

## Appeal Decision

Site visit made on 7 March 2016

**by Sara Morgan LLB (Hons) MA Solicitor**

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

**Decision date: 16 March, 2016**

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**Appeal Ref: APP/B9506/W/15/3138338**

**Front Paddock, Efford Park, Milford Road, Everton, Lymington, Hants SO41 0JF**

- 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 against the decision of New Forest National Park Authority (NPA).
  - The application Ref 15/00262, dated 24 March 2015, was refused by notice dated 26 May 2015.
  - The development proposed is:
    - (1) Put in concrete drive access as field waterlogged and cannot be accessed by car or even on foot when wet, hence hard surface drive very essential.
    - (2) Equipment store for site (equipment to manage horses and paddock) with solar panels on store roof.
    - (3) Small-scale wind turbine on top of existing
    - (4) Land drain (ditch) open or French drain type if need permission.
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### Decision

1. The appeal is dismissed.

### Preliminary

2. The appellant has suggested that the appeal should technically be against the failure to determine his application, as he has not been sent the formal planning application decision notice letter. However, from the information provided it appears that the New Forest National Park Authority (NPA) reached its decision on the appeal application within eight weeks from the date on which his application was validated by the NPA. The appeal has therefore been correctly treated as one against refusal of planning permission. This does not affect my consideration of the merits of the appeal.

### Main Issue

3. The main issue is the effect of the proposed developments on the character and appearance of the New Forest National Park.

### Reasons

4. The appeal site is an area of grassland immediately adjoining Milford Road, and in the countryside. It is not close to any settlement, but there are small groups of dwellings nearby on Milford Road and behind the appeal site at Efford Farm, as well as a collection of former farm buildings at Efford Park which have been converted to offices.
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5. According to the NPA the lawful use of the appeal site is for agriculture. At the time of my site visit, there was a small metal shed on the land, not far from the proposed location of the appeal building. This is said to be a temporary shed required for site fence construction, which would be removed from the site when that was completed.
6. The site lies within the New Forest National Park. The New Forest National Park Landscape Character Assessment identifies the appeal site as lying on the edge of the Sway Pasture and Residential Settlements Landscape, forming part of the landscape described as ancient forest farmland. The area is characterised by ancient field patterns surrounded by dense hedgerow networks with scattered farmsteads and roadside cottages. The appeal site and nearby development is typical of this character, albeit that the farm buildings at Efford Park are no longer in agricultural use. The appellant describes his land as being surrounded by development, but this does not convey appropriately the rural countryside character of the surrounding area, which is apparent notwithstanding the various groups of development in the vicinity.
7. National planning policy as set out in the National Planning Policy Framework (the Framework) advises in paragraph 115 that National Parks have the highest status of protection in relation to landscape and scenic beauty, and that great weight should be given to conserving landscape and scenic beauty in them.
8. Policy CP8 of the New Forest Core Strategy and Development Management Policies DPD, adopted in December 2010, provides that built development and changes of use which would individually or cumulatively erode the Park's local character or result in a gradual suburbanising effect within the National Park will not be permitted. Policies DPD1 and DP6 require development proposals to demonstrate high quality design and construction which enhances local character and distinctiveness, to be appropriate and sympathetic in terms of appearance and layout, respect landscape character and not be visually intrusive.

*The proposed building and solar panels*

9. The proposed building would be sited in an isolated position on the appeal site and not far from the boundary of the access road to Efford Park and the dwellings behind the appeal site. The appellant says it would be on industrial land, which I understand to be a reference to the building's siting under the support stay for the former electricity distribution pole on the site. But the proposed site of the building appears to be grassed as is most of the remainder of the appeal site, and the NPA says the lawful use of the land is for agriculture. There is no evidence to indicate that this is not correct, and the mere fact of the location of an electricity distribution pole on land does not make that land industrial.
10. The building would be in a conspicuous position and because it would be unrelated to any other existing built development, it would appear highly incongruous and would detract from the rural and agricultural appearance of the appeal site. This would be the case despite the relatively small size of the building. The proposed materials are blockwork or red brickwork, but the appellant has indicated that he would be open to consider whatever materials the NPA preferred. However, whatever the materials used the building, because of its location, would appear out of place. Its incongruous appearance would be exacerbated by the solar panels proposed to be attached to its roof.

11. Policy DP20 of the Core Strategy indicates that permission will be granted for buildings required for agriculture or forestry purposes, where there is a functional need for the building, it is designed for the purposes of agriculture or forestry, and it is related physically and functionally to existing buildings associated with the business. There is no evidence here that there is an agricultural business on the land, or that there is any functional need for the building for agricultural purposes.
12. The building is described on the submitted drawing as “for tack room feed/equipment store”. The appellant says that a permanent building for tack room and equipment store for land management and forestry (Willow tree growing) is essential, and has referred to the need for security to avoid items being stolen. He also refers to horse keeping. But there is little detail of exactly what activity on the land the building is required for. However, even if there were an agricultural or forestry justification for a building on the appeal site, the proposed building would be in an isolated position towards the middle of the appeal site and not well related to any other buildings in the vicinity. Consequently, the building would conflict with policy DP20.
13. Core Strategy policy DP22 provides for permission to be granted for field shelters and stables subject to certain criteria being satisfied. This building is not a field shelter or stable, and even if it was proposed to house animals, because of its insensitive location and the proposed solar panels on the roof it would not satisfy the criteria of that policy, particularly the one requiring the building to be sensitively sited to be unobtrusive in the landscape.
14. The appellant has said that if planning permission is granted for the building, he would remove the metal shed. But the proposed building would be larger than the metal shed, and however carefully chosen the materials of the building, it would for this reason be more harmful to the character and appearance of this part of the New Forest than the shed. The removal of the metal shed would not, therefore, outweigh the harm that would be caused by the building.
15. The appellant has also said that he has asked the NPA where he could site the building, if the siting proposed in this application was not acceptable. This is a matter which he would need to pursue with the NPA. The proposal I am considering is for a permanent building, and I have to consider it on the basis of the location shown in the application.
16. The appellant has referred to large sheds that have been constructed in gardens, solar panels on nearby dwellings and extensions to other properties in the area. However different rules apply as to what development might be allowed in domestic properties, and in addition there are permitted development rights to construct extensions and buildings within the curtilages of dwellings. The appeal site, on the other hand, is an area of open pasture where buildings would appear out of place. There is no comparison between the two situations.

*The proposed hard standing*

17. The proposed hardstanding would be located at the far side of the land from Milford Road, and not far from the dwellings near the back of the site. The submitted drawings show that it would be constructed of 200 millimetres of

hard-core with 100 millimetres of concrete on top, and the NPA calculate that it would have an area of approximately 90 square metres.

18. Even though this area of hardstanding would be not far from the hardstanding and access roads serving the nearby dwellings, it would not be functionally related to those dwellings. It would not lead to the proposed building as the area of concrete would finish some distance from the building, and it would appear visually unrelated to any existing development in the area. For this reason, and because of its extent it would appear out of place and would detract significantly from the existing rural and agricultural character and appearance of the appeal site, even if it were given a gravel surface as suggested by the appellant.
19. The hard standing would not enhance local character and distinctiveness, and would not be appropriate and sympathetic in terms of its scale, form, siting and layout, to its rural location. It would erode the local character of the appeal site and have a gradual suburbanising effect, which would be harmful to the landscape and scenic beauty of the National Park. This harm would be exacerbated if, as seems likely, the hard standing was used for parking vehicles. Consequently it would conflict with policies DP1 and CP8 of the Core Strategy.
20. The appellant says that the driveway needs to be constructed from concrete because of the wet ground conditions on the site. He says that the concrete access needs to be wide enough for a medium-size van to enter and turn on the concrete surface. He has said that he wants a hard surface so that he can access his paddock all the year round, and that if horses are to be transported to the site they need to be in a horse box which needs a hard surface.
21. However, the appeal site is not a large area of land, and it does not have express planning permission for any use other than agriculture or forestry. The appellant has given no other details of his proposals for the land, which does not have planning permission for equestrian uses, albeit that it could be used for grazing for horses without planning permission. I am not satisfied that the current permitted uses of the land would justify the harm that the driveway would cause.
22. The appellant says that he offered to reduce the area in size if required, but has given no more detail. In any event, I have to deal with the proposal before me. That is a proposal for hard standing as shown on the submitted drawings. My conclusion is that the hard standing, as shown on those drawings, should not be permitted because of the harm it would cause.
23. The appellant has pointed to the granting of permission by New Forest District Council for an extension to a car park in connection with the office use at Efford Park, close to the appeal site. I was able to see this development on my site visit, which is clearly visually related to the buildings which have been converted to office use. It appears that there was already a car park, and that this approval related to the extension.
24. The officer report relating to the approval of this development indicates that the need for parking was regarded as an accepted side effect of permitting the office use, and that the extension to the car park would not cause an unacceptable intrusion on the landscape. This permission appears to have been granted a number of years ago, before the adoption of the current Core

Strategy and the Framework. Given the different circumstances relating to this car park, it does not create a precedent for granting planning permission for the hard standing on this site.

25. The appellant has also referred to the bin store close to the Efford Park car park extension, and to a concrete slab put on his boundary by Spectrum Housing Group. But no information has been provided about the circumstances in which these developments were carried out, and it does not persuade me that permission should be granted for the hard standing proposed here, given the harm that it would cause.

