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## Appeal Decision

Site visit made on 12 December 2018

**by Rory MacLeod BA MRTPI**

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

**Decision date: 01 February 2019**

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**Appeal Ref: APP/B9506/W/18/3197277**

**Glen Cairn, Canada Road, West Wellow, Romsey SO51 6DD**

- 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 & Mrs Hayden against the decision of New Forest National Park Authority.
  - The application Ref 17/00917, dated 18 October 2017, was refused by notice dated 21 December 2017.
  - The development proposed is conversion of an existing garage to create additional ancillary living space.
  - This decision supersedes that issued on 31 May 2018. That decision on the appeal was quashed by order of the High Court.
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### Decision

1. The appeal is allowed and planning permission is granted for conversion of an existing garage to create additional ancillary living space at Glen Cairn, Canada Road, West Wellow, Romsey SO51 6DD in accordance with the terms of the application, Ref 17/00917, dated 18 October 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL EX 00 A; PL EX 01 B; PL EX 01 D; PL EX 02 B and PL EX 02 C.

### Main Issues

2. The main issues are:

(a) the acceptability of the proposal in relation to adopted policy that seeks to safeguard the countryside from the cumulative effect of enlargements to dwellings, to maintain a balanced housing stock and to avoid adding to pressures for change, and

(b) whether the proposal would amount to the creation of separate dwelling.

### Reasons

#### *Countryside impact*

3. Glen Cairn is a detached two storey house at the southern end of a row of detached dwellings to the eastern side of Canada Road. There are two large outbuildings, a double garage to the northern side and a store in the near part

- of the rear garden adjacent to the southern boundary. The site is surrounded to the east and south by agricultural land and is located within a semi-rural area outside any of the defined New Forest villages.
4. The proposal is to convert the outbuilding adjacent to the southern site boundary to habitable accommodation, to include a bedroom, bathroom, living area and kitchenette. The stated purpose is for this to be ancillary to the main dwelling, to be used by family and friends associated with the property.
  5. Policy DP11 of the New Forest National Park Local Development Framework Core Strategy and Development Management Policies DPD (2010) (CS) relates to extensions to existing dwellings. Supporting paragraph 7.39 confirms for the purposes of applying Policy DP11 that "*existing dwelling*" means "*the dwelling as it existed on 1 July 1982, or as the dwelling was originally built or legally established, if the residential use post-dates 1 July 1982*". Policy DP11 defines a "*small dwelling*" as "*a dwelling with a floor area of 80 sq. metres or less as it existed on 1 July 1982, or as the dwelling was originally built or legally established, if the residential use post-dates 1 July 1982*".
  6. The current dwelling is a replacement, constructed pursuant to a planning permission approved in 2010 under Test Valley Borough Council policies prior to adoption of the CS. The parties agree that the previous dwelling at the site had a floor area of 65 sq. metres and that it existed on 1 July 1982. The residential use of the site did not commence subsequent to this date. Therefore, for the purposes of Policy DP11, the previous dwelling has to be regarded as the "*existing dwelling*" as the "*original dwelling*" and also as a "*small dwelling*".
  7. Policy DP11 states "*In the case of small dwellings, the extension must not result in a total habitable floor space exceeding 100 sq. metres*". The parties concur that the replacement dwelling has a floor space of 154 sq. metres. This greatly exceeds the threshold of 100 sq. metres set for the enlargement of small dwellings. It also exceeds the maximum habitable floor space of 120 sq. metres in which a larger extension may be permitted due to exceptional circumstances. The proposal would increase the size of the replacement dwelling by about a further 30 sq. metres, according to the appellants' figures, and result in additional habitable floor space that would be even further above the thresholds set by Policy DP11. It would thereby be in conflict with this policy.
  8. However, as the replacement dwelling is already appreciably above the thresholds set by Policy DP11, the proposal would not result in the loss of a small dwelling or make a small dwelling any less accessible. It is therefore appropriate to examine the purposes behind the policy and if the proposal would result in any harm in relation to those purposes and in respect to the issues referred to in the Council's decision notice.
  9. Supporting paragraph 7.36 to the CS comments that proposals to extend dwellings can affect the locally distinctive character of the New Forest and increasing the size of dwellings has the potential to cause an imbalance in the range and mix of housing stock available. Paragraph 7.37 comments that the Core Strategy enables small dwellings (including those within the defined villages) to be extended while retaining a modest size capable of making a contribution to the housing stock at the lower end of the market.

