



# Appeal Decision

Hearing held on 14 July 2009

by **Brian G Meardon** BA DipTP MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email:enquiries@pins.gsi.g  
ov.uk

Decision date:  
28 July 2009

---

**Appeal Ref: APP/Y3940/A/09/2100262**  
**Rock Cottage, Chilmark, Salisbury, SP3 5BW**

- 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 Ms Lisa McHugh against the decision of Salisbury District Council, now Wiltshire Council.
- The application Ref S/2008/1698/FULL, dated 23 September 2008, was refused by notice dated 24 February 2009.
- The development proposed is a replacement dwelling.

---

### Application for costs

1. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

### Decision

2. I allow the appeal, and grant planning permission for a replacement dwelling at Rock Cottage, Chilmark, Salisbury, SP3 5BW in accordance with the terms of the application, Ref S/2008/1698/FUL, dated 23 September 2008, and the plans submitted with it, subject to the conditions set out in the schedule attached to this letter.

### Main issue

3. The main issue, having regard to the design of the dwelling, is the effect of the proposal on the character and appearance of this part of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty.

### Reasons

4. The principle of redevelopment of the site is not in dispute. Policy H30 of the Salisbury District Local Plan allows for replacement dwellings in the countryside where, among other considerations the new dwelling is not significantly larger or greater in impact than the existing, it is of a high standard of design appropriate to the rural surroundings and its siting is closely related to that of the existing dwelling. Permission was granted for a replacement dwelling in 2006 and subsequently permission was given for some stables. The access arrangements entailed in the present proposal are the same as those approved in connection with the stabling; initial work on the access has been undertaken.
  5. Although the Parish Council are apprehensive that the proposal represents an incrementally larger dwelling than previously approved, this is not a basis for objection by the Council who raise no concerns as to its size or height. In contrast to the traditional design of the previously permitted replacement
-

- dwelling, the present proposal entails a distinctly contemporary design geared to achieving a high standard of sustainability and 'green credentials'.
6. The site lies in a small scatter of development in rural surroundings set away from the attractive village of Chilmark. The nearest dwelling, Ellan Thie, is of painted brick and stone with an artificial state roof; the more distant Portash is a larger property built mainly of natural local stone, tile and thatch. The site is bounded by dense, tall hedgerows to the extent that Rock Cottage is indiscernible apart from a fleeting glimpse from the lane where some hedging has been removed in connection with the approved access. Work has not been commenced on the timber and slate stables which would be positioned on the higher ground of this hillside site. The low profile cottage, of natural stone and pantile, is tucked down on the lower part of the land. The locality contrasts markedly from the fairly tight knit built quality of Chilmark; here the undulating countryside with strong hedge and tree lines is the dominating characteristic.
  7. The proposed new dwelling would embrace the footprint of the derelict cottage, with its two laneside walls aligned with walls of the present dwelling. Although greater in overall floorspace than the approved house of some 169sqm, the proposal makes use of the site topography to include a subterranean floor of around 79sqm as a consequence of which the two storey above ground floorspace would, at 148sqm, be less than that of the earlier permitted dwelling. I note that the ridge line of that house would be consistent with the top of the chimney of Rock Cottage; the asymmetric roof line of the presently proposed house would in essence be very similar. In terms of the perceived size and massing of the dwelling, I do not therefore consider that the proposal represents a material change from previously permitted dwelling and that therefore in those respects it would not be out of accord with policy H30.
  8. The Council's concerns relate to the form and shape of the dwelling and the extent of glazing. It is maintained that the proposal would be at odds with the traditional vernacular characteristics of the area, citing the albeit unapproved character assessment relating to the designated Chilmark Conservation Area which highlights, among other things, the typical two storey pitched roof dwellings, with thatch or tiles, stone mullions, gables and parapets. I noted some variations in more modern buildings, including use of slate.
  9. PPS1 *Delivering Sustainable Development* aims to promote high quality design of development which is sustainable and makes good use of resources. It indicates that while it is proper to seek to promote or reinforce local distinctiveness, authorities should not attempt to impose architectural styles or particular tastes and should not stifle innovation or originality. PPS7 *Sustainable Development in Rural Areas* also encourages a positive approach to innovative, high quality contemporary design that is sensitive to its immediate setting.
  10. The site lies away from the village Conservation Area such that a new dwelling here would have no visual linkage with the architecture in the designated area. While not entirely a 'stand-alone' site, its strongly enclosed nature leads me to the view that a dwelling differing from the norm of Chilmark need not be harmful to the character of the locality.

11. In my view the design of the proposal provides for a contemporary interpretation of the local vernacular and respects the site context. The two 'public' sides of the dwelling adjacent to the hedgerow-lined lanes would be of natural stone, re-using stone from the cottage and locally sourced stone, incorporating dressed quoins, timber window surrounds and with a natural reclaimed slate roof. The other 'private' sides would be more contemporary in design, entailing a green oak timber structure, glazed to achieve solar gain and view over the valley; oak louvres are included for management of lighting and to provide an 'agricultural' feel rather than a residential flavour to the building.
12. I consider that, to the limited extent that the new dwelling would be perceived locally in its setting, the envisaged stone and slate elements of the building's design would be compatible with the rural character of the surroundings and with the scatter of dwellings in the vicinity. While the dwelling is criticised for its box-like form, I consider that inclusion of the subterranean element and the strongly horizontal lines of the louvres would reduce the perceived mass of the building in these rural environs. Moreover, the oak louvres themselves would substantially mask the extent of glazing on the private side of the building. In my opinion, the design of the end gable facing towards the access, with its use of stone and timber, would achieve a rural appearance sympathetic to the locality. Moreover, such exposure of this asymmetric gable to view at the point of access into the site would over time be tempered by the intended planting of new hedging behind the visibility line.
13. All these considerations support my conclusion that the proposal would accord with the aims of policy H30 in the Local Plan.
14. Apart from the view into the site at the point of access, I gauge that the dwelling would be little seen in the locality. While the upper part of the roof might just be perceptible from the lane in the vicinity of Portash, its timber cladding would eventually bleach so as to be unobtrusive and blend into its surroundings. At some distance on Ladydown and also distantly from the other lane leading southwards away from the site, the weathered oak of the upper roofline above the trees would readily assimilate into the landscape and therefore not be harmful to the scenic qualities of the Area of Outstanding Natural Beauty. I am therefore satisfied that the proposal would be consistent with policies C4 and C5 in the Local plan which are directed to conserving the landscape in the AONB.
15. The intent of the proposal is the attainment of level 5 for the Code for Sustainable Homes, employing sustainable materials and technologies in a dwelling of modern standards; among its attributes the scheme employs photovoltaic panels, bio-mass heating, rainwater harvesting and thermally efficient construction. In my view, the proposals respond to the guidance in PPS22 *Renewable Energy* in a manner which achieves an acceptable balance with safeguarding nationally important landscape.
16. Among other matters raised, I note that wildlife surveys were carried out in relation to the earlier application which found no evidence of badger activity at the site and only limited indication of bats resorting to the condemned cottage. On the information given at the hearing, there has been no change to this situation.

17. My conclusions lead me to allow the appeal and I therefore turn to consider the conditions put forward by the Council in that eventuality. To ensure the acceptability of materials to be used, a condition is warranted requiring approval of samples. To safeguard the appearance of the area and to enable the development to satisfactorily blend into its setting, landscaping details should be submitted for approval; in that context, suggested condition 13 is superfluous as its requirements can be subsumed into the landscaping condition. Bearing in mind policy H30 and the location of the site within the AONB, I agree that in these circumstances withdrawal of 'permitted development' rights in relation to extension of the dwelling is justified.
18. A number of the suggested conditions relate to the access arrangements and refer to the plan approved in respect of the stables. As that is a separate permission, it is necessary to ensure that the access is properly constructed and available to serve the dwelling; I have adjusted the suggested wording accordingly. Suggested condition 9 is unnecessary in that such matters are for the Building Regulations and in any event energy and water efficiency measures are integral to the proposed development. I am also of the opinion that suggested condition 15 relating to the heat source room, garage, and cycle store does not meet the test of necessity. An updated assessment in relation to bats should be undertaken before any work is begun on the site and, subject to that, work shall be carried out having regard to the previously commissioned surveys. To minimise disturbance to residents in the vicinity, it is reasonable to regulate the hours of work on the site associated with the development.

