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## Appeal Decision

Site visit made on 11 February 2019

**by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 February 2019**

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**Appeal Ref: APP/B9506/C/18/3200132**

**Hunters Brook, Lyndhurst Road, Minstead, SO43 7FX**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr T Frost against an enforcement notice issued by New Forest National Park Authority.
- The enforcement notice was issued on 9 March 2018.
- The breach of planning control alleged in the notice is:
  - 3.1. Without planning permission, the installation of doors and windows, shown marked blue on Appendix A attached to the Notice, in breach of condition 9 of planning permission 17/00666 (being a minor material amendment to planning permission 15/00502).
  - 3.2 Without planning permission the erection of a garage, shown in the approximate position marked green on the plan attached to the Notice, not in accordance with the approved plans in breach of condition 9 of planning permission 17/00666 (being a minor material amendment to planning permission 15/00502).
- The development to which the permission relates is: Application to vary condition 10 of planning permission 15/00502 (Replacement dwelling and garage). The condition in question is No 9 of planning permission Ref 17/00666 granted on 7 November 2017 which states that: Development (including all window and door joinery) shall only be carried out in accordance with Drawings 100,102, 103A, 104B, 105E, 106B, 107,110A, 110.19, 110.21, 112A, 113A, 115A,116,117,118A,119C,120,123A,128A,130A,132C,133C,139C,140B,142B,143A,144 A,145,146A,147B,148,149A,150A and 151. No alterations to the approved development shall be made unless otherwise agreed in writing by the New Forest National Park Authority.
- The requirements of the notice are:
  - 5.1 Replace the doors and windows of the dwelling, shown marked blue on Appendix A attached to the Notice, with those approved pursuant to planning permission 17/00666 (being a minor material amendment to planning permission 15/00502) in accordance with approved plans 132C, 133C and 142B hereby attached to the Notice and marked Appendix B.
  - 5.2 Alter the elevations of the garage, shown in the approximate position coloured green on the plan attached to this Notice, to strictly accord with those approved pursuant to planning permission 17/00666 (being a minor material amendment to planning permission 15/00502) in accordance with approved plans 130A and 144A hereby attached to this Notice and marked Appendix C.
  - 5.3 Remove any material or debris arising from compliance with the aforementioned requirements from the land affected.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

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**Summary of Decision: A split decision is made so that the appeal succeeds**

**in part, but the enforcement notice is upheld in the terms set out below in the Formal Decision.**

**Background and procedural matters.**

1. Hunters Brook is a large detached house located to the rear of its generous plot within the scattered development that makes up the settlement of Minstead. The house is within a Conservation Area and within the New Forest National Park. The appeal site has the benefit of a planning permission (the 2015 pp<sup>1</sup>) for a replacement dwelling and garage. A subsequent application for a variation to the siting of the garage (the 2017 pp<sup>2</sup>) was approved.
2. The house and associated garage have now been constructed but the development, in terms of window and door detailing and elevational detailing is not in accordance with the plans approved by the extant permission. The appellant has noted that the alterations to the house and the garage are severable and has invited me to consider them separately. I have done so in my decision.

**The appeal on ground (a) and the deemed application for planning permission.**

*Main Issue*

3. The main issue in this ground of appeal is the effects of the development as-built on:
  - the character and appearance of the dwelling and associated garage on the street scene and the character and appearance of Forest Central South Conservation Area (Character Area A, Minstead).

**Reasons**

*Character and appearance.*

*A. The House*

4. Minstead village is a scattered, loose-knit settlement with many detached houses set in large plots and an informal rural character. From what I saw the village is largely dominated by older housing in a vernacular style, often with thatch and small casement windows. 20<sup>th</sup> century housing is also prevalent, often with tile hanging, small casement windows and a relaxed informality. This rural character is emphasised by the variation of alignment of the houses to the road frontage, the low-key entrances and the wealth of mature planting discernible even in the winter months.
5. The house approved in 2015 is in contrast a large, formal and symmetrical house, dominated by a grand portico in front of the main entrance, 5 symmetrical bays and large chimney stacks at either end of the principal elevation. The Council says that the window and door design was the subject of negotiation during the determination of the original scheme to replace the existing house on the land. It also says that Minstead is a settlement where the prevailing fenestration style is casement windows and I agree that casement windows are a feature of the Conservation Area.

