



## Appeal Decision

Site visit made on 20 February 2024

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 08 March 2024**

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**Appeal Ref: APP/Y3940/W/23/3329116**

**19 Clivey Gate Toll House, Studio Apartment, Clivey, Dilton Marsh, Wiltshire BA13 4BB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Harris against the decision of Wiltshire Council.
  - The application Ref is PL/2022/07311, dated 19 September 2022, was refused by notice dated 12 July 2023.
  - The development proposed is Change of use of studio flat to office; Change of use of garage to dwelling; Additions to former garage.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs was made by Mrs Harris against Wiltshire Council. This application is the subject of a separate decision.

### Main Issues

3. The main issues are:
  - whether the appeal site would be an appropriate location for the proposed development having regard to development plan policies,
  - the effect of the proposed development on the character and appearance of the area; and
  - the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to privacy.

### Reasons

#### *Location*

4. The appeal building relates to a two storey domestic garage that is used in connection with the dwelling at No 19 Clivey Gate Toll House. The proposal seeks to convert the building, along with nearby sheds via a link extension to create a single dwellinghouse. There is an existing studio flat next to No 19 and the proposal also seeks to cease the use of the studio flat as a dwelling and proposes an office in connection with the new dwelling. As a result, there would be no net increase in dwellings on the appeal site.
5. The studio flat is subject to a lawful development certificate and is located in a separate building to the garage, in this regard I note the Council's concerns

that this could still be retained. However, the appellant is not proposing to retain the studio flat and, in any case, I am satisfied that the use of this could be restricted through an appropriately worded condition.

6. While the proposed development would not result in a net increase in dwellings on the appeal site, it does not relate to a replacement dwelling. As such, Policies 1 and 2 of the Wiltshire Local Development Framework Wiltshire Core Strategy Adopted January 2015 (CS) are relevant. Policy 1 sets out a settlement strategy based on a hierarchy of settlements. Together with the delivery strategy in Policy 2 it seeks to direct a level of development commensurate with the degree of accessibility to jobs, facilities, services and public transport to the respective settlements.
7. The appeal site is located outside of any defined settlement boundary with the nearest settlement being Dilton Marsh which is approximately 0.5km away. There is no pavement to access Dilton Marsh from the appeal site, and as such, any future occupiers would be required to walk along the B3099 which would lead to a reliance on a private motor vehicle to access services.
8. Policy 48 of the CS concerns the conversion of re-use of rural buildings which is supported subject to a set criterion. While the goat shed would likely be considered a rural building, the domestic garage would not and would therefore conflict with this Policy.
9. I therefore conclude that the proposal would conflict with Policies 1, 2, 48, 60 and 61 of the CS and Paragraphs 84, 108, 109, 114 and 116 of the National Planning Policy Framework (the Framework). Amongst other things, these seek to ensure that development is appropriately located, avoids isolated homes in the countryside and reduce the need to travel by private car.
10. Notwithstanding the conflict, I am mindful that with the cessation of the use of the studio flat that there would be no net increase in dwellings on the appeal site. I therefore find that the conflict with the CS Policies attracts limited weight in consideration of the appeal proposal.

#### *Character and appearance*

11. The garage has a functional appearance albeit the large size of the building results in a more imposing structure within the site that is also visible from the B3099. However, this is due to the original design which was to provide covered storage for a motor home.
12. The proposed development, with the exception of a single storey link, includes existing built form and therefore generally maintains a functional appearance. However, the link extension and change in appearance of the sheds would increase the bulk of functional form on the site. Furthermore, the window placements on the proposed dwelling would have wide spacing, particularly on side elevation 1. This elevation would be visible from the bridleway, access to the existing dwelling and B3099. The proposed rooflights, particularly on the front elevation would also be prominent and further highlight the appeal proposal.
13. While not shown on the proposed plans, there would also be a domestication of the surrounding area around the appeal building as well as any garden area that would be created. This would further draw attention to the proposed

development. The overall effect would highlight its functional appearance which would not enhance the immediate setting.

14. The proposal would result in the loss of a covered storage area and garage for No 19. However, it is clear from the appellants reasoning that the covered storage area is no longer needed. In any case, there appears to be an existing garage within the appeal site that would be retained and the sizable existing property would appear to provide a sufficient amount of domestic storage.
15. I therefore conclude that the proposed development would harm the character and appearance of the area. It would conflict with Policy 57 of the CS and Paragraphs 131, 135 and 139 of the Framework. Amongst other things, this seeks to ensure development enhances local distinctiveness relating positively to its landscape setting and the existing pattern of development.

