
Appeal Decision

Site visit made on 16 May 2016

by Zoe Raygen DipURP MRTPI

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

Decision date: 17th June 2016

Appeal Ref: APP/B9506/W/15/3139683

Land adj Ganders, Goose Green, Lyndhurst, Hampshire SO43 7DH.

- 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 Alan Harrison against the decision of New Forest National Park Authority.
 - The application Ref 15/00634, dated 11 August 2015, was refused by notice dated 22 October 2015.
 - The development proposed is to subdivide garden and build new dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Alan Harrison against New Forest National Park Authority. This application is the subject of a separate Decision.

Procedural matter

3. The appellant has submitted a signed Unilateral Undertaking in respect of contributions towards affordable housing; transport infrastructure; off site open space infrastructure and the Special Protection Area. I return to this matter below.

Main Issue

4. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Lyndhurst Conservation Area.

Reasons

5. The Conservation Area designation covers a large part of the settlement of Lyndhurst centring on the historic core and extending to include surrounding nineteenth and twentieth century residential development. The Conservation Area also includes a number of key open spaces which have various functions.
 6. The site is located within the Goose Green character area of the Conservation Area which highlights the importance of the Goose Green open space and the significant belts of mature trees and substantial boundary hedgerows are considered to be a particularly important feature on the eastern side of the A337 and also to the northern boundary of the green, providing a green
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- backdrop to the open space creating a transition between the open countryside to the south and the urbanised centre of Lyndhurst to the north.
7. The appeal site lies immediately to the north of Goose Green and has a substantial planting belt, containing large trees, wrapping around its south and west boundary that contributes significantly to the verdant rural character and appearance of the area.
 8. I note that the arboricultural report recommends removing and cutting back shrubs within the site to allow light, air and amenity space within the new plot. No trees would need to be removed to allow the construction of the new dwelling. As a result the Council's tree officer has raised no objections to the proposal. Nevertheless, I saw on site that, due to its orientation, the majority of the site would be in shade from the large, tall trees on the boundary for much of the time. Most of the trees on the site, which would be in the garden of the new dwelling, have been assessed as being early mature and in a fair condition indicating that they would be capable of further growth. The majority of the trees would be sited to the south and south west of the proposed house. It is likely, therefore, given the trees' proximity to the house that some shading would occur both of the garden area and the house. As the main areas of glazing would be on the south and west elevations it is probable that when the trees are in full leaf such shading would be severe.
 9. The future occupiers would be aware of the proximity of the trees and that they are protected under Conservation Area legislation when purchasing the property. However, it is not unreasonable to assume that dissatisfaction with shade, falling leaves and debris could well grow with experience. If the development were to be allowed therefore, there would be a significant risk of that leading to pressure for substantial reduction or complete felling of some of the trees which could be difficult for a reasonable local planning authority to resist. As a consequence the site would become more urbanized and the green back drop to Goose Green would be lost which would be severely harmful to the character and appearance of the Conservation Area.
 10. The house would be sited outside of the root protection zones of the majority of the existing trees on site. However I note that the access and turning area would require excavation within the root protection zones of trees T2, T3 and T5. Furthermore trees T1g and T2 would require pruning to allow machinery and vehicles to access the site. While not particularly determinative in themselves, these issues reinforce my view that the proposal would place increased pressure upon and conflict with the existing verdant planting belt around the south and west of the site.
 11. The appellant has submitted illustrative Drawing No 1 to demonstrate his intention to strengthen the existing boundary treatment planting. However this would take some time to establish and would not therefore compensate for any loss or reduction of trees.
 12. The existing view from the south and Goose Green is towards the end elevation of Ganders a two storey detached house. Instead, due to the siting of the proposal in the north east corner of the site, the view would be towards the front elevation of a two storey house. It would be visible through the existing access and, during the winter months, would be glimpsed through the tree screen around the boundary.

13. The new house would be of a design that reflects those in the surrounding area. The proposed stepped roof line, front gable, Flemish bonded brick work, with traditional arched head details to openings and tiled corbelling to gables would display an attention to detail which would match those on nearby properties. As a result although the new property would be closer to the road and Goose Green, and more visible than Ganders, its design means that it would integrate satisfactorily into the street scene. Furthermore the dense tree screen on the majority of the boundary means that the house would not be particularly dominant in views from Goose Green.
14. Whilst I have found the scheme to be acceptable in some respects, I conclude that the potential loss or severe reduction of trees would fail to preserve or enhance the character or appearance of the Lyndhurst Conservation Area contrary to Policy CP8 of the New Forest National Park Local Development Framework Core Strategy and Development Management Policies DPD 2010 which requires that built development and changes of use do not individually or cumulatively erode the Park's local character.

Other matters

15. The harm that I have found to the character and appearance of the Conservation Area would be less than substantial. In accordance with Paragraph 134 of the National Planning Policy Framework therefore this harm should be weighed against any public benefits of the proposal.
16. Although small, the provision of one dwelling on a serviceable plot in a sustainable location can be considered a public benefit that can be afforded limited weight. The National Planning Policy Framework notes that heritage assets are an irreplaceable resource and that great weight should be given to their conservation. The harm to the Conservation Area would therefore significantly and demonstrably outweigh the benefit of the additional housing.
17. The appeal site is within the New Forest National Park. The two purposes of the National Parks are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, and to promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public. As I have found that the proposal would fail to preserve or enhance the character or appearance of the Conservation Area then it follows that the proposal would fail to conserve and enhance the natural beauty of the National Park.
18. Following a recent decision of the Court of Appeal¹ the Planning Practice Guidance (the PPG) has been amended and it states that affordable housing and social infrastructure contributions should not be sought from developments of less than 10 dwellings.
19. As a result both parties concur that the only contribution that would now be required would be towards the Special Protection Area in accordance with Paragraph 020 of the PPG. Had I not been dismissing the appeal on other reasons then a revised Unilateral Undertaking could have been submitted. As I am dismissing the appeal on other matters I have not pursued the matter further.

¹Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

Conclusion

20. For the reasons set out above, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR