
Appeal Decision

Site visit made on 10 May 2016

by R J Jackson BA MPhil DMS MRTPI MCI

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

Decision date: 15 June 2016

Appeal Ref: APP/B9506/W/16/3143828

Manor Farm Cottage, off Forest Road, Burley, Ringwood, Hampshire BH24 4DQ

- 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 Trevor Adams against the decision of New Forest National Park Authority.
 - The application Ref 15/00727, dated 11 September 2015, was refused by notice dated 7 December 2015.
 - The development proposed is country house replacing agricultural buildings and creation of park (but retaining agricultural use).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A completed Planning Obligation under Section 106 of the Town and Country Planning Act, 1990 (as amended) dated 1 April 2016 was submitted as part of the appeal documentation. This provides for contributions towards affordable housing, mitigation of the effects of the development on the New Forest Special Protection Area (NFSPA), public open space and off-site transport. I will discuss the implications of this later in this decision.
3. Following the decision of the Court of Appeal in the case of Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council¹ the parties were asked for their views as to how this judgement affected the case. The Authority indicated that it would not be seeking contributions towards affordable housing, off-site transport or public open space, but it would still be seeking contributions towards the mitigation of the effects of the development on the SPA.
4. A local resident has written in at the appeal stage to advise that they have purchased part of the appeal site since the application was made. This is not a planning consideration in itself, other than in respect of the Planning Obligation, and their interests are not prejudiced through the determination of the appeal.

¹ [2016] EWCA Civ 441

Main Issues

5. The main issues are:

- whether there is adequate justification for the proposed dwelling in the light of development plan policies which seek to restrict residential development in the countryside in a National Park, having regard to the guidance in paragraph 55 of the National Planning Policy Framework (the Framework);
- whether the proposal would preserve or enhance the character or appearance of the Burley Conservation Area; and
- whether contributions are necessary towards affordable housing, infrastructure or mitigation for the effect of the proposals on nature conservation in respect of the NFSPA.

Reasons

6. The appeal site lies in an area of open countryside outside the settlement of Burley. It is an extensive area of approximately 32ha crossed by a number of private ways. The site is longer east/west than north/south, although the boundaries vary. In the middle of the southern portion of the site there are currently a group of agricultural buildings. I have called the area where the buildings are located "the buildings site". Some of the agricultural buildings are in good condition and are being used while others are dilapidated. To the south of this area is a block of existing woodland which wraps on two sides of the buildings area.
7. The vast majority of the remainder of the site is laid to grass and this is clearly maintained. The area of the buildings is approached by two ways, one from the southwest to join up with the highway network at a cul-de-sac known as Long Mead. I will call this approach "the Long Mead approach". The other from the northeast divides, continuing to join Forest Lane, or to join Chapel Lane. I will call the joint section "the northeast approach", and the two spurs "the Forest Lane approach" and "the Chapel Lane approach" respectively.
8. The land form is not flat with the landscape gently undulating across the site. There is a small ridge to the west of the buildings site and the land drops down to the junction of the Forest Lane and Chapel Lane approaches. It then rises to the north and east, with a small ridge close to Chapel Lane preventing views of the buildings site from Chapel Lane itself. However, it is possible to glimpse the buildings on site from various locations around the perimeter roads.
9. The overall site is surrounded by a number of dwellings which are generally in close proximity to the perimeter roads although there is a new dwelling within the appeal site, which I understand was constructed as a replacement dwelling. Outside the appeal site to the south is the Burley Manor Hotel which was converted from a country house in the 1930s.

Whether appropriate justification under paragraph 55

10. The development plan for the area includes the New Forest National Park Local Development Framework Core Strategy and Development Management Policies DPD 2010 (CSDMP). This indicates in Policy CP12 that new residential development will be permitted in limited set of circumstances none of which

are applicable to this case. This is in general accordance with paragraph 55 of the Framework which indicates that isolated new dwellings should be avoided in the countryside unless there are special circumstances.

11. The main parties have made various comments as to whether the appeal site is isolated, but looking at the siting of the proposed dwelling (as opposed to the site) it would be well separated from another other building, the closest being Burley Manor Hotel and there is an intervening block of woodland between the two preventing intervisibility. Consequently, I consider that the location of the proposed dwelling is isolated.
12. The proposal is being promoted as a special circumstance in line with the last bullet point of paragraph 55 of the Framework. This states that permission may be granted for a new isolated house in the countryside where it is of "exceptional quality or innovative nature of the design of the dwelling". The bullet point then indicates that such a design should:
 - "- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area."
13. The proposal is for a Classical style dwelling constructed over three storeys. The design derives from one granted planning permission under the same provisions in Staffordshire but this was not implemented due to the death of the landowner. The design has been amended in that the dormer windows previously included have been removed, there is no staff accommodation, and the entrances under the building have been amended.
14. The building would be built on north/south/east/west axes with all four elevations being the same and featuring a portico. The entrance would be at ground floor within the building which would provide parking and some ancillary accommodation. Living accommodation would be on the first floor and bedrooms and en-suite bathrooms above that.
15. There is nothing in the Framework which restricts the style of a property which may be permitted under the provisions of paragraph 55; the underlying style could be Classical, contemporary or something else. As paragraph 60 of the Framework makes clear planning decisions should not attempt to impose architectural styles. It does indicate, however, it is proper to seek to promote or reinforce local distinctiveness.
16. While not in any way decrying the design of the building, I consider that the elevational treatment cannot be described as either truly outstanding or innovative. Classical buildings have been constructed in many places both in this country and abroad for many centuries. Part of the tradition of Classical buildings has been the way that they have been incorporated in many different and varied landscapes successfully.
17. The Design and Access Statement submitted with the application seems to accept that the elevational treatment is not truly outstanding or innovative with

