
Appeal Decisions

Site visit made on 30 October 2018

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2018

Appeal A Ref: APP/B9506/C/17/3191980

Appeal B Ref: APP/B9506/C/17/3193172

Land at 1 Brooksbank House, Pound Lane, Copythorne, Southampton SO40 2PD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Nigel Brown (Appeal A) and Mrs Beryl Brown (Appeal B) against an enforcement notice issued by New Forest National Park Authority.
- The enforcement notice was issued on 24 November 2017.
- The breach of planning control as alleged in the notice is without planning permission alterations to the outbuilding shown in the approximate position coloured green on the plan attached to the notice and the construction of decking and verandah shown in the approximate position coloured blue on the plan attached to the notice.
- The requirements of the notice are: 5.1 Revert the external elevations of the outbuilding shown in the approximate position coloured green on the plan attached to the notice to that which previously existed. For the avoidance of doubt this shall be to strictly accord with the plans attached to the notice and marked 'Annexe 1'. 5.2 Permanently remove the decking and verandah shown in the approximate position coloured blue on the plans attached to the notice and marked 'Annexe 2' from the land affected. 5.3 Restore the land to its previous condition and remove any resultant debris arising from compliance with steps 5.1 and 5.2 from the land affected.
- The period for compliance with the requirements is six months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal B is proceeding on the grounds set out in section 174(2) (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period for Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decisions: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out in the Formal Decision. Appeal B is dismissed but the enforcement notice is not upheld.

Appeal C Ref: APP/B9506/D/17/3191979

1 Brooksbank House, Pound Lane, Copythorne, Southampton SO40 2PD

- 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 Nigel Brown against the decision of New Forest National Park Authority.
- The application Ref 17/00252, dated 19 March 2017, was refused by notice dated 28 September 2017.
- The development proposed is a verandah, alterations to fenestration to existing building and cladding.

Summary of Decision: The appeal is allowed and planning permission granted.

Procedural Matter

1. I have omitted the reference on the application form for Appeal C to retention of the verandah and the alterations from the banner heading. Such a reference is unnecessary as it does not involve an act of development.

Appeal A

Ground (c) appeal

2. The ground of appeal is that the matters alleged in the enforcement notice do not constitute a breach of planning control.
3. The residential outbuilding in this appeal is a substantial detached single storey structure with an L-shaped footprint within the garden of a dwelling. I understand that the outbuilding has been in situ for some years and it has been used by the appellant as a garden room and to provide guest accommodation. Internally, the outbuilding contains a living area, a kitchen and two ensuite bedrooms. A detached carport stands nearby.
4. It seems that the external alterations to the outbuilding were carried out over time, following structural damage caused by a falling tree in 2015. These alterations principally consisted of inserting extensive additional glazing into the elevations, forming decorative arches in front of the glazing on two elevations and replacing the timber cladding with a timber effect cladding material. An area of timber decking between the outbuilding and the carport replaced earlier decking. The area of timber decking has also been extended around other elevations of the outbuilding. This includes an extensive area of timber decking enclosed by a glass safety barrier, raised above the ground level to the south of the outbuilding and supported by walls and posts. The decking provides what might reasonably be described as a partly enclosed platform extending along the outside of the outbuilding. Therefore, having regard to the Government's Technical Guidance¹ it is not unreasonable to also describe the decking as a 'verandah'.
5. All of the works described above are building operations that have materially affected the external appearance of the outbuilding. It follows that development as defined in s55 of the Act has occurred, for which s57 states that planning permission is required. The appellant indicated that the area of decking between the outbuilding and the carport had replaced earlier decking on a 'like for like' basis. However, there is no firm evidence that might indicate that this area of decking is substantially similar in terms of its position, extent or appearance to that which was replaced. Moreover, the new decking in this area forms an integral part of the much larger continuous area of decking and the verandah.
6. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) Schedule 2 Part 1 Class E, grants planning permission within the curtilage of a dwelling for provision of a building that is required for a purpose incidental to the enjoyment of the dwelling as such or the maintenance, improvement or other alteration of such a building, subject to certain limitations. However, the Technical Guidance makes it clear that a purpose incidental to a dwelling does not include an outbuilding which, as in

¹ Permitted development rights for householders DCLG April 2017.

this case, is in use as primary living accommodation incorporating bedrooms, bathrooms and a kitchen. This is because an incidental purpose cannot itself be a dwellinghouse; nor, therefore, can it be a primary dwellinghouse purpose, such as a bedroom or kitchen². Consequently, in this instance the use of the outbuilding cannot be incidental to the dwelling as it is an integral part of the use of the dwelling itself. It follows then that the works to the outbuilding cannot be permitted by Class E.

