
Appeal Decision

Site visit made on 6 July 2015

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 18 December 2015

Appeal Ref: APP/B9506/W/15/3005853

Dene Lodge, Vaggs Lane, Hordle, Lymington SO41 0FP

- 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 and Mrs Jonathan and Victoria Fletcher against the decision of New Forest National Park Authority.
 - The application Ref 14/00542, dated 1 July 2014, was refused by notice dated 15 September 2014.
 - The development proposed is erection of dwelling including partial conversion of barn; demolition of other buildings and relinquishing use rights of site for sale, refurbishment and maintenance of vehicles, plant and machinery.
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Decision

1. The appeal is allowed and planning permission is granted for erection of dwelling including partial conversion of barn; demolition of other buildings and relinquishing use rights of site for sale, refurbishment and maintenance of vehicles, plant and machinery at Dene Lodge, Vaggs Lane, Hordle, Lymington SO41 0FP in accordance with the terms of the application, Ref 14/00542, dated 1 July 2014, subject to the conditions set out in the attached schedule.

Procedural Matter

2. After the planning application was determined there was a change in national planning policy in the form of a Written Ministerial Statement¹ and consequential amendments to the Planning Practice Guidance (PPG). These stated that affordable housing and tariff style contributions should not be sought for sites of 10 units or less.
3. Since then the High Court² has issued a declaration order confirming that this policy must not be treated as a material consideration in development management decisions. The parties were given the opportunity to comment on the implications for the appeal and the National Park Authority ('the Authority') indicated that a financial contribution would be required toward open space. A unilateral undertaking has since been submitted to secure these monies. This is in addition to an earlier unilateral undertaking which provided for the cessation of the business use on the site and mitigation for the potential adverse impact on the New Forest Special Protection Area (SPA). I shall return to this later.

¹ Dated 28 November 2014

² West Berkshire District Council and Reading Borough Council v SSCLG

Main Issue

4. The main issue in this case is whether there are grounds to justify making an exception to the national and local policies of restraint on residential development in the countryside of the New Forest National Park.

Reasons

Policy background

5. The appeal site lies within the open countryside for planning policy purposes, outside of any settlement boundary. Policy CP12 of the New Forest National Park Core Strategy and Development Management Policies Development Plan Document (2010) (CS) restricts residential development in the countryside to replacement dwellings, agricultural or forestry workers' dwellings and affordable housing for local needs. The proposal would not fall into any of these categories and it would therefore be contrary to development plan policy, the objective of which is to focus new housing towards the defined New Forest villages³ in the interests of sustainability and protecting the special qualities of the New Forest.
6. It is common ground that the proposal would conflict with Policy CP12. The dispute lies in whether there are other material considerations of sufficient weight to justify making a departure from the strict policy of restraint on residential development in the countryside of the National Park.

Cessation of existing commercial use

7. Dene Lodge sits within a large plot of land adjacent to Vaggs Lane. In addition to the dwelling itself the site contains a number of other buildings. These are used in connection with the appellants' family business⁴ which specialises in the acquisition, refurbishment and sale of vehicles, plant and machinery. The Authority has accepted that this use is lawful by granting a certificate of lawfulness under Section 191 of the Town and Country Planning Act 1990, as amended.
8. Judging from what I saw during my visit, the business is modest in scale. I noted a number of excavators parked on the hardstanding areas adjacent to the buildings, plus several items of plant displayed for sale in front of the dwelling. The boundary to the adjacent lane is open, permitting clear public views of the brightly coloured excavators and the pile of rubble which is used in their testing. In the context of its rural surroundings this looks rather incongruous.
9. The Authority does not offer a view on whether it considers the lawful use of the site to be compatible with the character and appearance of the area. However, it contends that limited weight should be given to the existing use as a fallback position. It is put to me that the use is so tightly defined that there is unlikely to be demand from new occupiers wishing to operate the same type of business. My attention is drawn to the *sui generis* nature of the use and the lack of permitted development rights; it is argued that this would enable the local planning authority to resist future proposals for change of use or new buildings.

³ Ashurst, Brockenhurst, Lyndhurst and Sway

⁴ Fletcher Plant (South Coast)

10. I am referred to examples of other businesses operated from home where these have not lasted at the site for more than one generation of ownership. The Authority believes that the commercial use on the appeal site will cease in the fullness of time. Whilst this is one potential outcome, it is not the only one.
11. For example, I cannot rule out the possibility that the existing use may continue or that the site may be acquired for the purposes of a similar business. Indeed, I note that there has been an expression of interest from a prospective purchaser to this effect. Although the local planning authority has questioned why that firm would wish to downsize from its current premises, there is no firm evidence to make me doubt the proprietor's intentions.
12. In essence, the Authority is pinning its hopes on a future owner of the site being prepared to restore the land to garden, or pursue a low key business use such as an office or studio for homeworking. Whilst this might be the preferred outcome, it cannot be guaranteed and therefore it would be wrong to place too much weight on this part of the local planning authority's case. The unilateral undertaking submitted as part of the appeal proposal would secure the permanent cessation in the business use⁵ and in my view this would be a significant benefit of granting permission, sufficient to justify making an exception to the normal policies of housing restraint in the countryside.

Sustainability of location

13. It is contended that the location of the site is unsustainable. The site is less than a mile from Hordle and New Milton which both contain a range of everyday services and facilities. These settlements are within cycling distance but I accept that occupiers of the development would be likely to undertake a significant proportion of journeys by private car, if only for convenience.
14. However, I must bear in mind that such journeys would be relatively short. I also give significant weight to the fact that the existing commercial activity will generate its own vehicle movements. Taking these factors into consideration, I do not consider that the location of the site would warrant dismissal of the appeal.

