
Appeal Decision

Site visit made on 23 May 2017

by **R J Marshall LLB DipTP MRTPI**

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

Decision date: 8 June 2017

Appeal Ref: APP/B9506/W/17/3167885

Green Acre, 31 Wellands Road, Lyndhurst SO43 7AB

- 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 Sturney against the decision of New Forest National Park Authority.
 - The application Ref 16/00702, dated 11 August 2016, was refused by notice dated 3 October 2016.
 - The development proposed is new dwelling; demolition of barn.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are: **first**, whether the proposed development would be a non-designated heritage asset (NDHA) on which harm would be caused; **second**, its effect on the character and appearance of the area including the adjoining Lyndhurst Conservation Area and the setting of the grade 2 listed Our Lady's Church; **third**, its effect on the living conditions of adjoining occupiers with special reference to visual impact and privacy; and **fourth**, its effect on matters of nature conservation importance.

Reasons

Whether harm would be caused to a NDHA

3. The proposed house would be erected in the rear garden of No. 31 Wellands Road which lies within the built up area of Lyndhurst. It would be on the site of an existing outbuilding/barn which would need to be demolished to make way for the new house. The Council contends that the outbuilding/barn is a NDHA which should be retained. The National Planning Policy Framework (the Framework) identifies any heritage asset as being "A building... identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest". Factors that may be taken into account in assessing the heritage interest in a building include matters of architectural, historic, artistic and/or archaeological interest.
4. The outbuilding/barn is of timber frame construction. The walls are partially timber boarding but substantial areas of walling are of corrugated metal sheets. The entire external roof covering is of corrugated metal sheeting. The building is of no artistic or archaeological interest.

5. However, it is said, by evidence that has not been contradicted, to appear on the 1897 Ordnance Survey Map for the area which would make it of around the same age as the terrace of properties of which No. 31 forms a part. What I saw supports such a view. Thus the building would be connected with the development of this part of Lyndhurst at the turn of the 19th/20th Centuries. It has, therefore, some historic interest sufficient for it to have a modest degree of significance in historical terms. Some added significance arises from the fact that it is also reflective of traditional buildings of this kind found in the New Forest. It is, therefore, appropriate to regard it as a NDHA. As the proposal involves the demolition of the building the harm to the NDHA can only be regarded as substantial.
6. It is concluded that the building to be demolished is a NHDA of modest significance on which substantial harm would be caused. There would be conflict with Policy CP7 of the New Forest National Park Core Strategy and Development Management Policies (CS) which seeks to protect local vernacular.

Effect on the character and appearance of the area including the adjoining Conservation Area and the setting of the Listed Building

7. The appeal site lies close to Lyndhurst town centre. It fronts onto Wellands Road which is directly to the north of the town centre and runs parallel with the High Street. Although much of this area lies within the Lyndhurst Conservation Area the northern side of Wellands Road, in which the appeal site lies, is outside it. However, it has a generally attractive and varied mix of housing ranging from some quite pleasing modern infill development and some Victorian/Edwardian semi-detached houses and terraces. Gaps between houses are varied and this is more pronounced to the south of the road. No. 31 Wellands Road, behind which the appeal site lies, is an attractive end terraced property.
8. With one exception, tandem development at 15 Welland Road well removed from the appeal site, houses on the northern side of this road front directly onto the highway. A pleasing aspect of the area in general on this side of the road is the view between properties to relatively long gardens and vegetation/trees at the rear. There is a fairly sizeable gap between No. 31 and the adjoining dwelling to the west. Pleasing views through this gap can be obtained down the rear garden to trees beyond on the Conservation Area boundary. Seen above the trees is the attractive church spire of the grade 2 listed Our Lady's Church. In the foreground of this view is the barn/building to be demolished. Whether the boundary trees grow, or allowed to grow, to obscure views of the church spire is purely speculative.
9. Despite its poor condition this building has a certain rustic charm. It sits reasonably unobtrusively in its setting not least because the materials of dark wood and rusted corrugating sheeting enable it to blend in with its wooded backdrop especially seen at a distance from the roadside. From this, the predominant viewpoint in the public domain, it adds, albeit marginally, to the character and appearance of the area. It is also quite clearly by design, materials and size subsidiary to the main house
10. By contrast the proposed building would be taller overall and to eaves height. As such, and being a dwelling, it would appear an intrusive and incongruous backland development. Added harm would be caused by its rather bland