*Brian G Meardon*

Inspector

DOCUMENTS PUT IN AT THE HEARING

- Document 1 - Council's letter of notification of the hearing
- Document 2 - Plan showing Chilmark Conservation Area
- Document 3 - Costs claim submitted by the appellant

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority; the development shall be carried out in accordance with the approved details.
- 3) No development including demolition, site clearance or other preparatory work shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved prior to occupation of the dwelling. These details shall include existing hedgerows to be retained, finished levels or contours, means of enclosure, car parking layout, other vehicle and pedestrian access and circulation areas, hard surfacing materials, other minor artefacts and structures including signs and lighting, and functional services above and below ground. Details of soft landscape works shall include planting plans, written specifications and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. If within a period of five years from the date of the planting of any tree, shrub or plant that planting is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 4) Notwithstanding the provisions of Classes A to H of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwelling or any other structures shall be erected in the curtilage unless otherwise agreed in writing by the local planning authority on an application made in that behalf.
- 5) No development including demolition on site shall commence until details of the access have been submitted to and approved in writing by the local planning authority. These details shall include a recessed entrance with minimum width of 2.4m constructed at 4.5m back from the carriageway edge and provided with 45 degree splays to each side; the area between the entrance and carriageway shall be properly consolidated and surfaced (no loose stone or gravel); visibility shall be provided at the access with nothing above 1m height being planted, erected or maintained forward of a line extending southward from a point 2m back in the centre of the access from the carriageway edge for a distance of 50m measured along the nearside carriageway edge; the access gradient shall not exceed 1:15 for a distance of 4.5m from the carriageway edge; no gates shall be erected at the access forward of a point 4.5m back from the carriageway edge. The access shall be provided in accordance with the approved details before the dwelling is occupied.

- 6) No development including demolition shall commence on site until a report to include the results of a dawn and dusk survey undertaken between 1 April and 1 August and measures that will be put in place to mitigate and/or enhance the opportunities for roosting bats has been submitted to and approved in writing by the local planning authority; the mitigation measures shall thereafter be retained for their approved purpose.
- 7) Any demolition work, including removal of the roof and dismantling of walls down to at least 1m above ground level shall be undertaken and completed within the period 1 April to 31 August in any year unless otherwise agreed in writing by the local planning authority.
- 8) The development shall be carried out in full accordance with the protected species surveys dated 22 September 2006 by the Badger Consultancy and January 2006 by ID Wildlife Ltd, including any further recommendations arising from the report required under condition 6.
- 9) No demolition or construction work, delivery of plant, equipment and materials shall take place on site other than between 08.00 hrs – 18.00 hrs Mondays to Fridays and 08.00 hrs – 13.00 hrs on Saturdays and shall not take place on Sundays or public holidays.



# Costs Decision

Hearing held on 14 July 2009

by **Brian G Meardon** BA DipTP MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: enquiries@pins.gsi.gov.uk

Decision date:  
28 July 2009

## **Costs application in relation to Appeal Ref: APP/Y3940/A/09/2100262 Rock Cottage, Chilmark, Salisbury, SP3 5BW**

- 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 Ms Lisa McHugh for a full award of costs against Salisbury District Council, now Wiltshire Council.
- The hearing was in connection with an appeal against the refusal of the Council to grant planning permission for a replacement dwelling.