7. The full citations and details of the cases referred to by the appellant were not provided. However, my understanding of both *Uttlesford* and *Whitehead* is that they principally concerned whether detached residential accommodation was within the same planning unit as a dwelling, as opposed to whether it was being used for purposes incidental to a dwelling. Therefore, neither case lends weight to the appellants' argument in this respect.
8. In relation to the decking and verandah, the appellant argued that this was permitted by Schedule 2, Part 1, Class F as it is a hardsurface for a purpose incidental to the enjoyment of the dwellinghouse as such. However, substantial walls and posts are providing structural support for a large part of the decking and verandah. Together with the glass safety barrier, those elements form an integral part of the decking and verandah. Class F does not permit any works other than the provision of a hardsurface. Therefore, erection of the supporting walls and posts and the glass safety barrier take the decking and verandah outside of Class F. I appreciate that the part of the decking between the outbuilding and the carport replaced previous decking. Nevertheless, as already noted above the new decking in this area forms an integral part of the decking and verandah. Therefore, it is the decking and verandah as a whole that is relevant to determining whether Class F applies.
9. Consequently, the decking and verandah are not permitted by Class F. Neither would they be permitted by Class E, as paragraph E.1 (h) does not permit the construction or provision of a verandah, balcony or raised platform. No other Class of the GPDO which might have permitted the decking and verandah has been drawn to my attention.
10. Therefore, the appeal on ground (c) must fail.

Appeal A ground (a) and Appeal C

Main Issue

11. The appeal property is situated in the New Forest National Park (NP) and it is within the Forest North East Conservation Area (CA). Consequently, the main issue is whether the alterations to the outbuilding, decking and verandah conserve the landscape and scenic beauty of the NP and preserve the character and appearance of the CA.

Reasons

Landscape and scenic beauty of the NP, character and appearance of the CA

12. The property is occupied by a substantially proportioned dwelling probably dating from the early 20th Century, set in spacious grounds containing extensive planting. The property is located on the slope of a low hill. The

² *Encyclopaedia of Planning Law and Practice* paragraph 3B-2068.13.

- outbuilding is situated in the north-west corner of the grounds, at an elevated level in relation to the dwelling, adjacent to a tract of open farmland, beyond which is the village school and church.
13. The property forms part of a small enclave of residential buildings occupying a countryside setting, forming part of the Copythorne Forest Farmlands landscape type in the NPA's Landscape Character Appraisal (LCA). The key landscape characteristics of this part of the NP are identified in the LCA as the partially enclosed and settled farmland interspersed with small areas of ancient woodland and small-scale irregular fields bordered by ditch and bank boundaries with hedgerows and mature trees and shaded leafy lanes. The property and its surroundings also reflect the dispersed pattern of settlement made up of late 19th and early 20th Century buildings of varying sizes and designs around small regularly shaped field systems characteristic of the Copythorne Character Area of the CA, as described in the NPA's CA Character Appraisal (CAA).
 14. Prior to the recent external alterations and the decking and verandah being installed, the outbuilding still largely reflected its original function as a stable block, although it has been used for many years as residential accommodation in association with the dwelling. By substantially increasing the extent of the glazing and adding decorative arches, the outbuilding has assumed a more domestic appearance than that which it had previously. The decking and verandah have also increased the sense of domestication in the environs of the outbuilding.
 15. However, given the residential situation and use of the outbuilding, a significant part of the setting was already appreciably domestic in terms of its character and appearance. The use of dark coloured tinted glass with slender frames, together with the dark coloured finish to the decorative arches, has given these alterations to the outbuilding a recessive feel which in turn has preserved a good sense of the simplicity and function of the structure as originally erected. The new cladding is finished a natural colour and is similar in appearance to timber. As there has been no enlargement of the outbuilding, its form is unchanged and its scale remains modest in comparison with that of the dwelling. Moreover, owing to the slender profile the decking and verandah has a lightweight appearance and is viewed against a backdrop of the outbuilding. None of these works are particularly unusual in a residential context and none give the outbuilding a character and appearance which is appreciably at odds with that of the dwelling or adjacent residential development.
 16. Therefore, the above works have involved relatively limited changes to the appearance of outbuilding which do not make it appear as an alien feature in relation to, nor fundamentally alter its visually subservient relationship with, the dwelling or otherwise appear at odds with its residential surroundings. Accordingly, the works are consistent with the NPA's advice on in its Design Guide Supplementary Planning Document, which requires residential outbuildings to be incidental and subservient to the dwelling in terms of their appearance.
 17. Having regard to the proximity to the property boundary, the outbuilding decking and verandah can be seen across the adjacent tract of farmland. However, being visible does not necessarily equate to visual harm. The