appearance especially of the side elevation that would be seen from the highway. As such it would detract from the character and appearance of the surrounding area generally. Moreover, by being seen in areas forward of the Conservation Area, and of Our Lady's Church, a building of this more substantial and bland appearance would harm views into the Conservation Area and be detrimental to the setting of the Listed Building. I do not share the Council's concern on the proposed frontage car parking given existing such parking in the area. However, lack of harm in this respect does not make the proposal acceptable on this issue given the harm previously identified.

11. It is concluded that there would be harm to the character and appearance of the surrounding area including the adjoining Lyndhurst Conservation Area and harm also to the setting of the Listed Building. The Conservation Area and Listed Building are both Designated Heritage Assets (DHA). The degree of harm caused to them would be less than substantial in the terms of the Planning Policy Guidance (PPG) on Conserving and enhancing the historic environment. However, the bar to be reached for such harm is such that it may not arise in many cases. The harm that would be caused, though, would result in a failure to meet the statutory duty to preserve or enhance the character or appearance of the Conservation Area and to preserve the setting of Our Lady's Church. There would be conflict with CS Policies DP1 and CP8 which seek to ensure that new development is appropriate in appearance and siting and would not erode local character.

Living conditions of adjoining residents

12. The proposed house would be hard up against the rear garden boundary with No. 29 Wellands Road to the west of the site. As such, and with its greater ridge and eaves height it would seem overly intrusive seen from the garden of this neighbouring property. It would also be sufficiently close to the rear garden boundary of No. 33 Wellands Road to the east of the site to appear overly intrusive when seen from the garden of this property. As windows on the west elevation of the proposed house are small and could be obscure glazed no harm would be caused to the occupants at No. 29 through loss of privacy or perceived loss of privacy. However, first floor bedroom windows would look directly onto the rear garden of No. 33, over some small outbuildings, to the detriment of the privacy of occupants of this house. The overlooking would be more direct than that which occurs from rear windows of other houses in the terrace.
13. It is concluded that the proposed development would harm the living conditions of adjoining occupiers with special reference to visual impact and privacy. It would conflict with CS Policy DP1 which seeks to protect residential amenities from visual intrusion and overlooking.

Matters of nature conservation importance

14. The appeal site is within 400 m of the New Forest Special Protection Area (SPA). This area was designated because of its population of 4 heathland species of bird. Detailed research by Natural England has shown that increased populations within close proximity to such sites can have significant adverse impacts on wildlife. Taking this into account CS Policy CP1 says that any new housing located within 400 m of the boundary of the SPA will be required to show that adequate measures are put in place to avoid or mitigate any potential adverse effects on the ecological integrity of the SPA. In this case the

appellant has not indicated any avoidance or mitigation measures. It is claimed that this they are not required as this is just a single house. However, this does not have regard to the fact that Policy CP1, in line with the Habitats Regulations, makes it clear that it is the impact of development not just individually but also in combination with other plans and projects that needs to be taken into account. The site is well within a developed area. However, it is commonly accepted that it is the increased population within areas that is of concern rather than whether or not there is unimpeded access to an SPA.

15. Notwithstanding their observations above the appellants say that a legal agreement could be put in place to secure the avoidance/mitigation the Council seeks. However, no such agreement is in place and my decision must be based on its absence.
16. It is concluded that the proposed development would have a detrimental effect on matters of ecological importance. There would be conflict with CS Policy CP1.

Conclusion

17. I have found harm on all the main issues. Although the provision of new housing would have some social and economic benefits these would be outweighed by the harm.
18. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR