of being served by safe access to the highway network. Core Policy 64 seeks to ensure compliance with parking standards set out in the Local Transport Plan.

The original submitted existing site plan did not show how many parking spaces the front garden could accommodate. The proposed plans show the driveway widened to accommodate two cars. The supporting Planning Statement states that the existing driveway can accommodate two cars and therefore requests that condition 7 be amended. The Highways Officer has confirmed an acceptable amendment as follows:

The area for the two off street parking spaces on the property frontage shall be maintained and widened in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.
REASON: In the interests of highway safety.

Assessment of Conditions

Condition 1: time limit changed to reflect date of original permission.

Condition 2: changed to reflected updated plans.

Condition 3: changed to remove reference to existing building

Condition 4: still relevant and will remain as per the original consent.

Condition 5: still relevant and will remain as per the original consent

Condition 6: still relevant and will remain as per the original consent.

Condition 7: amended as above

Public Sector Equality Duty (PSED)

In reaching this decision, due regard has been had to the Public Sector Equality Duty under Section 149 of the Equality Act 2010. This requires the Local Planning Authority to have regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and those who do not.

The Local Planning Authority is satisfied that the proposal would not result in any unlawful discrimination and that any impacts on protected groups have been appropriately considered as part of this assessment.

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 proposals 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.

The proposed variation of conditions is considered acceptable. The proposal remains in accordance with the development plan, the National Planning Policy Framework, and all other relevant material considerations.

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 3rd December 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:

DWG No: 1175-20-03 Location Plan and Block Plan, received 06.10.2025

DWG No: 1175-20-01 rev B Plans & Elevations as Proposed, received 14.09.2026

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

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building and detailed on the application form and approved plans.

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

4. The development hereby permitted shall not be first brought into use until the first 5m of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

5. The proposed development shall not be occupied until means/works have been implemented to avoid surface water from entering the highway.

REASON: To ensure that the highway is not inundated with surface water.
highway safety.

6. The vehicle access and parking spaces shall remain ungated.

REASON: In the interests of highway safety.

7. The area for the two off street parking spaces on the property frontage shall be maintained and widened in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.

REASON: In the interests of highway safety.

Informatives to Applicant

1. The application involves an extension to the existing 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.
2. In the event of any archaeological discoveries, the applicant and their building contractor must report them to the Archaeology Service archaeology@wiltshire.gov.uk and/or 01249 705500 or visit their website [Archaeology Service - Wiltshire and Swindon History Centre](#)