

Date of Meeting	25 th April 2019
Application Number	19/01663/VAR
Site Address	Thatched Cottage, Baldham, Seend, Melksham, Wiltshire, SN12 6PW
Proposal	Variation of condition 3 of planning permission E/2011/1685/FUL to allow occupation of the annexed accommodation as a separate dwelling unit
Applicant	Mr Brian Atkinson
Parish Council	SEEND
Electoral Division	Summerham and Seend – Councillor Jonathon Seed
Grid Ref	392734 159985
Type of application	Full Planning
Case Officer	Nick Clark

Reason for the application being considered by Committee

The application is to be considered by the planning committee at the request of Councillor Seed for the following reason:

“The applicant has justified the proposal on the basis of paragraph 79 d) of the new NPPF and backed up their case with a comparable planning appeal decision. This is a new provision in the NPPF and as such I would like the interpretation of the new provision to be made by Members and to be fully considered and debated at the planning committee”.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be refused.

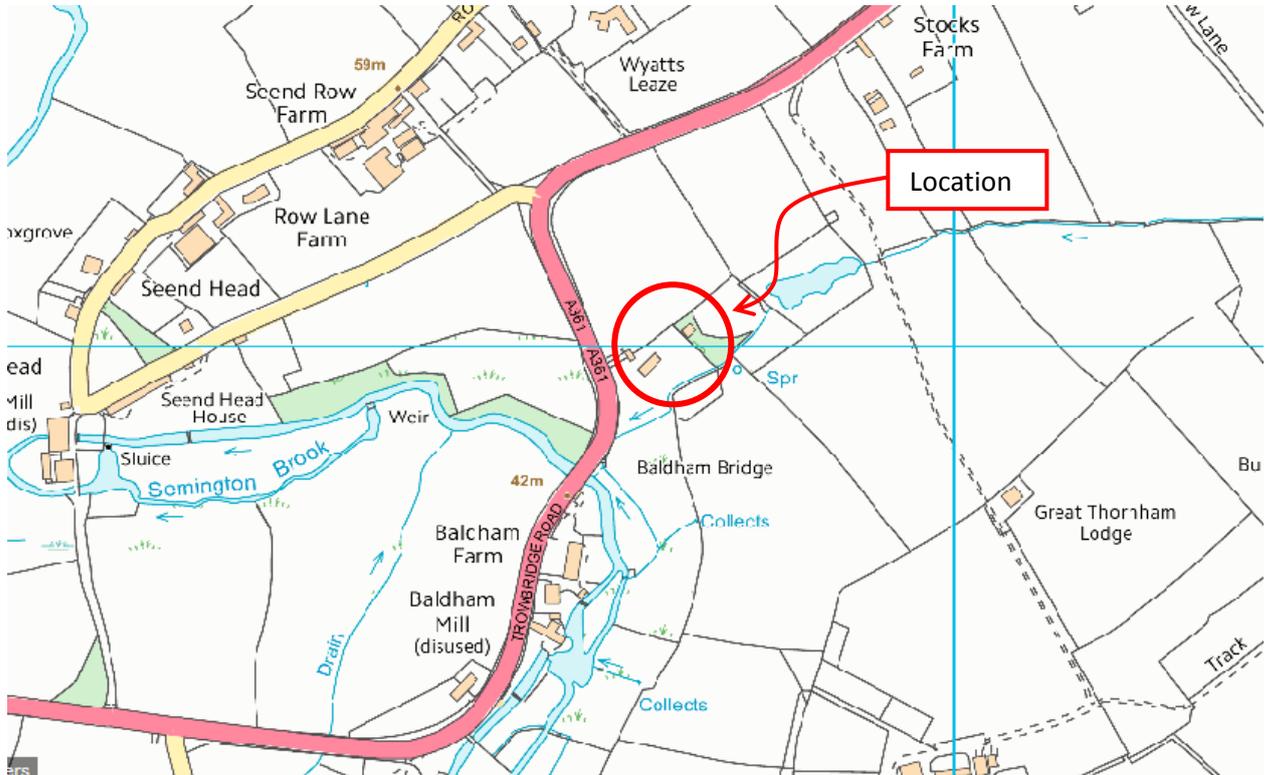
2. Report Summary

The proposal is assessed against the policies of the development plan, which are the primary consideration, and Government guidance in the NPPF, particularly paragraph 79. Seend Parish Council object to the proposal.