the comment “so far, so traditional”². However, the Statement makes reference to the differences from what would be expected in a more traditional Classical building in plan form and other design features.

18. It seems to me that locating the kitchen on the same floor as the main living accommodation and the provision of bathrooms designed into a building, rather than having to be ‘retro-fitted’ into an existing building form, are only matters that any properly considered design would deliver taking into account what would be expected for current day living. These are an evolution in design rather than an innovation. Providing a lift within a building is also not new, particularly if the building would be made accessible to all sections of the community.
19. The collection of grey water through a moat (although there is a lack of detail as to how this is to be constructed to ensure that the building fits into a rising landscape) would seem unusual, but the collection and use of grey water itself is not innovative. Securing the parking within the building and the use of the ground floor rooms for a garden room and swimming pool are not innovative in a different style building. What is unusual is putting them into a Classical style building.
20. The proposed constructional features of electricity generation through ‘smart’ glass in the skylight, potential roofing material and solar water heating are again not innovative in themselves; what is different is their incorporation into a Classical style building. Similarly, the use of a steel frame for a building is not unusual; it is the incorporation into a Classical style building that is unusual.
21. Overall, it seems that this is a well considered design which incorporates a number of different contemporary elements into a Classical style building form suited for modern day living. However, it does not meet the criteria set out in paragraph 55 of the Framework so that it would be not truly considered outstanding or innovative in that the individual elements have all been well used elsewhere.
22. The current building site is unremarkable in that it consists of a collection of agricultural buildings in a rural landscape. This is repeated in many farmyards around the country. The removal of these buildings, albeit retaining one small building, and their replacement with a Classical building, would have a limited beneficial effect on the landscape. However, this would not represent a reason for granting planning permission as it could be repeated frequently leading to a proliferation of houses in the countryside detrimental to the wider character of the countryside.
23. While many comments have concentrated on the building, the proposal is not just a design of a building but also of the landscape within it would sit.
24. The proposed site plan shows the planting of a number of blocks of new native planting at various locations around the site. In general terms looking at the way they have been arranged they would allow vistas to and from the north and east elevations of the building and create a smaller (although physically quite large) enclosed area to the west. Views to and from the south are blocked by the existing area of woodland.

² Paragraph 3.8

25. Local residents and other interested parties consider that this new planting would hide the building and in one sense it would in that the locations of the blocks of planting would mean that views towards the building site from existing dwellings around the perimeter of the appeal site would be prevented. It seems to me that the planting locations have been carefully considered from the perspective of providing a setting for the new building. The planting, when mature, would also allow only intermittent views of the building upon the Long Mead and Chapel Lane approaches.
26. The Authority has criticised the design for not responding to the landscape and provided an extract from a Landscape Character Assessment where the wider area including the appeal site is described as "Southern Heathland and Forest". Looking at the component landscape types within this area, and even allowing for the small scale of the drawing, it would appear that the site lies within an area of Ancient Forest Farmlands rather than the Historic Parkland associated with the Burley Manor Hotel, although the site of the building itself would appear to be within the area of Historic Parkland.
27. It seems that the appeal proposals are seeking to deliver a new parkland landscape similar to those associated with grand houses akin to the formal parks of the past created by people such as Lancelot (Capability) Brown and Repton. In the context of the New Forest National Park it is my view that this would not be an enhancement to the landscape since it would seek to impose a new 'formal' structure in the sense of Brown and Repton who sought to create a formal Parkland based on perceived informality.
28. The extension of the Parkland would not be in keeping with the wider defining characteristic of this part of the New Forest National Park. As a National Park there is an overarching requirement to conserve and enhance natural beauty, wildlife and cultural heritage and promoting opportunities for the understanding and enjoyment of the special qualities of the area by the public. In addition, in line with paragraph 115 of the Framework, great weight should be given to conserving landscape and scenic beauty.
29. While I would accept that no landscape in England is 'natural' having been derived from the influences of man and animals, the introduction of a Parkland into this landscape would detract from the existing character of the Ancient Forest Farmlands.
30. Overall, I consider that the building is not truly outstanding or innovative which would not significantly enhance its immediate setting nor be sensitive to the defining characteristic of the local area. As such it would not represent a design that falls within the last bullet point of paragraph 55 of the Framework.
31. As such it would be contrary to Policies CP8 and CP12 of the CSDMP in that it would erode the Park's local character and represent a new dwelling in the open countryside. It would also be contrary to paragraphs 55 and 115 of the Framework as set out above.