Character and appearance

15. The site occupies a countryside location backing onto open fields. The pattern of development in Vaggs Lane is sporadic with a number of dwellings scattered along its length. Dene Lodge itself is a charming cottage and its outbuildings have an appearance commensurate with this rural setting. The proposal is to demolish a number of the existing outbuildings, and to incorporate another into a new dwelling. In broad terms, the development would be half new-build and half conversion.
16. The Authority considers that the addition of a new house in what is presently a gap between Dene Lodge and The Orchard would add to the urban density of the street scene and contribute to the erosion of the rural character of the area. I noted that the existing outbuildings are recessive in the street scene. However, the same would be applicable of the appeal scheme. The new dwelling would be set back from the road and its height and overall scale would be modest. The net increase in building footprint on the site would be relatively small.

⁵ Insofar as it relates to the sale, maintenance and refurbishment of vehicles, plant and machinery

17. Overall, the effect of the proposal on the character and appearance of the area would be limited. One set of attractive buildings would be replaced by another. Factoring in the visual harm arising from the plant and machinery relating to the commercial use and the opportunity to secure new landscaping on the site, the impact on the street scene would be a positive one. The scheme would therefore respect local character and distinctiveness in accordance with the objectives of Policies DP1 and CP8 of the CS.

Conclusion and planning balance

18. Development plan policy seeks to avoid the gradual suburbanisation of the New Forest National Park in order to maintain its rural, open character. This is consistent with the statutory purposes of National Park designation, one of which is to conserve and enhance the natural beauty, wildlife and cultural heritage of the area. In my opinion the Authority is correct to be cautious in situations such as this. However, the particular circumstances of the case persuade me that, on balance, there are grounds to justify making a departure from adopted planning policy.

Other Matters

19. The submitted unilateral undertakings⁶ make provision for the cessation of the business use and financial contributions towards public open space and mitigation for the potential adverse impact on the SPA. The Development Standards Supplementary Planning Document (2012) provides justification for the financial contributions sought and I am satisfied that they are compliant with Policies CP1 and DP3 of the CS. The contributions are necessary; directly related to the development; and fairly and reasonably related in scale and kind to the development. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the National Planning Policy Framework ('the Framework').
20. I note that in its consultation response to the local planning authority Hordle Parish Council recommended a grant of planning permission. Residents have also expressed their support for the proposals. Whilst my consideration must concentrate on the planning merits, the local support for the scheme adds some weight in its favour.
21. The decision notice cites Policy DP16 of the CS. This is a permissive policy which sets out the criteria to be applied to proposals for the redevelopment of existing employment sites for industrial, office, business and low key storage uses. It is not intended to be a policy for the supply of housing and does not actively preclude residential development on established employment sites. As such, I consider that it has limited relevance to the current appeal.

Conditions

22. The Authority has indicated that it would be agreeable to the list of suggested conditions provided in the appellant's statement, in the event that I was minded to allow the appeal. I have considered these in light of advice in paragraphs 203 and 206 of the Framework and the PPG. Where necessary I have adjusted the wording to improve precision and enforceability.

⁶ Dated 30 April 2015 and 4 December 2015

23. In addition to the standard time limit condition I have attached a condition to define the plans with which the permission shall accord, for the avoidance of doubt and in the interests of proper planning. I have also imposed conditions requiring the submission of materials, architectural details and a landscaping scheme in the interests of the character and appearance of the area.
24. A condition is also required to secure details of foul and surface water drainage, to prevent pollution and flooding. For reasons of highway safety a condition is necessary to ensure adequate parking and turning within the site.
25. A further condition is suggested requiring the demolition of those buildings identified for removal on the approved plans. My assessment has been made on this basis and I agree that such a condition is both reasonable and necessary.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan and drawing nos. VAG- 01a, 02a, 03a, 04a, 05a, 06a, 07a, 08b, 09a, 12a, 13a, 14a, 15a, 16b, 17b, 18a, 19 and 20.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until plans, which shall be drawn to a scale of not less than 1:20, showing the following architectural details have been submitted to and approved in writing by the local planning authority:
 - a) Typical fenestration detail for the first floor dormers on the south-west elevation of the dwelling;
 - b) The porch and front door;
 - c) The corbel/brick detailing to the chimney; and
 - d) The gable end junctions with the roof.Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of surface water and foul drainage works have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the dwelling being first occupied.
- 6) No development shall take place until a fully detailed landscaping scheme has been submitted to and approved in writing by the local planning authority showing:
 - a) The details and written specification for the boundary treatment between the existing and proposed dwelling;
 - b) The materials of the final surfacing, including finished levels of all the hard surfaces; and
 - c) The details of the additional planting and that to be retained.
- 7) The approved landscaping scheme shall be implemented in its entirety in the first planting season (September to March) following the substantial completion of the development, unless otherwise agreed in writing by the local planning authority, maintained for a period of two years (during which any dead or dying plants shall be replaced) and thereafter retained.
- 8) The dwelling hereby permitted shall not be occupied until the vehicular access, driveway and garage have been constructed in accordance with the details shown on the approved plans. They shall be retained as such thereafter.
- 9) The demolition works shown on drawing nos VAG-12a and VAG-13a shall be carried out in their entirety and the remedial repairs to the workshop made good in all respects prior to the excavation of the foundation of the new elements of the dwelling hereby permitted.