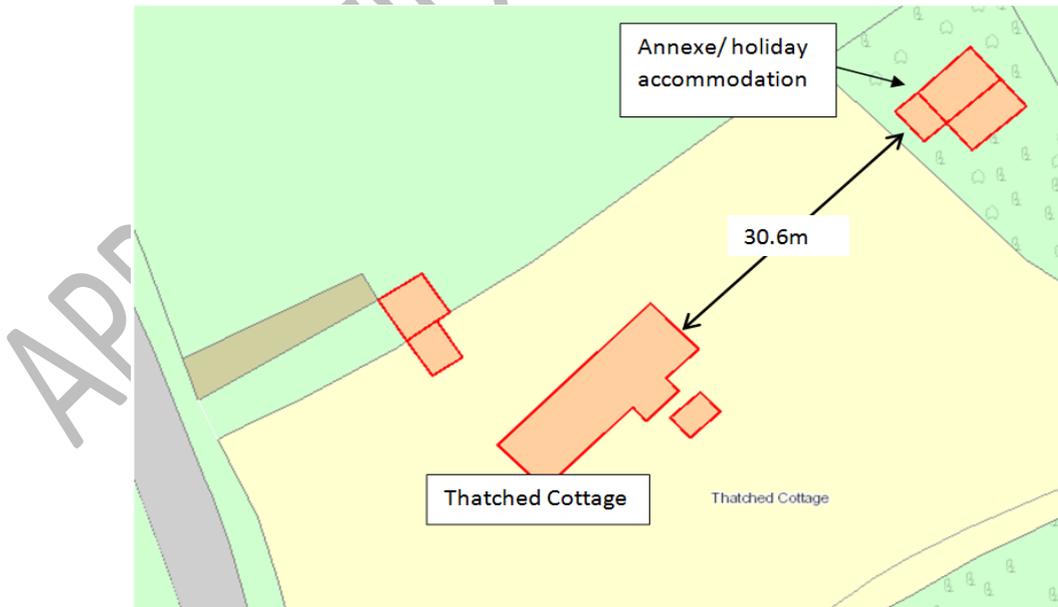
3. Site Description

The application concerns an outbuilding to Thatched Cottage, that was largely reconstructed, extended, converted and thatched following consent in 2011 to provide holiday accommodation or accommodation ancillary to the use of Thatched Cottage.

The site is in a relatively isolated rural position, on the east side of the A361 to the north side of Baldham Bridge.



The site is located outside the Limits of Development for Seend designated in the Wiltshire Core Strategy, where rural policies apply.



4. Planning History

K/50782/F

Erection of a two storey thatched extension.

Approved

5. The Proposal

The application seeks removal of condition 3 of the 2011 planning consent that restricts use of the building to ancillary and holiday accommodation. The condition reads:

The accommodation hereby permitted shall remain as ancillary accommodation to the principal dwelling, namely The Thatched Cottage, Baldham, or shall be occupied for holiday purposes and shall at no time be occupied as a person's sole or main place of residence. A register (including names and main home addresses) of all occupiers of the accommodation for holiday purposes shall be collated and maintained by the occupier of The Thatched Cottage, Baldham, and this information shall be available at all reasonable times on request by the Local Planning Authority.

REASON:

To ensure that the accommodation hereby permitted may not be used as a separate dwelling in this open countryside location where new development is restricted in accordance with national and local planning policy and guidance.

In other words, the application seeks to allow the annexe/ holiday accommodation to become an independent dwellinghouse with no occupancy restrictions.

6. Local Planning Policy

The development plan so far as is relevant comprises the Wiltshire Core Strategy (2015).

The following policies of the Wiltshire Core Strategy are of particular relevance to the proposal:

CP1	Settlement strategy
CP2	Delivery strategy
CP3	Infrastructure requirements
CP15	Melksham Community Area Strategy
CP48	Supporting rural life
CP57	Ensuring high quality design and place shaping
CP60	Sustainable transport
CP61	Transport and new development
CP62	Development impacts on the transport network

Government policy for rural housing is set out in section 5 of the National Planning Policy Framework, with paragraph 79 being of particular relevance.

7. Summary of consultation responses

Seend Parish Council:	<p>“Seend Parish Councillors unanimously agreed that the application should be refused for the following reasons.</p> <p>Condition 3 (that the accommodation must remain ancillary to the principal dwelling) that was placed on the original planning application (E/2011/1685/FUL) for the conversion/rebuilding of the derelict building to provide ancillary residential accommodation should remain in place because the reasons for imposing the condition had not changed. The property is still in open countryside where new development is restricted in accordance with national and local planning policy and guidance. Councillors strongly felt that this should be upheld.</p> <p>There was also concern that if the application to remove the condition was removed, it may set a dangerous precedent for other similar developments to do the same”</p>
Wiltshire Council Highway Officer:	<p>The site is in an unsustainable location in respect of access to services, amenities and facilities, contrary to Core Policy 60 & Core Policy 61. Visibility at the access onto a bend on the A361 needs to be improved. No objection however if the use is supported by other policies.</p>

8. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

8.1 Principle of development

Core Policy 1 and Core Policy 2 together with Core Policy 15 dictate against new residential development outside recognised Limits of Development within the Melksham Community Area, unless specifically sanctioned by other ‘exception’ policies of the Core Strategy.

The principle of the development is thus contrary to the development plan unless supported by one of the exception policies.

