



Appeal Decision

Site visit made on 11 November 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 19 December 2025

Appeal Ref: APP/Y3940/W/25/3369903

35 Sarum Close, Salisbury, Wiltshire SP2 7LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Rio Bluebell Briant against the decision of Wiltshire Council.
 - The application Ref PL/2025/03700 was approved on 8 July 2025 and planning permission was granted subject to conditions.
 - The development permitted is Construction of free-standing log cabin (4 meters wide, 2.5 meters depth) at the end of the garden.
 - The condition in dispute is No 2 which states that: The timber cabin/shed above hereby approved shall not be used at any time other than for purposes incidental to the residential use of the main dwelling known as 35 Sarum Close, Salisbury, it shall not be used as habitable accommodation, let or used for any commercial purposes and it shall remain within the same planning unit as the main dwelling.
 - The reason given for the condition is: To safeguard the character of the area, in the interests of highway safety and in the interests of residential amenity, nutrient neutrality (River Avon SAC) and having regard to the policies relating to the area.
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Decision

1. The appeal is allowed and the planning permission Ref PL/2025/03700 for Construction of free-standing log cabin (4 meters wide, 2.5 meters depth) at the end of the garden. at 35 Sarum Close, Salisbury, SP2 7LE granted on 8 July 2025 by Wiltshire Council, is varied by deleting condition 2 and substituting for it the following condition:
 - 2) The log cabin above hereby approved shall not be used at any time other than for purposes incidental to the residential use of the main dwelling known as 35 Sarum Close, Salisbury. It shall not be used as habitable accommodation, letting or used for any commercial purposes.

Preliminary Matters

2. The description of development on the application form refers to the 'Construction of free-standing log cabin (4 meters wide, 2.5 meters depth) at the end of the garden'. However, the application form notes that development has already taken place. Therefore, the application is submitted retrospectively for development already enacted, and I have determined the appeal on that basis.
3. The appeal relates to a condition that restricts the use of the cabin to purposes incidental to the residential use of the main dwelling. It goes on to specifically restrict habitable accommodation, being let, commercial use and its sub-division from the main dwelling. The appellant's submission advises that the purpose of the shed is to allow its use for commercial purposes, to run her part-time massage therapy business from home.

4. I note that the application was submitted and registered by the Council as a householder application. The application form makes no reference to the appellant's intended use of the cabin, for the purposes of running a commercial massage therapy business from home. Surrounding residents have, therefore, not had the opportunity to comment based on the intended use of the development.
5. Section 79(1) of the Town and Country Planning Act 1990 (the Act) allows me to allow or dismiss the appeal or reverse or vary any part of the decision (whether the appeal relates to that part or not) and I may deal with the proposal as if it had been made to me in the first instance. This means that if I determine that a condition should be changed or amended in some way, the appeal is allowed regardless of whether this reflects the amendments sought by the appellant.

Main Issue

6. The main issue is whether Condition 2 is reasonable and necessary having regard to the character of the area, the living conditions of neighbouring occupiers, highway safety and nutrient neutrality.

Reasons

7. The planning application was a 'Householder Application' seeking approval for the construction of the log cabin retrospectively. This form of application is defined by the Town and Country Planning (Development Management Procedure) (England) Order (2015) (the DMP Order) as being 'for development for an existing dwellinghouse, or development within the curtilage of such dwellinghouse, for any purpose incidental to the enjoyment of the dwellinghouse, which is not an application for change of use, or an application to change the number of dwellings in a building'.
8. As noted above, Section 79(1) of the Act confers on me wide ranging powers. However, the DMP Order would preclude me from varying the condition on a Householder Application, to allow for an unfettered commercial use of the appeal development, as this would have the effect of implementing a material change of use.
9. The use of the cabin for purposes incidental to the dwellinghouse is therefore inherent in both the type of application submitted and the Council's decision to approve the application. Incidental uses for outbuildings serving dwellings commonly include such things as home gyms, storage buildings, garages, summer houses etc. These activities and uses reflect the residential nature of the dwelling. In general, using an outbuilding for home working can also be an incidental use provided it does not impact neighbours or the wider area to any extent greater than the existing dwelling.
10. The first part of condition 2 serves to reinforce the incidental nature of the building. However, the Council has sought to further restrict the building by preventing it being used as habitable accommodation, let (which their appeal statement clarifies the Council's concerns as also being used for holiday accommodation), or used for any commercial purpose. The condition also requires the cabin to remain within the same planning unit as the dwelling.
11. The reasons for the condition are to safeguard the character of the area, in the interests of highway safety and in the interests of residential amenity, nutrient