10. The appellants' submission includes evidence on the high market value for the replacement dwelling and states that it is within Council Tax Band G. This is not appropriate to small dwellings. Mindful of this and noting its size, my findings are that the replacement dwelling therefore does not currently make a contribution to the housing stock at the lower end of the market. Moreover, this position would not change regardless of the outcome of this appeal. No substantive evidence has been forthcoming to show that the proposal would result in or contribute to a significant imbalance in the range and mix of the housing stock, having regard to the replacement dwelling's current size.
11. There would be few physical changes to the replacement dwelling. Two sets of double garage doors would be replaced by domestic doors, two windows would be inserted in the rear southern wall and solar panels and a roof light added to the roof. The proposal would not result in any additional built volume and the changes to the appearance of the outbuilding would not be readily apparent from beyond the site's curtilage or be discordant in this residential context. The physical changes would not appreciably increase the effect of the building on the landscape character of the National Park. The opening line to Policy DP11 states that "*Extensions to existing dwellings will be permitted provided that they are appropriate to the existing dwelling and its curtilage*". My findings are that the resultant development would be appropriate to the existing dwelling and its curtilage.
12. Nonetheless, the proposal would result in additional habitable floor space which could lead to increased activity in the countryside. But given the size of the replacement dwelling already and the ancillary nature of the proposal, it is unlikely that any increase in activity would be material. There is little evidence to the contrary, or to indicate that increased activity in this instance would be harmful in relation to the Council's aims to safeguard the countryside.
13. The Council aims to resist the cumulative effect of enlargements to dwellings and outbuildings, which can affect the locally distinctive character of the New Forest. Supporting paragraph 7.36 refers to a large number of planning applications received for such development; this is indicative of pressures for change which cumulatively could undermine aims to safeguard the long term future of the countryside. The first refusal reason states that the proposal would "*undesirably add to pressures for change which are damaging to the future of the countryside*". However, given the limited harm that would arise from the circumstances in this case in relation to the purposes for Policy DP11, it has not been shown that the degree to which the proposal would add to pressures for change would alone be sufficient to warrant dismissal of the appeal.
14. The proposal is also impacted by a condition to the planning permission for the replacement dwelling which states, "*The outbuildings the subject of this permission shall only be used for purposes incidental to the dwelling on the site and shall not form part of the property's habitable accommodation*". The reason for this condition includes the protection of the character of the countryside and is not dissimilar to the stated reasons for Policy DP11. Whilst the condition provides another control, it does not automatically follow that the proposal should be resisted. It still has to be considered on its individual merits in respect of relevant planning policies and any harm arising in relation to them.

15. The Council's delegated report refers to four appeal decisions in which Inspectors have supported the floor space restrictions set in Policy DP11; but little detail is provided on the context of these decisions. The appellants consider only one of these appeal decisions to be relevant to the current appeal<sup>1</sup>. That appeal related to the provision of additional habitable accommodation in the roof space within a replacement dwelling. The appellants claim that the Inspector in that case and the Council both placed greater emphasis on the floor area of the replacement dwelling than the Council has done in the current appeal. Whilst I am not familiar with all the details of that case, from the information in the decision letter, I am satisfied that the approach I have taken to Policy DP11 is consistent with the approach taken in the earlier appeal; but it is also necessary to consider on a case by case basis any harm that arises from conflict with that policy.

#### *Separate dwelling*

16. The Council's second reason for refusal of the appeal application considers the proposal to be tantamount to the creation of a separate dwelling. This is unlikely given the proximity of the outbuilding to the replacement dwelling, the mutual overlooking between the buildings, the shared garden areas and the difficulties of securing separate access arrangements. Moreover, such a change would require planning permission in any event. The proposal is clearly stated to provide ancillary living space. It would not therefore be in conflict with Policy CP12 of the CS that sets out the circumstances where new residential development would be considered appropriate.

#### **Conclusion**

17. If this proposal were to be undertaken, the resultant dwelling would be of a size that would appreciably exceed the floor area thresholds set by Policy DP11 and would thereby result in conflict with this policy. However, having regard to the current size of the replacement dwelling, the proposal would not result in the loss of a small dwelling, nor would it undermine the Council's aims to retain small dwellings so as to maintain a balanced housing stock. The limited physical changes arising from the proposal would result in an acceptable impact in relation to the landscape character of the countryside, and any increase in activity at the site would be unlikely to materially impact on the countryside character. Whilst acknowledging that the cumulative effect of enlargements to dwellings can add to pressures for change the proposal's effects on those pressures alone would not be sufficient reason to withhold permission.
18. For the reasons given, and having regard to all other matters raised, the appeal is allowed subject to conditions setting the statutory three year time limitation for implementation and a condition to list the plan numbers in the interests of certainty. The Council's suggested condition to require the accommodation to "*only be used for purposes ancillary to the dwelling on the site and shall not be used as a separate self-contained unit of accommodation*" is not necessary as the proposal is for ancillary use only and the creation of a separate unit would require a grant of planning permission.

*Rory MacLeod*

INSPECTOR

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<sup>1</sup> APP/B9506/D/15/3129435