Burley Conservation Area

32. Under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Listed Buildings Act) special attention shall be paid to the desirability of preserving the character or appearance of the Conservation Area.

33. The site lies within the Burley Conservation Area (BCA). I have been provided with a plan which sets out the separate character areas within the wider BCA but I have not been provided with any explanation as to how they were derived. Consequently I can give this document only limited weight. The appeal site falls into two separate character areas; the eastern part of the site, including the buildings site, within Burley Manor and Park and the western within Dispersed settlement and agricultural land.
34. Burley is a historic forest village with a strong local vernacular characterised by cottages and farmsteads surrounded by small fields and paddocks. From what I understand and saw there is a single large building, Burley Manor Hotel, in reproduction Gothic style, which contrasts with that vernacular. The introduction of a parkland and large dwelling in Classical style would be out of keeping with the existing character and appearance of development in the area. However, in terms of the Framework this would represent less than substantial harm.
35. As paragraph 134 of the Framework makes clear this harm should be weighed against the public benefits of the proposal. This would be the loss of the existing buildings which currently have a limited detrimental effect on the character of the area. This benefit is not sufficient to outweigh the harm I have identified.
36. The proposal would therefore would not preserve or enhance the character or appearance of the BCA. It would therefore be contrary to Policy CP7 of the CSDMP in that would be not protect or maintain a designated landscape. It would also be contrary to paragraph 131 of the Framework in that it would not sustain and enhance the significance of the BCA as a heritage asset.

Affordable housing, infrastructure and SPA mitigation

37. Regulation 122 of the Community Infrastructure Levy Regulations (CIL Regulations) states a planning obligation may only constitute a reason for granting planning permission if the obligation passes three requirements. This is reiterated in paragraph 204 of the Framework. These requirements are that the obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development.
38. The Planning Obligation dated 1 April 2016 provides for financial contributions towards affordable housing, mitigation for the effects of development on the New Forest Special Protection Area (NFSPA) and off-site transportation. As the Obligation requires financial sums to be paid to the Authority that a third party owns part of the appeal site would not prevent the sums being paid. I am therefore satisfied that the Obligation would be deliverable.
39. The Obligation set certain sums for these contributions but concludes with the phrase "or such other sum or sums as may be directed by the inspector in determining the Appeal". It is not the role of a Planning Inspector to amend the precise sums as this would affect the nature of the Planning Obligation from the appellant to the Authority. It is however appropriate to determine whether any particular sum is required meeting the requirements of Regulation 122 of the CIL Regulations.

40. The Written Ministerial Statement of 28 November 2014, which was confirmed in the Court of Appeal judgement referred to earlier in this decision, makes clear that in designated rural areas including National Parks there is a threshold of five dwellings below which affordable housing and tariff style contributions should not be sought. This is reiterated in the Planning Obligations section of the national Planning Practice Guidance (the PPG). However, the PPG also makes clear³ contributions can be sought with the purpose of facilitating development that would otherwise be unable to proceed because of EU Directive requirements.
41. The site lies within 400m of the NFSPA. Under the Habitats Directive and the Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitats Regulations) planning permission is to be refused where development would be likely to have significant adverse effects on a European Site such as the SPA. CSDMP Policy CP1 requires that new housing within 400m of the SPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects on the ecological integrity of the SPA.
42. A third party has objected to the development on the basis that it considers that, in the light of research and parallels with the Thames Basin Heaths Special Protection Area, no additional residential development should be permitted within 400m of the SPA. However, each Special Protection Area is designated for its own reasons and direct comparisons should rarely be made between one Special Protection Area and another. I note that Natural England has not objected to the scheme subject to an appropriate mitigation package being in place and as the Government's advisor on nature conservation matters I am able to place considerable weight on its advice.
43. Pursuant to this the Authority has set a charge in its Development Standards SPD (the SPD) of measures to be put in place to avoid or mitigate any adverse effects on the SPA. I consider that such measures are necessary to ensure that the development does not adversely affect the SPA and this is a requirement of an EU Directive.
44. However, in light of the Written Ministerial Statement and the advice in the PPG and the withdrawal of the request by the Authority that contributions be made towards affordable housing, public open space and off-site transport I consider that those parts of the Planning Obligation are not necessary and I am therefore giving those parts of the Obligation no weight in my decision.

Other matters

45. Local residents are concerned about the amount of traffic that the proposal would generate and the effect on the local highway network. However, I note that there is no objection from the Highway Authority which I would have expected had it had concerns about the proposal. Given that the proposal is for a single dwelling, albeit a large one, and the lack of evidence that there are specific issues to address, I am satisfied that the proposal would not give rise to severe residual effects on the network. This is the level of concern that must occur if development is to be prevented on highway grounds in line with paragraph 32 of the Framework.

³ Reference ID: 23b-020-20160519

Conclusion

46. For the reasons given above, and taking into account all other representations received, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR