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## Appeal Decision

Site visit made on 16 October 2018

**by Stephen Hawkins MA MRTPI**

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

**Decision date: 13 November 2018**

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**Appeal Ref: APP/B9506/C/18/3196503**

**Land at Oak House, Milford Road, Everton SO41 0JD**

- 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 Peter Cross against an enforcement notice issued by New Forest National Park Authority.
- The enforcement notice was issued on 26 January 2018.
- The breach of planning control as alleged in the notice is without planning permission the construction of an outbuilding shown in the approximate position coloured blue on the plan attached to the notice not in accordance with planning permission 10/95407.
- The requirements of the notice are: 5.1 Alter the elevations of the outbuilding to strictly accord with the approved elevations permitted under planning permission 10/95407 and detailed on drawing no 204 Rev A. 5.2 Alter the outbuilding to strictly accord with the approved floor plan permitted under planning permission 10/95407 and detailed on drawing no 204 Rev A. For the avoidance of doubt the first floor should only comprise a single roof void/loft space.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.**

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### Ground (a) appeal

#### Main Issue

1. The appeal property is within the New Forest National Park (NP). Therefore, the main issue on this ground of appeal is whether the outbuilding conserves the landscape and scenic beauty of the NP, having regard to its scale, form and appearance, and; the increase in habitable accommodation.

#### Reasons

##### *Scale, form and appearance*

2. Oak House is a substantial four bedroomed detached property arranged over three floors, standing in ample grounds. It was erected on the site of a previous dwelling following the grant of planning permission by the National Park Authority (NPA) in September 2010<sup>1</sup>. The property occupies a countryside setting, being positioned well back from the nearest public road close to a farmhouse, estate worker's cottages and former farm buildings now in employment use.

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<sup>1</sup> Council Ref: 10/95407.

3. The 2010 permission also included a large single storey detached residential outbuilding with a pitched roof and similar external materials to the dwelling. The outbuilding provided garaging, a workshop and covered barbecue area and was situated alongside the dwelling. A planning condition required the permitted outbuilding to only be used for purposes incidental to the dwelling and not be used as habitable accommodation such as living or bedrooms.
4. Externally, the outbuilding has a similar siting and footprint and has similar materials to that shown on the approved drawings, but it is slightly higher at the eaves and around a metre higher overall. The barbecue area at the rear has been enclosed and external openings incorporated in the elevations including ground floor and first floor windows and rooflights. Internally, an entrance hall and bathroom have been formed at ground floor level with a staircase inserted leading to three bedrooms and a lounge in the roof space. According to the appellant, these rooms are used by close family members when they come to stay due to the limited size of some bedrooms in the dwelling.
5. The surrounding countryside forms part of the Ancient Forest Farmlands landscape type of the Sway Pasture and Residential Settlements Character Area in the NPA's Landscape Character Assessment (LCA). The key landscape features of the area include the ancient field patterns, woodlands linked to hedges and oaks, scattered farmsteads and cottages and traditional forest smallholdings and dwellings linked to back up pasture and paddocks.
6. The ridge of the outbuilding roof is set well below the main eaves line of the dwelling. The increased height of the outbuilding as erected is in part due to the steeper roof pitch, which is similar to that of the dwelling; the approved drawings show an appreciably shallower roof pitch. Consequently, the scale of the outbuilding does not compete visually with the dwelling whilst the form of the outbuilding integrates well with that of the principal structure.
7. In terms of the additional elevational openings to the outbuilding, on the whole these are relatively few in number and apart from the larger area of first floor glazing in the rear gable, they are of modest size. Therefore, the openings do not significantly alter the inherently solid, functional appearance of the outbuilding and they do not lend it an appreciable sense of being a more obviously domesticated structure.
8. Due to the above factors, the alterations to the outbuilding have not appreciably altered its overall scale, form and appearance. Therefore, in visual terms the outbuilding appears as an incidental residential structure, having a subservient relationship to the dwelling and integrating satisfactorily into its landscape context. It follows that the outbuilding is not an appreciably more bulky or obvious residential building compared with the approved drawings in terms of scale, form, appearance or visual impact.
9. Unsympathetic modern development out of keeping with local vernacular styles, scales and using inappropriate building materials has been identified in the LCA as one of the key causes of change in the local landscape. Even so, for the above reasons the outbuilding as erected does not exhibit those negative qualities, nor does it adversely affect the local landscape characteristics identified in the LCA when compared with the approved drawings.

10. Therefore, I find that in terms of the scale, form and appearance of the outbuilding relative to the approved drawings, the landscape and scenic beauty of the NP are conserved. Consequently, the outbuilding accords with criteria in Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies DPD (CS), as it is appropriate and sympathetic in terms of scale, appearance, form and siting and it respects the landscape character. Moreover, as the outbuilding is incidental and subservient to the dwelling in scale and appearance and it harmonises with the dwelling and responds to its style, profile and materials, it is consistent with advice on the design of residential outbuildings in the NPA's Design Guide Supplementary Planning Document (SPD). For the above reasons the outbuilding is also consistent with the revised National Planning Policy Framework (the Framework) at section 15.

