

Appeal Decision

Site visit made on 17 April 2018

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2018

Appeal Ref: APP/B9506/D/17/3192019

Forest Garden, Beechwood Lane, Burley BH24 4AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr I Jordan against the decision of the New Forest National Park Authority.
 - The application Ref 17/00698, dated 14 August 2017, was refused by notice dated 9 October 2017.
 - The application sought planning permission for an outbuilding and demolition of an existing outbuilding without complying with a condition attached to planning permission Ref 16/00703, dated 7 October 2016.
 - The condition in dispute is No 8 which states that:
8. Development shall only be carried out in accordance with Drawings NF/NP/25/AP/014 Rev B, NF/NP/25/AP/015 Rev A, NF/NP/25/AP/018 Rev B and NF/NP/25/AP/019 Rev B. No alterations to the approved development shall be made unless otherwise agreed in writing by the New Forest National Park Authority.
 - The reason given for the condition is:
8. To ensure an acceptable appearance of the building in accordance with policies CP7, CP8, DP6 and DP1 of the New Forest National Park Core Strategy and Development Management Policies (DPD) December 2010.
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Decision

1. The appeal is allowed and planning permission is granted for an outbuilding and demolition of an existing outbuilding, at Forest Garden, Beechwood Lane, Burley BH24 4AR, in accordance with the application Ref 17/00698, dated 14 August 2017, without compliance with condition 8 previously imposed on planning permission Ref 16/00703 dated 7 October 2016 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: NFNP-AP-258.10 Rev A and NFNP-AP-258.11 Rev A.
 - 2) Unless otherwise agreed in writing by the National Park Authority, development shall only take place in accordance with the recommendations for ecological mitigation and enhancement which are set out in the ecological report by ecosupport limited dated 8th June 2016. The specified measures shall be implemented and retained at the site in perpetuity.
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- 3) No external lighting shall be installed on the building hereby approved.
- 4) The building the subject of this permission shall only be used for purposes incidental to the dwelling on the site and shall not be used for habitable accommodation such as kitchens, living rooms and bedrooms.

Main issue

2. The main issue in this appeal is whether the proposed development would comprise a minor material amendment to that previously approved and its effect on the character and appearance of the locality, designated as part of the New Forest National Park and located within the Burley Conservation Area.

Reasons

3. It is explained in the Planning Practice Guidance that "An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied". It then goes on to state that "There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved".
4. The application sought to amend the design of the approved outbuilding to incorporate two doors rather than one, use red bitumen roof tiles instead of clay tiles and to have vertical and not horizontal timber cladding. I saw at my site visit that the building has been erected and incorporates two of these changes but has horizontal boarding. Nevertheless, I must consider this appeal in relation to the drawings that were considered by the Council. There is no reason to believe that any breach of conditions took place before the planning application was made. I shall therefore consider the appeal under section 73, rather than 73A.
5. Forest Garden is a fairly large and imposing detached dwelling dating from the Edwardian period and built in the Arts and Crafts style. The Authority points out that it is a locally listed building that is identified as a building of local importance in the Conservation Area Character Appraisal. It forms part of the sporadic residential development in the vicinity that is set in open countryside. The outbuilding the subject of the appeal is set away from the host dwelling to the north next to the boundary with Forest Garden Cottage, which is also a locally listed building. It is also fairly close to the lane to the east of the site.
6. However, views of the outbuilding from the lane, including in the vicinity of Forest Garden Cottage, are limited to a significant degree by the boundary fencing and vegetation. In any event, the colour of the felt roof reflects the red of the brick and tiles of the host dwelling. Moreover, this material matches that on the roof of the stable building to the north-west, which is significantly larger in extent and has a fairly similar shallow roof pitch and form.
7. The vertical boarding would reflect that on the outbuilding to the opposite side of the lane which is unenclosed and open to view from it, while also complementing that of the nearby boundary fence. I also consider that the

proportions of the building exhibit a strong horizontal emphasis that would be beneficially balanced in visual terms by vertical boarding.

8. I have also been provided with an extract from a document titled Design Guide 2011 concerning outbuildings. The Authority has not identified any conflict with this document in its report or reason for refusal. I note that timber cladding is identified as a typical traditional material but it is not specified that it should be in the form of horizontal boarding, or that vertical cladding would be at odds with the vernacular design of outbuildings. There is nothing to suggest that the use of felt should be avoided either, while the Authority has accepted this roofing material when granting permission for the nearby stable building in 2016.
9. As a result of these factors, it is concluded that the proposal would comprise a minor material amendment to that previously approved and would not harm the character and appearance of the locality or the National Park. It would also preserve the character and appearance of the Conservation Area while having no detrimental effect on the setting of the local listed buildings or neighbourhood amenity.
10. Policy CP8 of the New Forest National Park Core Strategy and Development Management Policies DPD, December 2010, states that built development and changes of use which would individually or cumulatively erode the Park's local character or result in a gradual suburbanising effect within the National Park will not be permitted. Policy CP7 intends that locally important sites and features of the built environment should be protected. The aims of Policy DP1 include that development should be of a high quality design, with materials being appropriate to the site and its setting. Among other things, Policy DP6 seeks the highest standard of design to enhance the built heritage of the New Forest. For the above reasons, I consider that the amended design would be of a suitable standard and in compliance with the above policies.
11. Taking account of all other matters raised, it is therefore decided that the appeal succeeds and, in consequence, a new planning permission is created. In reaching this decision I have carefully considered the views of Burley Parish Council.
12. As much of the amended scheme has already been carried out a commencement condition is not needed. A condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty. Subject to the previously imposed conditions preventing external lighting and use of the building as habitable accommodation I see no reason why the residential amenity of the occupiers of the neighbouring dwelling at Forest Garden Cottage should be adversely affected. In the interest of biodiversity I shall also impose the condition on the previous permission requiring ecological mitigation and enhancement measures to be implemented and retained.

M Evans

INSPECTOR