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<sup>1</sup> Replacement dwelling and garage Ref 15/00502

<sup>2</sup> Application to vary Condition 10 of planning permission 15/00502 (variation to siting of garage) Ref 17/00666

6. The windows as constructed are sash windows, emphasising the pseudo-Georgian styling of the house and again I agree with the Council that the house 'has an appearance of grandeur'. However, from my observations of the housing hereabouts, large, symmetrically positioned 1<sup>st</sup> floor casement windows are not a feature of the domestic architecture in Minstead; window openings tend to be far smaller and informal in character. Indeed, I find that the dimensions and size of the approved windows are more suited to sash windows and the architectural formality of the host building than are casements.
7. Thus, although I accept that, in general, casements are characteristic of Minstead, in terms of the host property the substitution of sash windows does not have an adverse or material impact on the character of the building, because it already has a 'grand' appearance. Consequently, it would not be harmful to the character and appearance of the Conservation Area or of the character of the village because the approved house is already unrepresentative, by reason of its formal design. The effect of the change is neutral. Similarly, the amended door design changes the appearance of the elevation but does not undermine the special character of the area.
8. It is also alleged that the sash windows have resulted in an increase in light pollution. However, the size and dimensions of the windows have not altered and thus the openings, and effect of possible light spill remain essentially the same or may reduce because of additional glazing bars. It seems to me that the increased visibility of the house and light spill is probably due to the reduction of screening rather than a change in window style. Photographs submitted as evidence show that prior to the construction of the replacement dwelling the plot was less open due to the mature planting in the garden.
9. For these reasons the alterations to the doors and windows do not conflict with the aims of policies CP7, CP8, DP6 and DP1 of the New Forest National Park Core Strategy and Development Management Policies DPD (CSDPD). These policies collectively seek to uphold and support the statutory purposes of the National Park including conserving and enhancing the natural beauty and tranquillity of the area. The alterations to the house do not increase light pollution and thus are in accordance with policies DP1 and CP6. Moreover, because the effect of the replacement doors and windows is neutral these changes are in accordance with Policies DP6 and CP7 because there is no harm to local distinctiveness. Similarly, because there is no adverse effect on the Conservation Area, the heritage aims of the NPPF<sup>3</sup> are not undermined.

#### *B. The Garage*

10. The amended position of the garage has resulted in this part of the development being more prominent in views from the highway because it is now visible as part of the view of the principal elevation of the house; indeed, it is now visually linked by the construction of a high wall between the house and garage. This new position has been approved.
11. The 2015pp as amended by the 2017pp proposed a 'rustic' outbuilding with oak posts and braces and barn-like doors. The visual effect of the approved

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<sup>3</sup> National Planning Policy Framework July 2018

doors was recessive because they were designed to be seen behind the posts and braces. The design was akin to a rural or agricultural outbuilding.

12. The garage as constructed takes its design cues from the main house and is overtly domestic in style and finish. The design of the doors, their painted finish and glazing is suburban in character. The effect in combination with the house is to increase the impact of the buildings and to spread the visual effect of the formality of the main house.
13. In contrast, outbuildings in the surrounding areas are low key and often agricultural in appearance, thus reinforcing the rural character of the dispersed settlement of Minstead. I find that the effect of the garage as built is harmful to the character and appearance of the Conservation Area because of its suburban character and detailing. It also fails to accord with the aims of design policies CSDPD DP1 and CP8 because the design is not locally distinctive. Although there is harm to the character and appearance of the Conservation Area that harm is less than substantial. In such circumstances the NPPF says that the harm should be weighed against the public benefits of the proposal<sup>4</sup>. However, no public benefits accrue, and the viable use of the building would be equally possible if it had been constructed in accordance with the approved design.

*Conclusions on Ground (a) and the deemed application for planning permission*

14. For the reasons I have given above I have found that the amendments to the doors and windows of the host dwelling would not be harmful because there is no significant or adverse effect on its approved design. However, in contrast, the amended design of the garage would harm the street scene and the rural character of the Conservation Area and there is no demonstrable public benefit that ensues. Therefore, the appeal on ground (a) succeeds in terms of the alterations to the house but fails in respect of the garage. Accordingly, I shall uphold the Notice in terms of the garage but grant planning permission for the part relating to the house. The deemed application therefore succeeds in part.

**Decision**

**Appeal APP/B9506/C/18/3200132**

15. The appeal is allowed in respect of that part of the allegation in Section 3.1 of the Notice and planning permission is granted for the application deemed to have been made under S177(5) of the 1990 Act for the installation of doors and windows shown marked blue in Appendix A attached to the Notice.
16. The appeal is dismissed in respect of the allegation in Section 3.2 of the Notice, the Notice is upheld, and planning permission is refused for the elevational alterations to the garage where these are not in accordance with plans 1411 130A and 1411 144A in Appendix C attached to the Notice.

*Sukie Tamplin*  
INSPECTOR

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<sup>4</sup> Paragraph 196 of the NPPF