*Increase in habitable accommodation*

11. CS Policy DP11 restricts residential extensions to no greater than a 30% increase in habitable floorspace over that of an existing dwelling. This includes habitable floorspace provided in a detached outbuilding. The CS regards the lounge and bedrooms in the outbuilding as 'habitable floorspace'. With three additional bedrooms in the outbuilding, Oak House is now a seven bedroom residence. However, the appellant assessed the total increase in habitable floorspace over that of the dwelling as built as being in the order of 20% and I have no firm evidence to suggest otherwise. The dwelling appears to have been built out for some time. The CS makes it clear that the 'existing dwelling' means the dwelling as it was originally built. Therefore, the size of the previous dwelling is not a material factor when assessing the increase in habitable floorspace. As the increase in habitable floorspace at the property does not breach the 30% threshold, the outbuilding is appropriate to the existing dwelling and its curtilage in accordance with CS Policy DP11.
12. Moreover, as already noted above the locally distinctive character of the New Forest is not affected by the outbuilding. Further, no firm evidence has been produced to suggest that the additional habitable floorspace provided by the outbuilding has caused an imbalance in the range and mix of local housing stock; in this respect I note that the dwelling was already a substantial residence prior to creation of the extra accommodation. Therefore, the reasons behind restricting the size of residential extensions set out in the CS supporting text are not directly relevant to this case. Neither is there any firm evidence of a material increase in human activity in the New Forest, as the dwelling and outbuilding are in a single residential planning unit.
13. Nevertheless, in order to meet criteria in CS Policy DP12 an outbuilding must be required for purposes incidental to the use of the dwelling and it should not provide additional habitable accommodation. The outbuilding clearly does not conform to the latter. There is no suggestion that a separate planning unit has been created. However, as a matter of fact and degree, the rooms in the outbuilding roof space form an integral part of the dwelling. It follows that this part of the outbuilding cannot be in use for purposes incidental to the dwelling. 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 kitchen. The supporting text to CS Policy DP12 suggests that its purpose is primarily to prevent the locally distinctive character of the NP from gradually being eroded by large outbuildings. Even though the increase in habitable floorspace in this case has not manifested itself in any significant visual

consequences for the NP, for the above reasons the outbuilding does not accord with criteria (b) and (c) of CS Policy DP12. CS Policy DP10 concerns proposals for replacement dwellings. However, the NPA have not explained the relevance of that policy.

*Overall conclusions on landscape and scenic beauty of the NP*

14. The scale, appearance and form of the outbuilding conserves the landscape and scenic beauty of the NP and it accords with CS Policies DP1 and DP11. Whilst the provision of habitable floorspace used as part of the dwelling conflicts with criteria in CS Policy DP12, the outbuilding does not harm the underlying objective of that policy, which is also focussed on conservation of the landscape and scenic beauty of the NP. Consequently, when taken as a whole the outbuilding accords with the Development Plan and it is also consistent with the SPD and the Framework.

**Conditions**

15. I have imposed a condition removing the permitted development rights available under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) at Schedule 2, Part 1, Class E in relation to the improvement or alteration of the outbuilding. However, removing permitted development rights at Schedule 2, Part 1, Classes A-E for the property as a whole is unnecessary, as it duplicates condition 4 of the 2010 permission. Therefore, I have amended the suggested condition.
16. After seeking the views of both main parties I have also imposed conditions limiting the extent of the outbuilding used as primary living accommodation and restricting the use of the first floor to purposes integral or ancillary to the dwelling. All three conditions are necessary in order to conserve the landscape and scenic beauty of the NP.
17. The NPA's suggested condition 2 would be unreasonable as it would effectively restrict part of the use of the outbuilding for which deemed planning permission is being granted. Suggested condition 3 would duplicate the condition removing permitted development rights and is therefore unnecessary. Consequently, I have not imposed those suggested conditions.

**Conclusion**

18. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.

**Formal Decision**

19. The appeal 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 erection of an outbuilding on land at Oak House, Milford Road, Everton SO41 0JD referred to in the notice, subject to the conditions in the Schedule at the end of this Decision.

*Stephen Hawkins*

INSPECTOR

#### SCHEDULE OF CONDITIONS

- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no external improvement or alteration to the outbuilding.
- 2) No part of the outbuilding hereby permitted other than its first floor shall be used as primary living accommodation. For the avoidance of doubt primary living accommodation includes living rooms, bedrooms and kitchens.
- 3) The first floor of the outbuilding hereby permitted shall not be occupied or otherwise used at any time other than as an integral part of the use of the dwelling known as Oak House, Milford Road, Everton SO41 0JD as a single residential planning unit or for purposes ancillary thereto.