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# Appeal Decision

Site visit made on 28 January 2013

**by J Wilkinson B.Arch IHBC**

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

**Decision date: 7 February 2013**

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**Appeal Ref: APP/R3325/D/12/2189669**

**In the Dog House, Station Road , Misterton, TA18 8LR**

- 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 Mr Edward Sutton against the decision of South Somerset District Council.
  - The application ref 12/03894/FUL was refused by notice dated 22 November 2012.
  - The development proposed is the building of a garage and workshop and formation of monopitch roof to part of south elevation.
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## Decision

1. The appeal is allowed and planning permission is granted for the building of a garage and workshop and formation of monopitch roof to part of south elevation at In the Dog House, Station Road, Misterton, TA18 8LR in accordance with the terms of the application, ref 12/03894/FUL, dated 2 October 2012, subject to the following conditions:
  - 1) The development hereby permitted shall be fully completed in accordance with the approved plans not later than two months from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:100 block plan, 1:50 forecourt plan, 1:100 west elevation proposed, 1:100 south elevation proposed, 1:100 north elevation proposed and location plan.
  - 3) Notwithstanding the provisions 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 windows, dormer windows or other openings shall be made in the south or west facing elevations or roof slopes of the building.

## Main issue

2. The main issue is the effect of the proposed garage on the living conditions of the adjacent occupiers at Moorhayes, in terms of aspect.

## Reasons

3. I saw at the site visit that the garage had been built and that the south wall was vertical, with a plain rendered finish. The proposed garage would have an inset pitched roof slope in the south west corner of a flat roof, which is

- intended to improve the aspect from the window in the north facing wall of the adjacent dwelling, Moorhayes. This window lights a stair landing.
4. The proposed inset pitched roof would allow reasonable light to enter the window and the sky would be partially visible when walking up and down the stairs. I note the comments of the occupier of Moorhayes and the Parish Council that this inset roof slope would not be sufficient to overcome the unneighbourly effect of the garage as built. They suggest that the ideal position would be for the roof to slope away along the whole of the west elevation.
  5. However, the rooms in this dwelling have good aspects in other directions and taking into account that the stairwell is not a habitable space, I conclude that the proposal, although falling short of the ideal, would not significantly or unacceptably harm the overall living conditions in the dwelling.
  6. I also saw that the west facing wall of the proposed garage would be seen from the rear garden of Moorhayes, rising well above the common boundary wall. The aspect from rooms within the dwelling would not be affected. Whilst this is not an attractive relationship, the garden has a wide open vista to the rear and its amenity would not be significantly harmed.
  7. The proposal would therefore comply with policy ST6 of the South Somerset Local Plan 2006, which broadly requires that development does not unacceptably harm the residential amenity of occupiers of adjacent properties. This policy accords with a similar objective expressed in the National Planning Policy Framework, in paragraph 17 (core planning principles), which is to always seek a good standard of amenity for all existing occupiers of land.
  8. The appeal building, along with Moorhayes, is within the Misterton Conservation Area. The Council states that the principle of the garage has been established by the granting of a previous planning permission and that the effect of the proposed changes to the design would not affect the appearance of the building as seen from the road. The character and appearance of the conservation area would therefore be preserved and the proposal would comply with the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
  9. For the reasons given above I conclude that the appeal should be allowed.

### **Conditions**

1. I have considered the Council's suggested conditions in the light of the advice given by the Government in Circular 11/95, *The Use of Conditions in Planning Permissions* and the Framework, paragraph 206. I have required that the development be carried out in accordance with the approved plans.
2. The Council has requested that the approved scheme is completed within 2 months from the date of the decision. The appellant has made no comment on this time period and given that most of it is built, this short timescale would be reasonable. I have therefore required that the development is completed in accordance with the approved plans within 2 months of this decision, in order to ensure that the amenity of the adjacent occupiers is protected.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, I have imposed a condition to prevent

windows, dormer windows or other openings being made in the south or west facing elevations or roof slopes of the building without the grant of planning permission. This is in order to protect the privacy of the adjacent occupiers.

*J Wilkinson*

INSPECTOR