

Appeal Decisions

Hearing held on 8 October 2015

Site visit made on 8 October 2015

by Jennifer Tempest BA(Hons) MA PGDip PGCert Cert HE MRTPI IHBC

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

Decision date: 02 March 2016

Appeal A Ref: APP/B9506/W/15/3019437

Thornsbeach House, Thorns Beach, Beaulieu, Brockenhurst SO42 7XN

- 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 James Ratcliffe against the decision of New Forest National Park Authority.
 - The application Ref 14/00520, dated 24 June 2014, was refused by notice dated 21 October 2014.
 - The development proposed is construction of a replacement dwelling following demolition of the existing dwelling, the installation of ground level renewable domestic energy systems and associated landscaping.
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Appeal B Ref: APP/B9506/W/15/3132040

Thornsbeach House, Thorns Beach, Beaulieu, Brockenhurst SO42 7XN

- 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 James Ratcliffe against the decision of New Forest National Park Authority.
 - The application Ref 15/00151, dated 19 February 2015, was refused by notice dated 15 May 2015.
 - The development proposed is construction of a replacement dwelling following demolition of the existing dwelling, the installation of ground level renewable domestic energy systems and associated landscaping.
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Decisions

1. The appeals are dismissed.

Procedural Matters

2. The appeal proposals relate to a dwelling which incorporates within its design the capacity for the ground floor slab level of the building to be raised at a later date, in the event of water levels rising. It was agreed by both main parties at the hearing that raising the buildings would require planning permission and would not be addressed by any grant of planning permission for the appeal proposals.
 3. The appellant submitted a hearing statement a week before the hearing date. This followed a timetable set out in a letter from the Planning Inspectorate in relation to Appeal B and was sent to the Inspectorate and the National Park Authority (NPA). Whilst the statement had not been available to other interested parties I am satisfied, given the limited nature of the differences
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between the two appeal proposals and the extensive evidence previously submitted in respect of appeal A and the grounds of appeal for Appeal B, that the acceptance of the statement is not prejudicial to interested parties as it does not include substantive new evidence.

Main Issues

4. The main issues in respect of both Appeal A and Appeal B are:
 - (i) the effect of the proposals on the character and appearance of the surrounding area, having regard to the statutory purposes of the New Forest National Park in which the site is located; and
 - (ii) whether the proposed outbuilding would constitute a separate dwelling.

Planning Policy

5. The New Forest National Park Local Development Framework Core Strategy and Development Management Policies DPD (DPD) was adopted in December 2010. The DPD makes provision for new residential development within four defined villages. Outside these villages development is controlled, taking into account the statutory purposes of the National Park and its special qualities. Replacement dwellings are permitted where they comply with Policy DP10 and extensions are subject to Policy DP11. Housing to meet the needs of rural workers and affordable housing are permitted in accordance with other policies. Policy DP12 seeks to control outbuildings including their use as habitable accommodation. Policy DP1 of the DPD sets out general development principles and promotes the principles of sustainable development.
6. The appeal proposals would replace an existing dwelling on the site. However, the proposals are advanced by the appellant as meeting the special circumstances outline in Paragraph 55 (P55) of the National Planning Policy Framework (Framework). P55 promotes sustainable development in rural areas, advising housing should be located where it will enhance or maintain the vitality of rural communities. New isolated homes in the countryside are to be avoided unless there are special circumstances, one of which is the exceptional quality or innovative nature of the design of the dwelling.
7. The DPD pre-dates the Framework and the DPD does not include a policy which reflects all of the provisions of P55. The NPA, having concluded that the proposals did not meet the special circumstances set out in P55 of the Framework, assessed the proposals against the relevant policies of the DPD. The DPD policies have been drawn up and adopted in relation to the specific context of the National Park and to be consistent with its statutory purposes and the duty of the NPA. Although the appellant contends that the lack of a policy reflecting P55 of the Framework renders the relevant policies out of date, there is nothing specific in the evidence which persuades me that development plan policies against which the authority considered the appeal proposals conflict to any material degree with the provisions of the Framework. The DPD policies clearly serve environmental, social and economic purposes. Furthermore, the policies are in line with the principles set out in paragraph 115 of the Framework that great weight should be given to conserving landscape and scenic beauty in National Parks. I therefore accord the relevant DPD policies very significant weight.

