



The Planning Inspectorate

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Your Ref:

Our Ref: APP/Y3940/W/15/3003246

Wiltshire Council
Development Services
The Council House
Bourne Hill
Salisbury
SP1 3UZ

29 July 2015

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr Peter Anthony Robinson
Site Address: Mortons, Hankerton, MALMESBURY, Wiltshire, SN16 9JZ

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planning/planninginspectorate/customerfeedback/feedback>.

If you do not have internet access please write to the Quality Assurance Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

Yours faithfully,

Erin Lindell
Erin Lindell

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

Appeal Decision

Site visit made on 2 July 2015

by A Harwood CMS MSC MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 July 2015

Appeal Ref: APP/Y3940/W/15/3003246

Mortons, Hankerton, Malmesbury, Wiltshire, SN16 9JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Anthony Robinson against the decision of Wiltshire Council.
 - The application Ref 14/08416/FUL, dated 5 September 2014, was refused by notice dated 29 October 2015.
 - The development proposed is existing garden buildings to be removed and replaced with ancillary accommodation.
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Preliminary Matter

1. The Council's decision was made prior to the adoption on 20 January 2015 of the Wiltshire Core Strategy (CS) which supersedes some policies within the North Wiltshire Local Plan 2011 (LP) adopted June 2009 other than those that have been saved. LP policy H4 as referred to within the decision notice was saved and remains relevant. This policy change has not altered the Council's position that planning permission should not be given for the proposed development.

Decision

2. The appeal is allowed and planning permission is granted for existing garden buildings to be removed and replaced with ancillary accommodation at Mortons, Hankerton, Malmesbury, Wiltshire, SN16 9JZ in accordance with the terms of the application, Ref 14/08416/FUL, dated 5 September 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 'Mortons'.
 - 3) No development shall commence on site until details and samples of the materials to be used for the external walls, windows, doors and roof have been submitted to and approved in writing by the Local Planning Authority.
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The development shall be carried out in accordance with the approved details.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: '01'; '02'; and '03'.

Main Issues

3. There is no dispute between the appellant and the Council that the site is within the countryside rather than within a settlement. There are therefore two main issues. The first is whether the proposed building would be in an appropriate location given policies aimed at protecting the countryside from isolated dwellings. The second main issue is the effect of the proposed building on the character and appearance of the site and surrounding rural area, with particular reference to design and materials.

Reasons

4. The appeal site currently includes a detached cottage positioned close to the western and southern boundaries of its large garden. The garden is set behind a robust hedge and there is a wooden gate across the entrance to the gravelled driveway. Alongside the driveway, the hedge continues around to partly enclose the garden. On the eastern side, the garden includes three existing timber outbuildings that would be replaced by the proposal as well as some trees. The driveway also leads to the large stone garage and parking area in front of the principle elevation of the dwelling which faces towards the eastern side of the garden. The position of the dwelling within the site means that the main open parts of the garden are to the north and also along the southern boundary, leading around the side of the garage. This links with the eastern part of the site where the proposed building would be located. The position of the proposed building in my opinion is integrally part of the existing garden. I do not agree with the appellant that it should be considered as previously developed land as defined within the National Planning Policy Framework (NPPF) as it is within a private residential garden.
5. The proposed building would be two storeys in height and would include two bedrooms, a kitchen, living room, a ground floor toilet and a first floor shower room and toilet. It would have all of the facilities to enable independent day to day living however it has been very clear through the processing of the planning application and this appeal that it would be intended for ancillary purposes. The Council considers that there is insufficient physical connection between the dwelling and the site. If the proposal were for a separate dwelling, this location within the countryside would be unacceptable as it would not comply with the exceptions allowing such development as set out in LP policy H4, CS policy 48 or paragraph 55 of the NPPF.
6. I have not had any particular policy drawn to my attention that indicates that annexes have to be physically linked to the primary accommodation. I am content that the proposed position relates well to the domestic garden and overall use of the site for a single household. A planning condition as suggested by the appellant would ensure use remains ancillary to the main house and not an independent dwelling. If that condition were subsequently breached, the Council could consider taking enforcement action to secure compliance.

7. In terms of the need for such a large annex, I can understand why the Council may be sceptical. However, the existing dwelling whilst including 4 first floor bedrooms and a bedroom on the ground floor has a layout which does not allow much privacy. The appellant's wife has a form of dementia and both of them are in their 70's. They have 4 adult children one of whom has two children and I can understand that there is likely to be the ongoing need for regular visits. At the same time, there may also be a need for quiet relaxation during visits. Having a degree of separation would allow for a much more comfortable experience for the whole family during such visits. These personal circumstances are not, in my experience, unusual.
8. In relation to the first main issue, the site would be an appropriate location for the proposed annex building and would not therefore breach policies aimed at protecting the countryside from isolated dwellings including LP policy H4, CS policy 48 or paragraph 55 of the NPPF.
9. The appellant's dwelling is an attractive traditional building constructed of natural stone. This is similar to many of the other dwellings within the more built up part of Hankerton as well as those dwellings like the appeal site which are loosely scattered in the rural surroundings of the village. The large detached garage is also constructed of stone but the three outbuildings proposed for replacement are timber boarded. I also saw other examples of large timber outbuildings including the one that was pointed out to me at my site visit on a site further to the east. There is another at Dove House on the northern side of the road leading into Hankerton.
10. The building would be well screened by the surrounding hedges. Large timber outbuildings are not unusual even in more prominent positions than this. Being constructed of timber would mean that the building would not compete visually with the main dwelling for dominance within the site and the space between the buildings would also prevent any substantial impacts upon the character of the attractive traditional cottage. Although taller than the existing timber buildings it is proposed to replace, there would only be a minor increased visual impact even where seen from the road through the gap proposed through the hedge to allow for visitor parking. The establishment of a new area for parking and position of the proposed annex behind the remaining hedge has led to the Council having concerns about the establishment of a separate parcel. The use by a separate household as a new dwelling could lead to an intensification of activity that would inevitably become apparent in terms of the character and appearance of the site. However, such impacts would not occur to a material extent if the use is limited to ancillary purposes.
11. In relation to the second main issue, the proposed building would not have a harmful effect upon the character and appearance of the site or rural area. This would comply with CS policy 57.

Other Matters

12. As the use of the building would be limited to ancillary purposes, there would be little impact due to the position away from services. The visitors staying in the annex are likely to be people who may stay anyway but who could do so in a more comfortable manner. I have attached a condition as suggested by the appellant which limits the use of the building as an annex. I have based this on

the wording from Appendix A to the former circular 11/95 "The Use of Conditions in Planning Permissions" which has not as yet been superseded by the Planning Practice Guidance (PPG).

13. I have considered the suggested conditions in light of the advice in the NPPF and the PPG. This states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The Council has not explained why there would be such circumstances. I do agree that it is necessary to secure further agreement of the proposed materials as the information with the application is in a basic form. I have also included a requirement within that condition for further window and door details.

Overall Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Harwood

INSPECTOR