



Appeal Decision

Hearing held on 3 February 2010
Site visit made on 3 February 2010

by **David Nicholson** RIBA IHBC

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

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Decision date:
24 February 2010

Appeal Ref: APP/Y3940/E/09/2115963

Nadder House, East Hatch, Tisbury SP3 6PJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr & Mrs Charles Mackay against the decision of Wiltshire Council.
- The application Ref S/2009/746/LBC, dated 5 May 2009, was refused by notice dated 16 July 2009.
- The works proposed are to enlarge the existing dining room: remove existing partition wall between dining room and study to provide enlarged dining room, include for propping existing timber beam with timber posts; remove existing timber temporary supports – beam and post to south end of study beam currently restricting mullioned window outlook; restore heavily decayed mullioned window, include lay new timber floor throughout new dining area.

Application for costs

1. At the Hearing an application for costs was made by Mr & Mrs Charles Mackay against Wiltshire Council. This application is the subject of a separate Decision.

Decision

2. **I dismiss the appeal.**

Main issue

3. Nadder House is a Grade II Listed Building. With this fact in mind I consider the main issue is whether the proposals would preserve the special architectural and historic interest of the listed building and, if not, whether there are sufficient material considerations to outweigh any harm.

Reasons

4. The list description dates the earliest part of Nadder House as late 17th century. This would probably have been limited to the area within the thickest walls which is now used as the dining room and study. I saw that the roof structure and base coat of straw thatch above this part of the house are consistent with this date. The house was part of the Pythouse Estate and given the number 63, suggesting that there were at least that number of cottages on the estate. I was told that few of the other early estate cottages survive. Otherwise, the appellants have supplied little information about the early history of the house, its relationship with the Estate, or the layouts of other 17th century domestic buildings in the area.
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5. The railway came through Tisbury in the mid 19th century. The appeal site was probably used as a public house from then until at least the mid 20th century, although exact dates have not been researched. Indeed, the appellants told me that they only removed the stanchions for the pub sign relatively recently. Recollections of a local resident, from the time when the property was a pub, record that the early part of the house was one large space.
6. The house was listed in 1987. There is no dispute that the partition between the study and dining room existed at the time of listing. A small amount of opening up has revealed that this is built of the sort of breezeblock manufactured shortly after the Second World War. Pairs of peg holes in the sides of the beam suggest that this may have once supported a timber screen. While such a division would be consistent with the age of the original cottage, I was not shown any physical evidence of the nature of any earlier partition.
7. Based on other 17th century Wiltshire cottages, including that illustrated in Document 1, the Council considers that Nadder House was probably built as a two room cottage. The appellant has put forward the alternative suggestion that it might have been two cottages. Either way, there was no dispute at the Hearing that these two ground floor rooms were originally separate spaces.
8. The proposals would remove the 20th century blockwork partition and introduce new posts with short lengths of wall at each end to indicate the line of where the separating wall currently stands. The appellants have argued that removal of this wall would not result in the loss of historic fabric but only of the two cell layout, the line of which would still be indicated. Furthermore, it would reinstate the layout from the time the building was a public house.
9. Section 16 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires me to have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses. Government advice in Planning Policy Guidance Note 15 (PPG15): *Planning and the Historic Environment* includes that: there should be a general presumption in favour of the preservation of listed buildings, except where a convincing case can be made out for alteration (paragraph 3.3); and that interior plans and individual features of interest should be respected and left unaltered as far as possible (paragraph C.58).
10. PPG15 also advises: that applicants for listed building consent must be able to justify their proposals, show why works which would affect the character of a listed building are desirable or necessary, and provide full information to enable an assessment of the likely impact on the special interest of the building (paragraph 3.4); that generally the best way of securing the upkeep of the great majority of historic buildings is to keep them in economically viable uses, and that new, and even continuing, uses will often necessitate some degree of adaptation (paragraph 3.8); and that the merit of some new alterations or additions, especially where they are generated within a secure and committed long-term ownership, should not be discounted (paragraph 3.13).
11. In my opinion, the special interest of the house includes the 17th century two cell plan form, its use as a pub, and that it reverted to a house prior to the time of listing. I have studied the English Heritage Selection Guides (Documents 2 and 3) but these do not alter my findings on this point. I consider that the original separation would have been important to divide the

heated front parlour from the unheated service room and this lends the early part of the house its small roomed character. Consequently I find that the surviving plan form reflects the use of the ground floor at that time, as well as now and at the time of listing. While I find it unlikely, even if the building was originally two separate cottages, the division is important. Indeed, as in my experience this would be particularly unusual, it would be of greater consequence. For all these reasons, I give significant weight to the contribution that the separating wall makes to the special architectural and historic interest of this listed building.