Reasons

Character and appearance

8. The appeal site accommodates a single storey dwelling and lies within a small group of dwellings in Thorns Lane referred to locally as 'tin town'. Notwithstanding the proximity of other residential properties, the site is not within the boundaries of any defined settlement in the context of a development plan and the site is remote from facilities and services. Accordingly, in terms of planning policy, the site is considered to be within the countryside. The appellant acknowledges that the appeal site is isolated in the context of P55.
9. The proposals are the subject of two separate appeals which I refer to as Appeal A and Appeal B. They differ from one another principally in respect of the glazing in the upper floors which are referred to in the evidence as roof lanterns. The Appeal B scheme would have more glass and less lead in the lanterns, narrower panes of glazing and incorporate lighter colours. The two proposals are otherwise very similar.
10. Both proposals are put forward by the appellant as a design which would meet the requirements set out in P55 of the Framework where housing in rural areas may be allowed as a consequence of special circumstances, namely those of the design being truly outstanding or innovative. Such a design should be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; it should reflect the highest standards in architecture; should significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. The National Park has two statutory purposes one of which is to conserve and enhance its natural beauty, wildlife and cultural heritage. My reasoning is structured upon these considerations.
11. In October 2013 an appeal was dismissed for a replacement dwelling on the current appeals site¹ ("the 2013 appeal"). The 2013 appeal proposals were also submitted as meeting the criteria of P55. The appellant's evidence sets out the relationship of the current appeal proposals to the 2013 appeal decision. Notwithstanding the reliance which the appellant places on the 2013 appeal decision, I consider the two proposals afresh and address the 2013 appeal decision as part of my reasoning below.

Whether truly outstanding or innovative, helping to raise standards of design more generally in rural areas

12. The designs for both proposals show the main dwelling would be one, two and three storeys above a concealed basement. First floor accommodation would extend over part of the ground floor with a decked area above the large ground floor living room. Second floor accommodation would be restricted to the central section of the house and include a balcony with external stairs to the deck below. A separate building or pavilion, intended as guest accommodation, would be visually linked to the main house by a curved pergola. External materials would include Cumbrian slates and lead, lime-washed oak cladding, reclaimed granite setts for the plinth and Portland stone for the chimney stacks.

¹ APP/B9506/A/13/2195441

13. The proposed dwelling has clearly been designed having regard to its setting facing the Solent, and would undoubtedly be finished with high quality materials and detailing. Whilst the style of the dwelling differs from that of its neighbours there are a variety of architectural styles in the immediate area and none predominate. However, whilst these factors may result in a building which is respectful of its setting, they do not necessarily add up to a truly outstanding design.
14. The proposals include provision for raising the main dwelling (excluding the basement) and also the separate two storey building should this be required for protection against flooding. The hydraulic jacks to lift the building would not be installed as part of the appeal proposals, but the construction would provide for their later insertion. The appellant is not aware that provision for such a system has been previously built into a new dwelling. However, the technology involved in raising a building on hydraulic jacks is not itself innovative. Furthermore, as confirmed during the hearing, the appeal proposals are not seeking permission for the raised building.
15. The proposal includes a variety of measures with regard to renewable energy and energy efficiency with the aim of securing a house which would meet the requirements of Level 6 of the Code for Sustainable Homes. It was acknowledged at the hearing that government policy has now moved away from the Code for Sustainable Homes to national technical standards. However, the appellant remains committed to delivering a building which would meet the highest levels of sustainability in terms of the construction. In addition, the scheme would incorporate measures to minimise light spill from the dwelling, utilising electro-chromatic glass, photocell light sensors and automated black-out blinds.
16. Given the size of the proposed dwelling, the extent of the glazing involved and the sensitive location of the site, I would regard measures to address light pollution as an essential element of the design. Whilst the energy efficiency and renewable energy proposals are no longer exceptional or genuinely innovative, their combination with measures to avoid light pollution and glare and the capacity to raise the building may be unique. However, this combination does not represent innovation as it is required to meet the special circumstances in terms of P55.
17. I have considered whether the proposal would help to raise standards of design more generally in rural areas. The seclusion of the site would preclude the proposed building being open to general view as this would only be available to those out on the Solent. I understand the intention would be to promote the buildings in the architectural press and other media and the design team would be hopeful of securing design awards. Whilst this might indeed prove to be the case were the buildings to be constructed, I am not persuaded that the proposals would help to raise the standards of design more generally in rural areas.

