



Appeal Decision

Site visit made on 15 February 2010

by **E C Grace** DipTP FRTPi FBEng PPIAAS

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

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Decision date:
3 March 2010

Appeal Ref: APP/K0425/A/09/2117217

Rassler Wood House, Henley Road, Medmenham, Marlow SL7 2EN

- 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 T Taylor against the decision of Wycombe District Council.
- The application Ref 09/06542/VCON, dated 9/8/09, was refused by notice dated 5/10/09.
- The application sought planning permission for demolition of existing dwelling and erection of 1 detached 3 bed dwelling with detached garage with store room over without complying with a condition attached to planning permission Ref 08/07097/FUL, dated 3/11/08.
- The condition in dispute is No 5 which states: Prior to the occupation of the hereby approved dwelling, the existing dwelling on the site known as the Pool House shall be demolished and all materials removed from the site.
- The reason given for the condition is: To ensure a satisfactory visual appearance of the site.

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue in this case is whether the retention of the Pool House would harm the rural character and appearance of the locality and/or the landscape of the designated Chilterns Area of Outstanding Natural Beauty (AONB).

Reasons

3. Although the application was submitted as "variation" of the condition, no other form of wording for it has been advanced by the appellant and I am thus treating it as a proposal to remove the condition.
4. Rassler Wood House was formerly a gamekeeper's cottage dating back to the late 1800s, but has been subject to later extensions, whereby it is now a large detached dwelling standing within extensive grounds with several outbuildings. One of these is the Pool House, which is positioned alongside the swimming pool and it is apparent that a Certificate of Lawfulness was granted for its use as an independent dwelling in January 2008 (07/07979/CLE). Both the planning application (08/07097/FUL) and subsequent permission to which the disputed condition is attached are clear that the now newly erected dwelling is intended to be as a replacement of the Pool House. I saw that the new house, Rassler Wood Lodge, is occupied in contravention of the condition.

5. The property is situated in the countryside beyond any defined settlement where national and local policies of restraint upon rural development apply. The Pool House is not required for any of the specific purposes defined in PPS7 or Local Plan Policy C10. Furthermore, I am satisfied that the disputed condition was reasonably imposed as permission for the new house would not have been forthcoming unless it was justified as a replacement of an existing dwelling which in turn would be removed. The new house has now been erected, provided with its own curtilage which has been severed from the grounds of the main house and is in separate ownership.
6. Although the appellant maintains the Pool House is not visible from public vantage points, I observed that it can be seen from the footpath which runs alongside the property. When viewed with the other two dwellings and their extensive outbuildings the site now has the appearance of a small residential enclave in a woodland clearing. Removal of the building would re-introduce a semblance of the site's former openness.
7. It is also maintained that the building is colonised by bats which would be disturbed if it is demolished. However, I note this situation prevailed at the time the planning permission was granted for the replacement dwelling and the Council was satisfied with the recommended mitigation measures.
8. Although it is further claimed that the Pool House serves to provide a degree of privacy between the main house and the newly erected dwelling, this was a factor known at the time of the previous permission and the orientation of the building had regard to this. Moreover, boundary planting has been undertaken, which in time will provide adequate screening between the two properties.
9. The appellant has submitted a Unilateral Undertaking to relinquish all rights to use the building as a separate dwellinghouse, to use it as ancillary to the occupation of the main house and not to sever the ownership of it. He also places great emphasis on the reason for the imposition of the condition being merely phrased as: *to ensure a satisfactory visual appearance of the site*, rather than to avoid the retention of a structure that could be considered tantamount to the creation of a new dwelling.
10. Nevertheless, the replacement dwelling was clearly sought and approved in those precise terms and if the Pool House were to be retained, it would lead to an unwarranted proliferation of buildings on this land in breach of national and local policies aimed at safeguarding the countryside for its own sake. Hence, I find the reason for the condition satisfactorily addresses this point, particularly having regard to the locality's AONB designation, which affords it the highest level of protection in relation to its landscape and scenic beauty. As PPS7 indicates, this should be accorded great weight in development control decisions.
11. For the reasons given above I conclude that the appeal should be dismissed.

Edward Grace

Inspector



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Your Ref: 09/06542/VCON
Our Ref: APP/K0425/A/09/2117217/WF
Date: 3 March 2010

Dear Mr Beck

Town and Country Planning Act 1990
Appeal by Mr T Taylor
Site at Rasser Wood House, Henley Road, Medmenham, Marlow, SL7 2EN

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

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm. This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

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 0207 947 6655.

Yours sincerely

Dianna Wride

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