**Summary of Decision: The application fails and no award of costs is made.**

### **The Submissions for the Appellant**

1. The claim for costs is set out in full in a written submission, recorded as a document put in at the hearing. The essence of the claim, in the light of paragraphs 8 and 9 of Annex 3 to the Circular, is that the Council refused a development contrary to the advice of its professional officers without producing relevant evidence to support that decision.
2. The reason for refusal does not raise objection in principle to a replacement dwelling, but is concerned with its design and impact on the surrounding neighbourhood and AONB. The Council officers supported approval of the dwelling, considering it to be a highly innovative and sustainable proposal. South Wiltshire CPRE also supported the novel design and three other supporting letters were received by the Council.
3. The Design Forum was supportive of a contemporary design and sustainable approach but sought further information; the Forum did not suggest a building of traditional vernacular characteristics. The information requested was available but was not presented to the Design Forum; the appellant was not invited to attend. Notwithstanding the Forum's comments, the officer recommendation remained supportive of the proposal.
4. Where the Council do not accept the advice of officers and consultees, they should say so and explain why. National and local policy does not seek to inhibit innovation; officers, CPRE and residents considered this had been achieved with due regard to local distinctiveness. The Council maintains that there is insufficient local distinctiveness in the proposal, but equally indicates that it need not be a replica of traditional Chilmark dwellings but could have the appearance of a converted barn. Further, it is suggested that an acceptable design approach would be to look at a simple characteristic design, adapting it to achieve a novel design. In the circumstances, the Council continues to have a confused approach to design issues at the site and have failed to produce sufficient evidence to substantiate its refusal of permission.



### **The Response by the Council**

5. In the context of paragraphs 8, 9 and 14 of the Annex, the Council gave a clear and precise reason for refusal and brought evidence to support it. While Members overturned the officer recommendation, sufficient evidence was provided in support of that decision in the Council's statement and the response of the Design Forum.
6. The Council has not been overly prescriptive in terms of the design but paragraph 14 requires consideration of the impact on the landscape in the AONB. It advises that authorities should not seek to control the detailed design of buildings unless the sensitive character of the setting for the development justifies it. That consideration justifies the Council's decision in this case.

### **The Appellant's Response**

7. That the Council has been overly prescriptive is the reason for the appeal and the hearing. Paragraph 14 also indicates that if the degree of control goes beyond what is appropriate for the circumstances of the location concerned the authority's action may be regarded as unreasonable.

### **Conclusions**

8. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
9. It is clear that, in pre-application discussions and in the subsequent advice and recommendation, the proposal was supported by officers. The hearing was unable to shed any light on why the appellant's representatives were not requested to attend the Design Forum, nor was the nature of the presentation of the application to it clarified. Bearing in mind the whole package of detailed plans available, it is a matter of speculation as to whether the Forum's comments would have been the same had circumstances at the meeting been different. That said, the Forum supported a contemporary building but felt some improvements to the design could be made, taking the view that green credentials should not be at the expense of a well-designed dwelling.
10. The proposal was subject to objection by the Parish Council who felt the design was inappropriate to its surroundings in the AONB. In weighing the balance of considerations, the Council took the view that the innovative approach and sustainability merits were outweighed by the design of the dwelling, being seen as incongruous and alien to the locality.
11. Design considerations entail a considerable degree of subjectivity and judgement. Bearing in mind the locally characteristic architecture epitomised in Chilmark itself, it is understandable that the view could be taken that a scheme for the site might embody those traditional elements. While my conclusions on the proposal differ from those of the Council, that does not affect my opinion that, in the light of all the information before them, the members were able to hold the view that they took and that in the circumstances the decision was not unreasonable.

12. While the appellant maintains that the Council's design approach to the site is confused, I see their suggestions supported by the information in the Chilmark Appraisal, cited at the hearing, as reflective of their perception as to how the site might be developed. In these circumstances, I consider that sufficient evidence was brought to support the Council's decision, albeit that my own assessment of the proposal does not endorse that decision.
13. I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has not been demonstrated and I therefore conclude that an award of costs is not justified.

**Formal Decision**

14. I refuse the application for an award of costs.

*Brian G Meardon*

Inspector