

APPLICATION FOR VARIATION/REMOVAL OF CONDITION

CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/03881
APPLICATION TYPE:	Removal/variation of conditions
SITE ADDRESS:	Ropers Field , Little Somerford, Chippenham, SN15
DEVELOPMENT DESCRIPTION:	Variation of condition 1 of PL/2022/08414 (approved plans) to reduce the size of the implement store
RECOMMENDATION:	Approve with Conditions

SITE DESCRIPTION/CONTEXT

The application relates to land at Ropers Field, Little Somerford. *The site is noted to be susceptible to groundwater flooding.*

PROPOSAL

This report considers a Section 73 application for the variation of condition 1 (plans List) imposed on planning permission PL/2022/08414, under which planning permission was granted on the on the 23rd January 2024 for the erection of an implement & Feed store following demolition of existing Farm Buildings and stores. It has been confirmed that the demolition of the existing structures has occurred and as such the development has already commenced.

The proposed alterations relate to the scale of the proposed building and associated hardstanding.

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

RELEVANT PLANNING HISTORY

N/88/02419/OUT - Outline Planning Decision - Refused Date: 21/11/1988
OUTLINE - DWELLING AND GARAGE

PL/2022/01318 - Full planning permission Decision - Refuse Date: 27/7/2022
Demolition of farm buildings and stores, construction of implement and feed store.

PL/2022/08414 - Full planning permission Decision - Approve with Conditions Date: 23/1/2024
Demolition of Farm Buildings and stores. Construction of implement & Feed store (resubmission of PL/2022/01318)

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 50 Biodiversity and Geodiversity;
- Core Policy 51 Landscape
- Core Policy 57 Ensuring High Quality Design and Place Shaping;
- Core Policy 67 Flood Risk;

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.

Supplementary Planning Documents:

- Wiltshire Design Guide (adopted April 2024)

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.

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 Ecology: No comments received.

Parish/Town Council:

Little Somerford Parish Council: 08/07/2026 – Little Somerford Parish Council has no objection to this application.

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.

No comments were received from third parties.

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.

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 attached to the original planning permission.

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

Landscape Impact

It was previously recognised that the former buildings on the site detracted from the visual amenity of the locality. The building previously approved measured 4 metres in

height, 7.5 meters in depth and 13.8 metres in length. It was concluded the building by virtue of its materials and form would have an agricultural character not out of place for the location.

The building approved herein would measure 3.8 meters in height, with a length of 16 meters and depth of 5.8 meters. The scale of the building is therefore reduced compared to the extent position, albeit the building would be longer in length. It's noted the form and materials of the building would remain the same. The area of associated hardstanding would also be enlarged. Given their nature and scale the proposed amendments would not affect the conclusions previously reached. The proposal is considered to conserve and enhance local landscape quality, in a manner envisaged under Core Policy 51 of the WCS.

Ecology

It was previously concluded that there was no evidence of protected species on site, and that subject to conditions ensuring the development was undertaken in accordance with the submitted ecological information the scheme was acceptable in ecological terms. The changes proposed do not alter the conclusions previously reached. The conditions shall be reattached to ensure compliance with the mitigation and enhancement measures previously proposed.

Residential amenity

The proposed development would not have any greater impact on adjoining land uses than the previously approved scheme. There are no concerns over the compatibility of adjoining land uses and accordingly no conflict is found with Core Policy 57 of the WCS.

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

Since the grant of the original planning permission changes have been made to national planning policy and legislation. This includes changes to the National Planning Policy Framework and statutory Biodiversity Net Gain (BNG) provision. As outlined above the proposal would continue to accord with the development plan. As the original application was submitted prior to statutory BNG provision being required the application is exempt from statutory BNG provision. These changes therefore do not materially affect the acceptability of the amended development.

Assessment of Conditions Subject of this Section 73

As the development has commenced the time limit for commencement set out in condition 2 of PL/2022/08414 need not be attached. Condition 1 is the principal condition controlling the form and layout of the approved development. For the reasons set out elsewhere in this report, the proposed amendments have been found acceptable. It is therefore appropriate to amend

Condition 1 to reference the updated drawings which define the revised development. The amendments do not affect the other original conditions, which remain appropriate and proportionate and are deemed to meet the six tests for conditions set out in section DM6 of the NPPF. The other original conditions shall therefore be retained.

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

The proposed amendments do not alter the approved description of development and would not result in a development that is fundamentally different from that previously permitted. The application therefore falls within the scope of Section 73 of the Town and Country Planning Act 1990.

Having regard to the Development Plan, the National Planning Policy Framework and all other material considerations, the proposed amendments are not considered to materially alter the nature or planning impacts of the approved development, nor do they affect the conclusions previously reached. The amendments are therefore considered acceptable and planning permission is recommended, subject to amended conditions.

RECOMMENDATION:

That Planning Permission be GRANTED subject to the following conditions

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

Received 19 Jun 2026

5229 60B Proposed Implement Store Floor & Elevations Plan

5229 01 Site Location Plan

5229 61B Proposed Block Plan

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

2. The development will be carried out in strict accordance with the following documents: • Document File Ref PRI24226: Ecological Impact Assessment, dated 19.06.2023 and received 25 September 2023;

- Proposed Block Plan Indicating Enhancement Options 5529/52, dated Oct '21 and received 25 September 2023;
- IACPC Certificate, dated 18/09/2023 and received 25 September 2023; and
- DLL ENQ WILT 00073-Ropers Field, dated 23/08/2023 and received 11 December 2023.

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

3. No new external artificial lighting shall be installed at the site unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of conserving biodiversity and in the interests of preserving the unspoilt character of the countryside.

4. Should the building hereby approved cease to be in use for the purposes of agriculture permanently within 10 years from the date that the development is substantially completed, then within three months the building shall be removed from the land and the land restored to a condition indistinguishable from its surroundings, unless otherwise agreed in writing by the local planning authority.

REASON: To prevent the proliferation of development in the countryside for which there is no other justification than agricultural use, and for which no ongoing agricultural need exists.

Informatives: (6)

5 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.

6 The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

7 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.

8 The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>.

9 There is a low risk that bats may occur at the development site. Many species of bat depend on buildings for roosting, with each having its own preferred type of roost. Most species roost in crevices such as under ridge tiles, behind roofing felt or in cavity walls and are therefore not often seen in the roof space. Bat roosts are protected all times by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 even when bats are temporarily absent because, being creatures of habit, they usually return to the same roost site every year. Planning permission for development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a bat licence if an offence is likely. If bats or evidence of bats is found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or the applicant is advised to follow the advice of a professional ecologist or to contact Natural England's Batline through the internet.

10 All British birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 while birds are nesting, building nests and sitting on eggs. The applicant is advised to check any structure or vegetation capable of supporting breeding birds and delay removing or altering such features until after young birds have fledged. Damage to extensive areas that could contain nests/breeding birds should be undertaken outside the breeding season. This season is usually taken to be the period between 1st March and 31st August but some species are known to breed outside these limits.