outbuilding and verandah are largely viewed against a background of land and buildings in established residential use. Moreover, maturing and more recent planting along the property boundary and within the grounds, including substantial trees, helps break up and soften views of the outbuilding, verandah and decking from public vantage points. As a result, the works have not resulted in an appreciably more built-up edge to the property or a suburbanising visual intrusion into the surrounding countryside.

18. At present, the outbuilding is largely unlit, as the appellant and his wife utilise it for astronomy. Whilst additional internal lighting could be installed at some stage by the appellant or future occupiers, it might be reasonable to assume that in most cases when internal lighting was in use curtains or blinds would be drawn, in order to reduce reflections and heat loss. Accordingly, there is no firm evidence to suggest that alterations to the outbuilding have caused additional light pollution. Future external lighting could be restricted by condition.
19. Therefore, the qualities of the LCA and the CA identified above have not been adversely affected by the works. It follows that the works preserve the landscape and scenic qualities of the NP and they preserve the character and appearance of the CA.
20. Consequently, the works accord with Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies DPD (CS), as they demonstrate high quality design which enhances local character and distinctiveness, they are appropriate and sympathetic in terms of appearance and they respect the natural environment and landscape character. The works also accord with CS Policy DP6, as they achieve a high standard of design and external appearance. Further, the works accord with CS Policy CP7 as the built environment is protected and they accord with CS Policy CP8, as the NP's local character has not been eroded and there has been no suburbanising effect. There is no failure to accord with CS Policy DP12, as the works involved alterations to an existing residential outbuilding not erection of a new structure. Whilst the NPA also referred to CS Policy CP6 in its statement of case, the works have not increased the impact of light pollution on the dark skies of the NP nor eroded rural darkness.
21. The conservation of the landscape and scenic beauty of the NP is consistent with paragraph 172 of the revised National Planning Policy Framework (the Framework). Moreover, as the works conserve the CA they are consistent with section 16 of the Framework.

Conclusion on Appeal A ground (a) and Appeal C

22. For the reasons given above I conclude that the appeals should succeed and planning permission will be granted. Appeal A on grounds (f) and (g) does not therefore need to be considered.

Conditions

23. I have imposed a condition restricting external lighting to the outbuilding, decking and verandah. This condition is necessary in order to conserve the landscape and scenic quality of the NP and the character and appearance of the CA.

24. However, I have not imposed a condition restricting the use of the outbuilding to purposes integral or ancillary to the dwelling. This is because Appeals A and C only concerned operational development, not the use of the outbuilding. There has been no alteration to the internal accommodation in the outbuilding or the manner in which it has been used as an integral part of the dwelling over many years. Any use of the outbuilding for purposes other than those which are integral or ancillary to the dwelling would involve a material change of use requiring planning permission. Therefore, the Council's suggested condition would not meet the tests set out at paragraph 55 of the Framework. There is also no need to impose a commencement condition or a condition specifying the approved plans, as development has already been carried out.

Appeal B

25. Appeal B fails on ground (c) however it is unnecessary for me to consider whether the appeal on grounds (f) and (g) should succeed as the enforcement notice will be quashed in consequence of my decision to allow Appeal A on ground (a).

Formal Decisions

26. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the alterations to the outbuilding and construction of decking and verandah on land at 1 Brooksbank House, Pound Lane, Copythorne, Southampton SO40 2PD referred to in the notice, subject to the condition in the Schedule at the end of this Decision.
27. Appeal B is dismissed but the enforcement notice is not upheld.
28. Appeal C is allowed and planning permission is granted for a verandah, alterations to fenestration to existing building and cladding in accordance with the terms of the application, Ref 17/00252, dated 19 March 2017 and the plans submitted with it, subject to the condition in the Schedule at the end of this Decision.

Stephen Hawkins

INSPECTOR

SCHEDULE OF CONDITIONS

Appeals A & C

- 1) No external lighting shall be installed on the outbuilding or on the decking and verandah.