Do the proposals reflect the highest standards in architecture?

18. I have considered the evidence put forward by the appellant, including in particular that provided by Mr Morris and the Peter Stewart Consultancy. Mr Morris's Paper A sets out a theory on the constituents of architecture of the highest quality, irrespective of site and location, whilst Paper B relates to the appropriateness of the design to its particular setting and location. Whilst the

proposals before me are not the same as those of the 2013 appeal, it was confirmed at the hearing that the fundamental points set out in these papers, prepared in 2011, remain relevant to the current appeal schemes. However, although the schemes aim to follow these principles and such an approach could be considered appropriate to good building design for a sensitive site, following such an approach is not bound to result in the highest standards in architecture.

19. The scheme which was the subject of the 2013 appeal decision had a larger footprint than the current proposals as it included a projecting single and two storey wing to the south east. The architectural style of the proposal was similar to that of the current proposals. Some of the opinions expressed about the 2013 appeal scheme I consider applicable to the current proposals. These include the plan layout with decreasing amounts of accommodation on the first and second floors breaking up the mass and form of the building; the design having a certain formality with the lighter touch of a beach house and the use of materials and probably very high quality of detailing being likely to produce a coherent and fully integrated design.
20. Paragraph 14 of the 2013 appeal decision makes clear that a coherent and fully integrated design does not amount to a design of exceptional quality. Describing the scheme as very interesting and somewhat unexpected in the context of highly sensitive surroundings, the Inspector considered the design was not one that meets the design criteria of P55 and which does not quite merit the phrases of 'exceptional quality', 'truly outstanding' or 'highest standards in architecture'. It is clear the Inspector concluded in paragraph 29 that the proposal did not meet the architectural standard required to make an exception to normal policy and it was this that was a determining factor in his dismissing the appeal.
21. The Inspector identifies in paragraphs 16 – 20 'various thoughts' that 'occur' with regard to the design before him – relating to the chimneys, lanterns, base, and the south eastern wing. At paragraph 21 the Inspector refers to achieving the Vitruvian principles of firmness, commodity and delight not automatically resulting in exceptional architecture.
22. The appellant puts forward the current Appeal A proposals as addressing the specific matters identified by the Inspector in paragraphs 16 – 20 of the 2013 appeal decision. Appeal B is similar but the changes in design take account of comments expressed by the NPA on the Appeal A scheme. The appellant is of the opinion that addressing the specific matters identified by the Inspector, subject to these being considered to overcome his criticisms, must result in the design achieving the highest standards in architecture and becoming truly outstanding. This is not a view which I share. I consider the Inspector's reflections at the end of paragraph 21 relate to paragraphs 13 to 21 as a whole and the decision does not indicate that resolution of the identified concerns would elevate the proposals to the exceptional level required by P55.
23. I acknowledge that an iterative design process is capable of improving upon a scheme already put forward by the appellant as being of exceptional quality. I share the appellant's view that of the two appeal schemes, that relating to Appeal B with additional glazing, less solid form and altered proportions is more akin to the concept of roof lanterns. However, in both schemes the proportions and appearance continue to reflect the function of these 'lanterns' as

fenestration serving upper floor accommodation. Combined with their flat, opaque roofs I consider they continue to lack the lightness of structure evident in conventional roof lanterns.