#### *Living conditions*

16. The existing garage is a modest distance away from No 19 and would be accessed by an existing track that runs to the north of the building to a parking area to the front of the garage. No 19 has windows that face towards the garage and track which would mean that any vehicles associated with the new dwelling would be visible from No 19.
17. The appellant has proposed timber post and rail fencing to provide a boundary which is in keeping with the surrounding agricultural landscape. However, it would provide limited relief from any vehicle movements.
18. The proposal is for a modest three bedroom dwelling which is unlikely to generate a significant number of movements per day and due to the separation distance between the appeal proposal and No 19, it is unlikely to result in a significant loss of privacy for these occupiers.
19. I am also mindful that an appropriately worded planning condition could be imposed which would require details of boundary treatment that could be agreed with the Council.
20. The Council also raise concern over the use of the studio flat as an office. Specifically, these concerns relate to overlooking of No 19 through the windows that face this property. However, I am mindful that the existing use as a dwelling is likely to have a more intense use through the day and night than the proposed use as an office, especially due to it being separate from the proposed dwelling which will likely restrict its use to the daytime only. I therefore find it unlikely that it would cause an unacceptable loss of privacy for the occupiers of No 19.
21. I therefore conclude that the proposed development would not unacceptably harm the living conditions of neighbouring occupiers. I find no conflict with Policy 57 of the CS and Paragraph 135 of the Framework. Amongst other things, this seeks to ensure development has regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants.

#### **Other Matters**

22. The appeal site falls within the zone of influence for the Salisbury Plain Special Protection Area. As the competent decision-making authority, if I had been

mindful to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

23. I am aware that the site is proximate to the Grade II listed building 'Clivey Gate Cottage'. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving its setting. The verdant backdrop of Clivey Gate Cottage, of which the appeal site forms part, positively contribute to its significance. Nevertheless, given the location and extent of the proposed development, I consider that it would preserve the setting of this listed building and the contribution it makes to its significance. I note the Council had no concerns in this regard either.
24. The appellant has referred to an appeal decision<sup>1</sup> in an attempt to support the appeal proposal before me. However, each case must be considered on its own merits and in any case, the proposal related to new residential flats in a different area from the appeal before me.
25. The proposal would contribute to a mix of dwelling sizes within the area. It would make use of existing built form and provide the opportunity for energy improvements, which would have some environmental benefits. The Council have also found that the proposed development would not result in harm to highway safety and ecology. However, these matters do not outweigh the harm I have identified.
26. The proposed development would allow the owners to move to a smaller property which would be better suited to their needs, while staying on the appeal site. However, this would be a personal benefit.

### **Conclusion**

27. For the reasons set out above, having had regard to the development plan read as a whole, and all other material considerations, I conclude that the appeal should be dismissed.

*D Wilson*

INSPECTOR

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<sup>1</sup> APP/M1520/W/22/3301883



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## Costs Decision

Site visit made on 20 February 2024

**by D Wilson BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 March 2024**

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### **Costs application in relation to Appeal Ref: APP/Y3940/W/23/3329116 19 Clivey Gate Toll House, Studio Apartment, Clivey, Dilton Marsh, Wiltshire BA13 4BB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs Annie Harris for a full award of costs against Wiltshire Council.
  - The appeal was against the refusal of planning permission for the Change of use of studio flat to office; Change of use of garage to dwelling; Additions to former garage.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant's claim for costs relies on that the Council has not understood the application in terms of that there will be no increase in dwellings, amount of built form, conditions and loss of covered storage.
4. The appeal proposal relates to a new dwelling and I find that the Council have accessed the merits of its location to be clear and well reasoned. The Policies that were considered as part of the application are relevant to new dwellings and as such the Council have taken a proportionate response in assessing the merits of the application.
5. The appeal proposal is not for a replacement dwelling, so these Policies are not relevant. However, the appeal proposal would result in the cessation in the use of a studio flat which is something I have ascribed weight to in the appeal decision and found that the conflict with Policies in relation to location attract reduced weight.
6. While I have found that a condition could be used to cease the use of the existing flat, I do not find the Council at fault for raising concerns over the possibility of such a condition.
7. The Council have found that the proposal would not harm the setting of the Listed Building. However, this does not necessarily mean that the proposal would not harm the character and appearance of the area. The Council have provided clear reasoning which is in line with planning Policy.

8. The proposal also relates to the conversion of a garage, so the Council have assessed the proposal against Policies concerning the conversion of building which I have also found them not to be a fault for.
9. While I have found that the provision of covered storage for the site is unnecessary, this was not the sole reason for refusal and as such has not resulted in the appeal being lodged.
10. In view of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for costs is refused.

*D Wilson*

INSPECTOR