



Appeal Decision

Site visit made on 3 February 2010

by **Michael J Muston** BA(Hons) MPhil
MRTPI

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/A/09/2114333

Bark Barn Cottage, 12 West Dean, Salisbury, Wiltshire SP15 1JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr & Mrs Nigel and Philippa Isaac against the decision of Wiltshire Council.
- The application, ref S/2009/601/FULL, dated 8 April 2009, was refused by notice dated 22 June 2009.
- The application sought the amendment of a condition attached to a planning permission (Ref: S/2006/2243), dated 21 December 2006, for the conversion of an existing barn to ancillary living accommodation, to allow holiday letting.
- The condition in dispute is No 5, which states:
 - 5) "The accommodation hereby permitted shall be used solely as ancillary accommodation to the existing dwelling (known as Bark Bank Cottage) and shall not be occupied, sold, leased, rented or otherwise disposed of as a separate dwelling unit."
- The reason given for the condition was:
 - 5) "In order that the Local Planning Authority may retain planning control over the use of the premises."

Decision

1. I dismiss the appeal.

Procedural Matter

2. The reason for the disputed condition set out above is not, as accepted by the Council, an appropriate reason for imposing a condition. It is clear from the reason for refusal of the appeal proposal that the reason the Council wish to see the condition retained is to prevent a potentially adverse impact on highway safety and the living conditions of occupiers of an adjacent property. I have dealt with the appeal on this basis.

Main Issues

3. I consider the main issues in this appeal to be the effect of the proposal on:-
 - highway safety,
 - the living conditions of occupiers of the adjacent property,
 - the listed building and the character and appearance of the West Dean Conservation Area.

Reasons

Highway safety

4. Bark Bank Cottage and its outbuilding the subject of this appeal gain access onto the Class III road passing through West Dean via a vehicular access shared with 2 other properties. I noted on my site visit that visibility to the right from this access is severely restricted by the garden wall of 9 West Dean and further away by the property of 8 West Dean.
5. The appellants say that the bend in the road and the pinch point caused by 8 West Dean mean that the safe exit point from the access is further forward than would otherwise be the case, and that the path of northbound vehicles is deflected away from the nearside kerb. This has now been formalised to some extent by the painting of a white line in the road. I agree that in this case a vehicle is able to move forward and project slightly into the highway without causing any great hazard. This increases visibility to the left (north) to an acceptable level, but in my view still leaves visibility to the right (south) seriously restricted.
6. The proximity of the nearby station, combined with the bus services running through the village, provide an unusual opportunity in this rural area for holiday makers to travel to and from the property by public transport. However, it is my opinion that a significant number are still likely to come by private car, not least because it gives greater flexibility to visit tourist attractions, nearby towns and cities, public houses and restaurants during their stay.
7. The outbuilding could, when completed, be occupied by members of the appellants' family. However, I consider that the proposal to allow occasional holiday lets would be bound to increase the number of vehicular movements to and from the appeal site, as there is no suggestion that this traffic would replace any traffic arising from the appellants' family. In my view, the proposal would lead to a small but material increase in traffic using an access with seriously substandard visibility.
8. I acknowledge that traffic speeds through the village are likely to be low, and that a previous unauthorised use appears to have taken place on the site without giving rise to any reported accidents. It is though my opinion that the proposal would materially and unacceptably add to the risk of collisions taking place on the Class III highway running through the village. I have come to this conclusion having taken into account the lack of objection raised to this proposal by the Transportation Engineer from Test Valley Borough Council, as well as the objections of Wiltshire Council's Transport Development Services.
9. I conclude that the proposal would have an adverse effect on highway safety, contrary to saved Policy G2 of the Salisbury District Local Plan (adopted June 2003).

Living conditions of neighbours

10. The outbuilding the subject of this appeal is located immediately to the rear of Long Straw Cottage. A number of windows in the outbuilding face towards that property and, because of the rising ground from east to west, would have the
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potential to overlook the occupiers of Long Straw Cottage. The overlooking of ground floor windows is currently prevented by a substantial laurel hedge, within the control of the appellants. The possibility of mutual overlooking between the outbuilding and the first floor windows at the rear of Long Straw Cottage remains.

11. Whilst some overlooking between the two properties might still arise, this would be the case whether the outbuilding was used by the appellants' family or by customers using the property as a holiday let. The retention of the laurel hedge could in my view be dealt with by means of an additional planning condition. I do not consider that there would be a material increase in overlooking from the currently permitted position to that proposed.
12. I note that it is the intention of the appellants to direct anyone renting the outbuilding to park at its northern end and not to use the front entrance, other than for loading and unloading. I do though have my doubts as to whether this could reasonably be controlled by condition.
13. I saw on my site visit that the area between the outbuilding and the two houses is already used by the appellants for the parking of vehicles and that the south-eastern wing of the outbuilding (unaffected by this proposal) is used by the appellants as a workshop. In my view, the use of these two areas by the appellants is likely to generate far more noise and disturbance than any activities of holiday makers.
14. I acknowledge that those on holiday are not constrained by normal working hours and might on occasions make noise at unsocial hours. However, my experience is that there are any number of occasions where householders make noise at unsocial hours and I am not convinced that this is any more likely to arise from holiday-makers than from any family occupying Bark Bank Cottage and its outbuilding. A couple or small family on holiday are unlikely to invite others for a noisy social event, whereas this can often happen in a private house.
15. I saw on my site visit that the two properties of Long Straw Cottage and Bark Bank Cottage and its associated outbuildings are very closely related. As a result, some noise and disturbance is bound to occur, particularly to the occupiers of Long Straw Cottage from any activities in the outbuilding and the area between the outbuilding and their property. However, I do not consider that this would be made materially worse by allowing the appeal proposal. I conclude that the proposal would not have an unacceptably adverse effect on the living conditions of occupiers of the adjacent property, and would comply with saved Policies G2 and T6 of the Salisbury District Local Plan (adopted June 2003) in this respect.

Listed building and Conservation Area

16. The Council's reason for refusal did not refer to any impact on the appeal premises as a listed building or on the West Dean Conservation Area. I am however required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider these potential impacts. The appeal proposal does not involve any changes to the external or internal appearance of the property. In my view, the proposal to let the property out to holiday-

makers would have no material impact on either the listed building or the Conservation Area.

17. From the evidence before me, I conclude that the proposal would preserve the architectural and historic interest of the listed building and the character and appearance of the West Dean Conservation Area, and would comply with saved Policies CN4 and CN8 of the Salisbury District Local Plan (adopted June 2003).

Conclusion

18. I have concluded that the proposal would not have an unacceptably adverse effect on the living conditions of occupiers of the adjacent property and that it would preserve the architectural and historic interest of the listed building and the character and appearance of the West Dean Conservation Area. However, I have also concluded that it would have an adverse effect on highway safety. I consider this to be sufficient reason to dismiss the appeal.

Michael J Muston

INSPECTOR