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# 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: 17 June 2016**

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**Appeal Ref: APP/B9506/W/16/3143523**

**Outbuilding at Warren Farm, Woodgreen, Hampshire SP6 2QX**

- 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 Anthony Wheeler against the decision of New Forest National Park Authority.
  - The application Ref 15/00598, dated 3 August 2015, was refused by notice dated 8 September 2015.
  - The development proposed is change of use of stable block to holiday accommodation and associated works.
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## Decision

1. The appeal is dismissed.

## Procedural matter

2. A completed Planning Obligation under Section 106 of the Town and Country Planning Act, 1990 (as amended) dated 1 April 2016 was submitted. This provides for a contribution towards mitigation of the effects of the development on the New Forest Special Protection Area (NFSPA). I will discuss the implications of this later in this decision.

## Main Issues

3. The main issues are:
  - whether the proposed development complies with development plan policies on tourist accommodation in the countryside and the conversion of rural buildings;
  - whether the proposal would preserve or enhance the character or appearance of the Western Escarpment Conservation Area (WECA); and
  - the effect on nature conservation in respect of the NFSPA.

## Reasons

4. The appeal site lies within the New Forest National Park and is located on the edge of an area of cleared land which is used as paddocks. The existing dwelling, Warren Farm, is located within this cleared area a short way to the north of various agricultural style buildings which appear to be used for equestrian activities although I am advised that these are associated with the adjacent dwelling.
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5. The appeal building is constructed from concrete block walls and a sheeting roof and is used as stabling and associated facilities with access to stalls from both long sides.

*Tourist accommodation*

6. Although there has been some discussion within the cases made, it seems to me that tourist accommodation of the type proposed represents new housing. This is because each unit would enjoy all the facilities necessary for day to day living. If permission was granted the occupation would be restricted through conditions to maximum stays and when, during the year, occupation could take place, but this would not affect the use. As such Policy CP12 of the New Forest National Park Local Development Framework Core Strategy and Development Management Policies 2010 (CSDMP) is engaged. This policy restricts new residential development to a limited set of circumstances, none of which are applicable to this case.
7. Having said that, Policy CP16 supports tourism development where it provides opportunities for the understanding and enjoyment of the National Park in a way that either enhances, or does not detract from, the special qualities. This is facilitated by supporting small scale development of visitor accommodation through the re-use of existing buildings as part of a farm diversification scheme in locations such as the appeal site. Policy DP19 also permits the re-use of buildings outside the defined villages, but this is restricted so it would not involve a residential use except as allowed for under Policy CP12, and is therefore not applicable.
8. In general terms I consider that Policy CP16 is broadly consistent with the National Planning Policy Framework (the Framework) which supports economic growth in rural areas. But in the context of a National Park this growth must be tempered by the overarching requirement to conserve and enhance natural beauty, wildlife and cultural heritage and promote 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.
9. This proposal is not being put forward as part of a farm diversification scheme in the sense that I have not been supplied with an overall farm plan or other financial case in support of the proposal. Rather it is stated that the requirement that the proposal has to be part of a farm diversification scheme is not consistent with the Framework, and references an appeal decision<sup>1</sup> from 2013 where a colleague Inspector considered that Policy CP16 was more restrictive than the more recent guidance in the Framework and should, in the context of that appeal, be given lesser weight.
10. I have looked carefully at that decision and it seems to me that my colleague's comments were being made in the context of a proposal to diversify an existing rural business, in that case a camping site, to allow for permanent buildings for accommodation. This is somewhat different from the current proposal where no case has been made that it is associated with an existing rural business.
11. Overall, therefore I conclude that the proposal does not comply with development plan policies on tourist accommodation in the countryside and the

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<sup>1</sup> APP/B9506/A/13/2193308

conversion of rural buildings as set out above. It would also be contrary to paragraphs 55 of the Framework in that the proposal would represent new isolated dwellings in the countryside where special circumstances do not exist.