Exception policies

A key exception is under Core Policy 48, which supports the re-use of redundant or disused buildings for residential purposes in isolated locations where justified by special circumstances, in line with national policy. There is nothing to suggest however that the building is currently redundant or disused for this exception to apply.

National policy is nonetheless a material consideration, and the relevant provision is to be found in paragraph 79 of the National Planning Policy Framework, which allows for *'the subdivision of an existing residential dwelling'*.

The applicant relies on an appeal decision in Devon where the meaning of *'subdivision of an existing residential dwelling'* was held to apply to the segregation of an annexe from a house. In that case however the annexe and the main house comprised a single building. There was an interconnecting doorway between the annexe and the main part of the house. It is thus fully understandable in that instance that the Inspector held that the change amounted to *'subdivision of an existing residential dwelling'*. It seems doubtful however that the Inspector in that case could have arrived at the same conclusion if she had been considering an annexe located 30m from the house.

The language of para. 79 clearly applies to sub-division of a single dwelling. In the case of Thatched Cottage there are two separate buildings; Thatched Cottage itself, and the self-contained 1½ storey 2-bedroom dwelling sited some 30m away (a legal agreement and planning condition restrict its use to either annexe accommodation or for holiday use).

The NPPF does not offer any definition of the word 'dwelling'. By any logical or rational interpretation however it is not considered that the two buildings at the site could together be considered to form a single dwelling, or that removal of the condition limiting use of the building to holiday and annexe use would constitute 'subdivision of an existing residential dwelling', so as to gain support from para. 79 of the NPPF. It is pertinent to note in this respect that the government changed the proposed wording of this clause from 'sub division of an existing residential property' in the draft revision of the NPPF to 'sub division of an existing residential dwelling' in the final version.

A further exception under Core Policy 48 is the conversion and re-use of buildings for residential purposes but this is only supportable where there is clear evidence that employment, tourism, cultural and community uses are not a practical proposition. The application does not make the case for, or provide any clear evidence for, the preferred uses (including the existing holiday or annexe use) not being a practical proposition.

8.2 Access and highway safety

Core Policy 60 and 61, in short, seek to reduce the need to travel particularly by private car and encourage the use of sustainable transport alternatives. As noted by the Highway Officer, the site is poorly located with respect to access to local services, amenities and facilities. There is no footway or cycleway along the A361 and the road is unlit along this section, with no convenient or safe pedestrian route to the nearest bus stops. The Highway Officer also notes the sub-standard visibility of the access onto the A361. The introduction of a further independent dwellinghouse on the site would thus be contrary to Core Policy 60 and Core Policy 61.

For the reasons above it is concluded that the development would be contrary to the development plan. In accordance with Section 70(2) of the Town and Country Planning

Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 permission must therefore be refused unless material considerations warrant otherwise.

8.3 Other material circumstances

Other than the agent's own interpretation of the NPPF, the application does not suggest any material considerations to weight against the conflict with the adopted policies, and no such considerations are otherwise to be found. Whilst the extent to which the building is used for holiday versus annexe accommodation is unknown. Continued holiday use however is fully supported by the Core Strategy as well as tourism studies that show a healthy demand for such properties. If use of the building for annexe accommodation ceased, this could well then result in pressure for further extension of Thatched Cottage.

The point raised by the parish council (who object to the proposal) about the potential precedent is also relevant. The Council has encouraged the re-use of suitable structures in rural locations for tourist accommodation to boost the rural economy – the supply could be reduced if these are subsequently lost to unrestricted occupation.

9. Conclusion (The Planning Balance)

The principle of development of new independent residential accommodation in outside recognised Limits of Development is in conflict with the policies of the development plan. Furthermore the removal of the restriction on holiday/ annexe use of the building is not supported by paragraph 79 the National Planning Policy Framework, which applies only to sub-division of a single dwelling.

Due to the location, occupants of the house would be heavily car-dependent, but with access onto the A361 offering sub-standard visibility, the intensified use of the access resulting from independent use of the house would be detrimental to highway safety.

As such, both in principle and in practice, the development would be contrary to the development plan and the National Planning Policy Framework. With no circumstances sufficient to warrant otherwise, the application is recommended for refusal.

RECOMMENDATION

That planning permission is **REFUSED** for the following reasons:

1. Use of the building as an independent dwellinghouse, outside recognised Limits of Development, would be contrary to Core Policy 1, Core Policy 2 and Core Policy 15 of the Wiltshire Core Strategy.
2. The site is in a location poorly served by local services and amenities and the adjoining road is unlit, has no footway or cycleway, and no convenient or safe pedestrian route to the nearest bus stops. As such the occupants of the dwelling would be heavily reliant on the use of private cars for the majority of day to day trips, contrary to Core Policy 60 and Core Policy 61 of the Wiltshire Core Strategy,

and intensified use of the sub-standard access would be detrimental to highway safety, contrary to Core Policy 61 of the Wiltshire Core Strategy.

APPLICATION WITHDRAWN