24. The detached pavilion has improved the internal planning of the main house, whilst the curved pergola retains a visual but permeable link between the two. The granite plinth which would be evident on the seaward elevation would provide the firm base to the building referred to by the Inspector and included within Mr Morris's design principles. The chimneys on the seaward side of the dwelling are less prominent than in the previous scheme.
25. Given the location of the site within the National Park, it is reasonable to anticipate that any development would be expected to achieve very high standards of architecture. A design which responds to its setting and location should be a pre-requisite of most new buildings but particularly so in this sensitive location. Whilst the appeal proposals respond to this expectation they are nonetheless seeking to achieve the development of a large house in a location where it would not normally be permitted. The overall design of the appeal proposals would provide the accommodation in a manner which breaks up the mass and form of the building. However, delivering the highest standards of architecture, and thereby meeting one of the criteria for achieving an overall exceptional design, is a very high bar to clear and neither of the two appeal proposals reaches this level.

Do the proposals significantly enhance their immediate setting?

26. Immediate setting is not defined within the Framework. The appellant and NPA suggest the immediate setting could be confined to the land within the ownership of the appellant which is a larger area than the defined appeal site. On this basis, the immediate setting of the proposed buildings is the land associated with the existing house. Whilst I agree with the suggestion, my assessment is based on visual considerations rather than ownership. The existing house is somewhat dilapidated but its scale is modest in comparison with that of the appeal proposals. The predominant character of the site of the existing house is therefore one of a large garden setting, with pond, hedges, shrubs and trees. Whilst trees and other planting preclude views from Thorns Lane, the southern part of the site is more open and merges visually with the shoreline as the land ownership boundary is unobtrusively marked by the existing fence.
27. In respect of whether or not the 2013 proposal would significantly enhance its immediate setting, the Inspector does not conclude that it would do so, rather he confirms that the quality of the landscape seen from the Solent does not require anything new and the setting does not need significant enhancement. As regards views of the proposed building from the Solent, his comments relate only to substance and permanence. Whilst in his overall conclusions, the Inspector acknowledges that the site would have been enhanced by the proposed house, he does not conclude it would be significantly enhanced and his reasoning is set out in paragraphs 22 - 24 of his decision.
28. The condition and appearance of the existing house could be said to detract from its immediate setting although this is a subjective judgement. However, other than from the south, the modest size of the dwelling means that its visual impact within the site is restricted to close views. The proposed buildings would have a considerably larger footprint and greater mass than the

existing dwelling and would inevitably be more visible within their immediate setting. The proposals would introduce a considerable area of hard surfacing between the south east side of the main house and the detached accommodation. In terms of immediate setting, I am not persuaded that the effect of the proposals would be one of significant enhancement but rather one of considerably more built form, albeit finished in much higher quality materials.

29. There is no public access to the foreshore. Whilst the existing bungalow can be seen from the Solent, under these circumstances it is likely to be seen within the wider context of the shoreline. Such views include buildings which vary in age, size and style, often with considerable gaps between individual properties and largely set against a background of trees. In this context, the impact of the existing building on its setting is not harmful to the extent that its replacement by either of the much larger dwellings proposed would result in enhancement, and certainly not significant enhancement.
30. Both appeal schemes propose only modest additional planting on the site, extending existing planting south east of the proposed house and in the vicinity of the solar panels. An oak tree would be planted within the curve of the oak pergola proposed to link the main house and pavilion. The restrained approach to the soft landscaping of the site is appropriate and indeed the respect for the existing vegetation on the site is one of the key principles underlying the overall designs. However, taking the proposals as a whole, I find that neither of the appeal schemes would result in a significant enhancement of its immediate setting.

Are the proposals sensitive to the defining characteristics of the local area?