- neutrality (River Avon Special Area of Conservation) and having regard to the policies relating to the area.
12. My focus is therefore on whether the condition is reasonable and necessary and in particular, whether the additional restrictions above and beyond the cabin being used for incidental purposes are acceptable.
 13. The appeal development is a substantially sized log cabin located at the end of the garden of the appeal property, tight to its rear boundary with No33. The cabin is located with its patio entrance doors diagonally opposite the access gate to the garden.
 14. Access for users of the cabin is provided by the shared path along the gable of No33. They would descend the steps from the public footpath on Sarum Close and pass the front elevation, in proximity to the front door and bedroom window above of No33.
 15. Such is the slope in the ground levels that the floor level of the cabin is almost level with the sill level of the first-floor windows of the appeal property, which are around 10m away. Users of the pedestrian access gate and entrance of the cabin have selective views over the boundary fences of adjacent properties, into their gardens. They also have unimpeded views directly into the rear, ground and first-floor windows of No34 and No36, which are either side of the appeal site, together with those of the appeal property itself.
 16. Having examined the evidence before me, and having visited the site, it is evident that the position and use of the appeal development could lead directly to issues of loss of privacy for neighbours at No33, No34 and No36, together with the appeal property. This would have the potential to be particularly intrusive if the cabin were used for habitable accommodation or let out as holiday accommodation. Similarly, given its size and position, any commercial use of the building that went beyond a use incidental to the dwelling, or where it were to cease to be functionally related to the primary residential use of the site, would be likely to cause harm to the neighbours, principally through a loss of privacy as well as disturbance from any associated activity and any comings and goings. It would also be likely to have some consequential adverse impact on the character of the area.
 17. The appeal property does have an allocated parking space. At the time of my site visit there was also on-street parking available near the property, but my visit only represents a snapshot in time. I have no substantive evidence before me to indicate whether, or not, a use which was not incidental to the host dwelling, would cause parking or associated highway safety concerns.
 18. At my visit I did not see evidence of a drainage connection from the appeal development. Any such future connection, which may, or may not, be required to comply with health and safety legislation for a commercial use, could have nutrient neutrality implications on the River Avon Special Area of Conservation, a designated European habitat site.
 19. In the circumstances, I therefore conclude that it would be reasonable and necessary to reiterate the incidental nature of the building and specifically exclude it from being used as any habitable accommodation, being let out or used for any commercial purposes. As such, these elements of the condition are reasonable and necessary.

20. However, subdividing the planning unit would be something that would require planning permission in its own right. As such, it is not a necessary or reasonable component of the condition. I shall therefore remove this part of the condition, and the appeal is therefore allowed for this reason alone.
21. I have given consideration as to whether I could allow the appeal and impose new conditions restricting the use of the cabin to just the appellant's proposed use. Aside from questions of natural justice given that neighbours have not been directly consulted on aspects such as days/hours of operation or number of visitors, I cannot be certain that this would allow the cabin to remain incidental to the host dwelling and thus within the terms of a householder permission.

Other Matters

22. Class E of the Use Classes Order (the Town and Country Planning (Use Classes) Order 1987) (as amended) (the Order) allows for certain commercial uses in residential areas. However, this is based on there being no detriment to amenity. Given my observations outlined above, I cannot be certain that no detriment to amenity would arise in this case. Thus, Class E does not provide a reason to allow this appeal.
23. The planning application was a Householder Application as defined by the DMP Order. As a Householder Application, it therefore received exemption from the statutory requirement to provide a minimum 10% Biodiversity Net Gain (BNG). Should the appellant wish to seek permission for a change of use via a full planning application, compliance with statutory BNG requirements may be a consideration.

Conclusion

24. I have examined all matters that have been raised, but none would demonstrate that Condition 2 is not reasonable and necessary, in relation to its controls on use incidental to the main dwelling, use as habitable accommodation, being let out and being used for commercial purposes. Consequently, Condition 2 would comply with the tests for planning conditions set out in paragraph 57 of the Framework and the related advice in Planning Practice Guidance concerning the application of these tests in these regards.
25. However, as the sub-division of the planning unit would require separate planning permission, this element of the condition would not meet the test of being necessary or reasonable. Consequently, for the reasons above, I conclude that the appeal should be allowed and the planning permission varied by deleting the disputed condition and substituting it with a revised condition.

D R Kay

INSPECTOR