12. One of the four proposed new posts would be set in from the front wall, under the beam, with a short length of partition against it. Two further posts would stand under the beam towards the rear of the house, one with a new screen against it, the other free standing within the dining room. The posts would be designed to provide structural support with substantial notches to be cut out of the beam. I have no details of how the positions of the posts have been selected, whether or not they would relate to the existing peg holes, or why the existing beam requires additional support. In the absence of further information on how these elements of the design were arrived at, I find that the posts would be wholly conjectural and might confuse the historical development of the house. I therefore give little weight to the proposed posts and screens as mitigation for the loss of the partition. Rather, as the cut outs would remove historic fabric from the beam, which would not be fully reversible, the posts would further harm the listed building.
13. The appellants have explained that they wish to remodel the study as a kitchen, opening into the dining room, so that they can better entertain guest and keep an eye on visiting grandchildren. There would be the added advantage of re-using the existing kitchen as a better study. I can well understand the appellants' preference, in line with more recent fashions, for a more open floor plan. I have considered advice in PPG15, on adaptation and on the merits of committed long-term ownership, and that the property may have been badly modernised by previous owners. However, I also note that the appellants have lived elsewhere for most of the time they have owned the house, using it mostly for holidays, and no suggestion has been made that the house would not be attractive to other occupiers with its current floor plan.
14. For all these reasons, I find that neither the benefits nor the justifications put forward are sufficient to outweigh the harm the proposals would cause to the listed building or the conflict with the statute or advice in PPG15.
15. For the reasons given above I conclude that the appeal should fail.

David Nicholson

INSPECTOR

DOCUMENTS

- 1 Ground floor plan, Corner Cottage, Chilmark
- 2 English Heritage *Vernacular Houses Selection Guide (Domestic Buildings I)*
March 2007
- 3 English Heritage *Commercial Buildings Selection Guide* March 2007
- 4 Costs application

APPEARANCES

FOR THE APPELLANT:

Roger Mascall	Development Planning Partnership LLP
Christiaan Zwart of Counsel	39 Essex Street
Barry Woodcock	BCW Developments
Charles Mackay	Appellant
AnnMarie Mackay	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jenny Strange	Wiltshire Council
Dorothy Treasure	Wiltshire Council
Elaine Milton	Wiltshire Council
Jocelyn Sage	Wiltshire Council



Costs Decision

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Costs application in relation to Appeal Ref: APP/Y3940/E/09/2115963 Nadder House, East Hatch, Tisbury SP3 6PJ

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
- The application is made by Mr & Mrs Charles Mackay for a full award of costs against Wiltshire Council.
- The hearing was in connection with an appeal against refusal of listed building consent to enlarge the existing dining room: remove existing timber partition wall between dining room and study to provide enlarged dining room, include for propping existing timber beam with timber posts; remove existing timber temporary supports – beam and post to south end of study beam currently restricting mullioned window outlook; restore heavily decayed mullioned window, include lay new timber floor throughout new dining area.

Decision

1. **I refuse the application** for an award of costs.

The Submissions for Mr & Mrs Charles Mackay

2. The costs application was submitted in writing. In oral submission, the appellants summarised its case as being that the Council had not properly directed itself by giving weight to something that was not a fact, which led to the appeal.

The Response by Wiltshire Council

3. The response was made orally at the Hearing. The Council had looked for evidence from the layout of other cottages of a similar age simply because it needed to assess the special character of the cottage and there was a lack of evidence from this building.

Conclusions

4. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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.
 5. The gist of the appellants' case is that the Council had no evidence of the original layout. I accept that it had no physical fabric from Nadder House on which to base its opinion. However, I find it perfectly reasonable, in the absence of full information from the appellants, that the Council should research the probability of the original layout from similar properties.
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6. In my view, while they may carry less weight than physical proof, the experience of local researchers and the floor plan submitted for a nearby cottage are relevant. Under the requirements of paragraph B16 of Circular 03/2009, I find that the Council's experience and research do comprise a respectable basis for its stance and amount to reasonable evidence. Consequently I find that the Council did have evidence to support its view, and that it was not unreasonable for it to base its case on the harm that the loss of the two room plan would have on the special interest of the listed building.
7. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has not been demonstrated and that an award of costs is not justified.

David Nicholson

INSPECTOR