#### *Conservation Area*

12. The site lies in the WECA. The Authority has published a WECA Character Appraisal which identifies the site as lying within the 20<sup>th</sup> Century Dispersed Settlement Within Woodland. It is described as being of two groups of dispersed twentieth century housing within old plantations and woodlands. It notes that houses are set in large gardens and are entirely surrounded by woodland. The landscape is mainly of a wooded nature.
13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving the character or appearance of the Conservation Area.
14. The appeal building is set back from the road, behind a number of other buildings on the site and is not readily visible from the highway, although its roof can be seen above some of the other, lower, buildings. The proposed changes to the building would be to alter and add to existing openings to provide doors and windows and replace the covering of the roof. Subject to appropriate materials being used, which could be controlled by condition, within the overall context of the site this would have little effect.
15. However, the parking of cars from those staying in the holiday accommodation along with ancillary activities, for example outside tables and chairs from those taking advantage of good weather, would have an urbanising effect detrimental to the appearance of the WECA thereby adversely affecting its significance.
16. The Authority is also concerned that the more intense use of the building would give rise to greater effects on the WECA through increased levels of recreational pressures. The use of the building as stables would have generated both traffic and recreational pressure from those riding on the horses, even if only being used for incidental purposes to the nearby dwelling. Given that holiday accommodation is only occupied for part of the year it is likely that, over the course of a year, they would generate a similar amount of recreational pressure on the WECA. Consequently I consider that the effect of the development in relation to recreational pressure when compared with the existing situation would be neutral.
17. However, I consider that the proposal would be harmful to the appearance of the WECA although in terms of the Framework this would represent less than substantial harm to its significance. Where there is harm, in line with paragraph 134 of the Framework, this harm should be weighed against the public benefits of the proposal. No public benefits have been claimed for the development.
18. Consequently the proposal would be harmful to the significance of the WECA and, in line with paragraph 132 of the Framework, there should be clear and convincing justification for planning permission to be granted.

#### *Nature conservation*

19. 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, either on its own or in combination with other plans and projects, would be likely to have significant adverse effects on a European Site such as the NFSPA. Policy CP1 of the CSDMP requires that new housing within 400m of the NFSPA will need to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects on the ecological integrity of the NFSPA.
20. 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 of new dwellings on the NFSPA. I consider that such measures are necessary to ensure that the development does not adversely affect the NFSPA.
  21. Although the occupation of the accommodation would be restricted by condition as to when it could take place, those on holiday are more likely to want to enjoy the National Park and recreate on the NFSPA than those living in an unrestricted dwelling. Balancing the period when the accommodation would be vacant with the increased use when occupied I am satisfied that the effects would be similar to as if occupied by an unrestricted dwelling.
  22. 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, that no additional residential development should be permitted within 400m of the SPA. However, each SPA is designated for its own reasons and direct comparisons should rarely be made between one SPA 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.
  23. 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. As I understand it the contribution would be used towards measures relating to the management of land and do not represent the provision of relevant infrastructure for the purposes of Regulation 123 of the CIL Regulations.
  24. The Section 106 Planning Obligation provides for the relevant contribution as set out in the SPD which I consider represents the necessary amount to ensure the development does not adversely affect the integrity of the SPA, it is related to the development, and fairly and reasonably relates in scale and kind to the development. As such the proposal would not have an adverse effect on matters of nature conservation in respect of the SPA and would comply with Policy CP1 of the CSDMP, the SPD and the requirements of the Habitats Directive and Regulations.

### **Other matters**

25. In looking at the purposes of the National Park the proposal would not conserve and enhance the natural beauty of the area as there is likely to be some increase in ancillary activities, for example parking of cars or outside tables and chairs. While the use as tourist accommodation would, to some extent,

promote opportunities for understanding and enjoyment of the special qualities of the area, where there is conflict between these two purposes greater weight is to be attached to the conservation importance.

26. Local residents are concerned about the highway implications of the proposal. I note that the Highway Authority did not respond on the application and I must assume that if it had concerns then it would have objected to the proposal. Although the use as holiday accommodation may give rise to additional traffic visiting the site I am satisfied that the highway network could accommodate the additional traffic without resulting in severe residual cumulative impacts. As such the proposal would satisfy the requirements of paragraph 32 of the Framework.
27. The Framework makes clear in paragraphs 7 and 8 that sustainable development has three mutually dependent roles, economic, social and environmental, and that all three should be sought jointly and simultaneously. While this proposal would support the economy of the area, there would be little benefit to the social role. This proposal would be significantly harmful to the environment as set out above and this harm outweighs the benefits of the development.

### **Conclusions**

28. For the reasons given above I conclude that the appeal should be dismissed.

*RJ Jackson*

INSPECTOR