31. Considered in the context of the wider coastline as described above, the proposed dwelling would not be out of place with the pattern of development along the shoreline where buildings of different sizes are dispersed along the shoreline, often with significant gaps between them. The variety of styles is such that there is no defining characteristic in terms of the buildings. The approach to the overall design of the appeal schemes is a response to the site's coastal setting and to this extent the proposals would not be out of place. The appellant's evidence cites the landscape as being a defining characteristic of the local area, describing the proposals as a modern interpretation of a grand country house inserted into a sensitive landscape setting, using the landscape as a backdrop to frame the new vista from the south.
32. The existing building on the appeal site reflects the character of the immediately local area of 'tin town' although from the evidence and from what I was able to see during my site visit, a number of the houses have been altered or re-clad. I would therefore not expect a new building to necessarily reflect the characteristics of the original 'tin town' buildings although these are part of the defining characteristics of the local area. It is not clear that the building has been designed with the intention of reflecting any characteristics which are particular to the New Forest, notwithstanding the proposed extensive areas of oak cladding. However, the appellant describes the New Forest vernacular as 'eclectic' and I find no reason to disagree with this statement.
33. As regards sensitivity to the defining characteristics of the area, the Inspector in the 2013 appeal concludes that there are no characteristics which ought to be followed save for those relating to the general size, variety and prominence

of what can be seen from the Solent. Whilst I noted the differing characteristics in various buildings I was able to observe from the Solent, it does not follow that the relatively large scale and size of some of the buildings creates a precedent for the appeal proposal.

Whether the design of the dwelling is of exceptional quality or innovative nature

34. The approach to the design of the proposed house in both schemes is clearly explained and readily understandable. The proposed buildings have been designed with clear reference to their coastal setting and their style could be seen as an appropriate response to this setting. However whilst the design may, to use Mr Morris's words, be a response to the spirit of the place such an approach does not necessarily result in a truly outstanding dwelling.
35. The quality of detailing is explained rather than drawn at this stage in the design process. Having seen buildings at Lime Wood also designed by Mr Morris I am satisfied that such quality, which is also intended for the appeal proposal, could be secured by condition. Whilst the quality of such detailing would play a key role in the proposed buildings, it would only be one factor in the overall design and does not lead to the design of the dwelling being of exceptional quality.
36. The NPA's criticisms of the schemes focus on their size and spread, rather than the style or detailed design of the buildings although they are critical of the granite plinth, the prominence of the detached pavilion building and the upper floor fenestration in appeal scheme A. Whilst the current appeal schemes are revisions to the scheme previously dismissed at appeal, I acknowledge that the revisions have been undertaken with due consideration to the coherence of the whole scheme and do not simply address the individual points raised in 2013 appeal decision.

Conclusion

37. I find that neither of the proposals would meet the exceptional quality required to make the design of the dwelling truly outstanding or innovative, nor is it clear that the proposals would help to raise the standards of design more generally in the rural area. Whilst the designs are of a high standard, they do not reach the level of reflecting the highest standards in architecture. The proposals would not significantly enhance their immediate setting. I share the Inspector's conclusion in the 2013 appeal scheme that the design of the scheme would not amount to one which is truly outstanding or reflecting the highest standards in architecture. Accordingly, the proposals do not meet the special circumstances necessary to comply with P55 of the Framework.
38. Whilst DPD Policy DP10 allows for replacement dwellings, this is subject to restrictions regarding the size of the replacement dwelling. Other than small dwellings with a habitable floor space of 100 m², the replacement of a dwelling outside the defined villages is restricted to a floorspace no greater than the existing dwelling. Policy DP11 allows extensions to existing dwellings, again subject to size restrictions, and the NPA takes this policy into account when determining proposals under Policy DP10. However, even with this allowance, the appeal proposals considerably exceed the sizes envisaged. The existing single storey building has a footprint of 185 m² whilst the proposals² have a

² Figures taken from appellant's DAS in respect of Appeal B proposal.

footprint of 366 m² and a total floor area of 879 m². The proposals therefore manifestly conflict with Policy DP10 even when Policy DP11 is taken into account.

Guest accommodation

39. With regard to the detached guest accommodation, the floor plans show the building would primarily provide bedroom and bathroom accommodation and do not include a kitchen or separate lounge. However, the building would be of an overall size which could be readily adapted to provide independent living accommodation. The NPA acknowledge that, were the overall proposals to meet the requirements of P55, the function of the proposed guest accommodation could have been addressed by a suitably worded condition.
40. As I have found that the proposals do not meet the special circumstances set out in P55, the DPD Policy DP12 relating to outbuildings is relevant. This policy permits domestic outbuildings where they are not providing additional habitable floorspace, defined in the DPD as including bedrooms. Whilst the appellant is critical of the way in which the policy is framed, it is clear from the supporting text to this policy that its purpose is to carefully control outbuildings in the interests of limiting adverse impact on landscape character. I find that the proposal would conflict with Policy DP12.

Other matters

41. Policy DP1 of the DPD requires all new development must uphold and promote the principles of sustainable development. Whilst the proposals may comply with a number of the individual criteria within Policy DP 1, given the evident conflict with P55, Policy DP10 and also a conflict with DP12, I am not persuaded that the proposals would meet the fundamental requirement of promoting sustainable development having regard to the development plan as a whole and to the Framework. The Framework identifies sustainable development as having three roles, social, environmental and economic, and which are to be considered as mutually dependent. The proposals would entail the creation of a large dwelling in a highly sensitive environment and in a location which is isolated from facilities and services. The proposals would therefore not be sustainable development
42. Although the appeal proposals each have a floor area less than that of the 2013 appeal scheme, the reduction is relatively minor and has no direct bearing on whether or not the scheme meets the special circumstances required to be considered as an exception under P55.
43. The proposed development would result in the loss of a dwelling of modest proportions and its replacement with a considerably larger dwelling. Whilst this would have an effect on the balance of dwellings within the national park, a matter which Policy DP10 seeks to control, my decisions do not turn on this.
44. I have noted the comments in the Design and Access Statement which advise that the appellant would occupy the property as his only UK residence and that a location in the New Forest is required to allow him to oversee his businesses with bases in Lyndhurst. However, although Policy DP10 refers to exceptional circumstances to meet genuine family needs for an occupier who works in the immediate vicinity, in such circumstances the maximum habitable floorspace for a dwelling is restricted to 120m². Consequently, this does alter my

conclusions with regard to the failure of the proposals to comply with Policy DP10.

45. The matter of precedent with regard to the proposals has not been a determining factor in my assessment of the proposals against the special circumstances set out in P55. Whilst the appeal site lies within a highly sensitive environment each case must be determined on its own merits and these proposals are put forward by the appellant as ones in which these special circumstances should apply.
46. I have taken into account the letters submitted by interested persons including those expressing support for each of the proposals which are the subject of the appeals. However, these do not alter my findings on the main issues.

Conclusions

47. The proposals do not meet the criteria set out in the P55 of the Framework regarding the exceptional quality or innovative nature of the design of the dwelling. The proposals would be contrary to the development plan policies of the NPA which seek to restrict residential development to defined villages, replacement dwellings and to that which meets specific needs in order to maintain the special landscape qualities of the national park. For the reasons given above and having taken all matters raised into account, I conclude that the appeals should be dismissed.

Jennifer Tempest

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Reuben Taylor QC	Landmark Chambers
Charles Morris FRIDPD	Designer of proposals.
Daniel Wiseman	Turley Associates
Mark Gibbins	Indigo Landscape Architects
Gareth Jones	Peter Stewart Consultancy
Brian Foster	

FOR THE NATIONAL PARK AUTHORITY

Clare Ings	Senior Planning Officer
Katie McIntyre	Planning Officer

INTERESTED PERSONS

S Scobie RIBA	Solent Protection Society
D Tew	former local resident
J M Crawhall	local resident
J McGill	local resident
M Montagu-Scott	local resident
J Beaumont	local resident
C Belson	local resident
J Illsley	local resident
B Clarks	Burley Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 A3 copy of Plans and drawings, Design and Access Statement relating to APP/B9506/A/13/2195441 supplied by Mr Wiseman
- 2 Additional copy of A4 plan 415.A03 rev A – viewpoints from Solent supplied by Mr Gibbins