*The proposed land drain*

26. The proposed land drain is described in the application as an open or French land drain. On the submitted drawing it is described as open or closed ditch style. The drawing shows the drain being "filled with graded hard-core or as advised to do so by Building Control". It would run from the hardstanding at the northern side of the site down to the boundary of the site with Milford Road, and is shown on the approved drawing as being one metre wide. The appellant has said that he would prefer the drain to be open as it is easier to keep maintained, but that it could be a French drain. He has questioned whether planning permission would be needed for the land drain, but the correct procedure for determining whether planning permission would be required is to make an application for a lawful development certificate. I can only deal with the proposal before me.
27. An open drain on the land, which the submitted drawing shows would be filled with graded hard-core, would create a noticeable scar across the appeal site for a significant distance. It would not be consistent with the pasture-like character of this part of the New Forest, would not enhance local character and distinctiveness, and would add to the suburbanising effect of the other development proposed by the appellant, and so conflict with relevant policies of the Core Strategy.
28. Although the submitted drawing only shows what appears to be an open drain, the drawing indicates that the drain can be open or closed ditch style, and the application suggests either an open or French drain type. There are no other details of what the French drain might comprise, or the width and depth of the proposed trench. In the absence of any such details, I cannot be satisfied that a French drain would not have a similarly harmful effect on the character and appearance of this part of the New Forest as an open drain.
29. It appears from the representations that wet ground conditions are not uncommon in the New Forest area, because of the clay sub-soils. There is no convincing evidence that the installation of the drain on the land is necessary to allow this relatively small area of land to be used for its lawful use, and there is no information to suggest a need for the drain that would outweigh the harm that its installation would cause.
30. The appellant says that in 2011 a new French drain was installed immediately next to his boundary without planning consent. Apart from this reference, I have no information about the nature or extent of works carried out or whether they would have required planning permission. This does not therefore indicate that planning permission should be granted for the land drain in this case.

### *The wind turbine*

31. The proposed wind turbine would be attached to an existing 10 metre high disused electricity distribution pole, formerly used to carry electricity power lines, which is already on the appeal site. It would be a vertical generator, and therefore would be far more compact in its appearance than a conventional horizontal generator. Nonetheless, its dimensions, as shown in the submitted details, would make it large enough to be conspicuous, despite its compact design. From most directions, the wind turbine would not be hidden by the electricity distribution pole.
32. There are already overhead wires with support poles in the vicinity of the appeal site. These are not particularly attractive, but they are not an uncommon feature even in the National Park. The wind turbine proposed, however, would be an unusual addition. It would be highly visible at the top of the wooden pole and would appear as an incongruous and suburbanising influence. It would contribute towards the erosion of the existing rural character of this part of the National Park.
33. The appellant says that if he is not permitted to have the wind turbine, he would have to ask the local power company to place two more power line poles and overhead wires to get power to his site. But, as indicated above, overhead power lines are not unusual in the area, and even if this were to happen I am not satisfied that it would be unduly harmful.
34. Clearly, the use of solar panels and a wind turbine to provide energy would be a cleaner and more sustainable option than the supply of electricity through the National Grid. However, although there would be advantages for the appellant in being able to charge up tools such as electric trimmers and hedge cutters on site there is no explanation as to why a relatively small field down to grass requires a power supply of the sort proposed. There is no indication of any business being carried on at the appeal site. In any event, I am not satisfied that the benefits of green energy would outweigh the harm to the character and appearance of the National Park that would be caused by the proposal.

### *Other matters*

35. The appellant has said that his property will eventually be screened off with hedging so that any visual impact would not be seen, and that he has offered to plant hedging to hide the building. I noted on my site visit that some shrub planting had been carried out along the length of the metal fence which appeared to have been recently erected round the site, albeit that this planting is still very small at the moment. On the other hand, it appeared that the height of the hedge at the front of the site had recently been reduced, giving better views into the site from the road.
36. But in any event, in a landscape such as the New Forest National Park, which has such a high level of protection in both national and local policy, it is not enough to say that harmful development would be acceptable if hidden from view. The development proposed would lead to a permanent and harmful change in the character of the appeal site, regardless of whether the change in appearance of the appeal site would eventually be hidden by planting, which can itself come and go over time.

37. The appellant says that he is disabled and cannot drive, and cannot carry the equipment needed to manage his land to the site, due to his disability. However, it is not clear what equipment would be needed to manage what is a relatively small area of grassland the permitted use of which is agriculture and forestry, and what exactly the appellant intends to do with the land. Nor has the appellant explained satisfactorily why such a large building and area of hard standing in the locations proposed are necessary. Having regard to the aims of the public sector equality duty, I am not satisfied that his needs as a disabled person outweigh the harm that would be caused by the development proposed, so as to justify granting planning permission for this development.
38. The appellant has referred to various other developments in the area, but I do not have any details of the circumstances of those cases or the planning policy background to them. I cannot, therefore, assess whether they have any similarities to the appeal proposals, and they do not persuade me that planning permission should be granted in this case.

### **Overall conclusions**

39. I conclude that all the elements of the development proposed would have an unacceptably harmful effect individually and cumulatively on the character and appearance of this part of the New Forest. They would therefore conflict with relevant policies of the Core Strategy, as well as with advice in the Framework.
40. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Sara Morgan*

INSPECTOR