



## Appeal Decision

Site visit made on 7 August 2018

**by Mrs J Wilson BA BTP MRTPI DMS**

Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> August 2018

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**Appeal Ref: APP/B9506/D/17/3191801**

**The Lodge Malwood, Lyndhurst Road, Minstead, Hampshire SO43 7HA**

- 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 J Williamson against the decision of New Forest National Park Authority.
  - The application Ref 17/00816, dated 18 September 2017, was refused by notice dated 22 November 2017.
  - The development proposed is a new access and gate.
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### Decision

1. The appeal is dismissed

### Preliminary matter

2. The Authority indicates that the proposal was amended during the course of the application to remove the vehicular gate at the proposed access, the pedestrian gate remaining part of the proposal. I have therefore amended the description in the banner heading to refer to a single gate rather than gates.
3. On 24 July 2018 a revised National Planning Policy Framework (the Framework) was published and is a material consideration in the determination of appeals. The appellant and the Authority have been afforded the opportunity to comment on the content of the Framework in so far as it affects this appeal and their comments have been taken into account in reaching my decision. All references to the Framework in this decision relate to the 2018 Framework.

### Main Issues

4. The main issues are the effect of the development: a) on the character and appearance of the site and the National Park and whether it would preserve or enhance the character or appearance of the Forest Central (South) Conservation Area (CA); and b) on nature conservation, having regard to the effect on the integrity of the New Forest Special Protection Area (SPA), and the Site of Special Scientific Interest (SSSI) and RAMSAR sites.

### Reasons

#### *Character and appearance*

5. The statutory purposes of a National Park designation are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, and to promote opportunities for the understanding and enjoyment of its special qualities by the public. The National Planning Policy Framework (the

Framework') also states<sup>1</sup> that great weight should be given to conserving landscape and scenic beauty within National Parks, which have the highest status of protection. The site is also within the CA where it is necessary to determine whether the proposal would preserve or enhance the character or appearance of the CA.

6. Notwithstanding the proximity of the site to the A 31 which is immediately to the north of the appeal site this part of the CA is characterised by a strong sense of enclosure, formed by the woodland combined with boundaries of mature trees and hedgerows. Lyndhurst Road is a densely tree lined where the character is distinctly verdant with only glimpses of buildings apparent from the road. The boundary to the appeal property is formed from parkland railings with hedges behind along Lyndhurst Road. The introduction of a wide splayed entrance, cattle grid and pedestrian gate slightly elevated from the road would present a formal entrance to the property on a stretch of road which is distinctly rural in character. This would alter the appearance of the frontage and verge and significantly dilute the rural character of the site which would be out of keeping with the prevailing characteristics of this part of the CA causing harm to the character and appearance of the CA, though that harm would, in the words of the Framework<sup>2</sup> be less than substantial.
7. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character of a heritage asset, in this case the Forest Central (South) CA, is a matter of considerable importance and weight. In this context and for the above reasons the development would be harmful to the character and appearance of the CA and would neither preserve nor enhance its character or appearance. It would therefore conflict with Policies DP1, DP6, CP7 and CP8 of the New Forest National Park Core Strategy and Development Management Policies (2010) (CSDPD). These policies seek to ensure that development respects landscape character, protects maintains or enhances nationally important features and maintains the local character of the National Park preventing any suburbanising effect.

#### *Nature Conservation*

8. The Authority says that the proposal would have a harmful impact upon, and would cause a net loss of, designated sites (SPA; SSSI; SAC and RAMSAR). They argue that objections to an earlier scheme are not overcome by the revised proposal and that Natural England considers that it is still not clear how mitigation would be achieved or what the value of the area that would be lost actually is. On the other hand the appellant argues that no animal habitat or fauna would be lost and grazing would be compensated for by additional verge in the splayed access and a new hedge would be planted which would encourage nesting birds and would not be poisonous to foraging animals which the current rhododendron hedge is. Moreover the entrance way would result in the loss of less than 0.0001% of the SPA.
9. I observed that much of the hedgerow in the position of the proposed access has been removed and I cannot be sure about the precise nature or value of the vegetation that has been lost. However vegetation in the hedgerow either side of the hedgerow gap is principally rhododendron which would suggest that

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<sup>1</sup> Framework - Paragraph 172

<sup>2</sup> Framework - Paragraph 196

that the removed section is likely to have been similar species. There is no evidence from the Authority to suggest otherwise.

10. I have had regard to the provisions of Circular 06/2005 which requires that for proposal not directly connected to or necessary for site management or nature conservation there is a need to examine the effect on the SPA. Thus it is necessary to consider if the proposal is likely to have a significant effect on internationally important interest features of the site, alone or in combination with other plans and projects. The SPA was designated because of its population of 4 heathland species of bird however there is no evidence before me that the integrity of the SPA would be compromised or that there would be harm to biodiversity.
11. In view of the small scale nature of the proposal and the fact that substitute grazing areas are proposed, the detailed planting of which could be secured through a planning condition I consider that the proposal would not result in significant harm in the context of protected habitats and nature conservation. I therefore find no significant conflict with Policies CP1 or CP2 of the CSDPD which seek to protect sites of international importance and the natural environment. However, whilst this aspect weighs in support of the scheme it does not lessen the harm which I have identified in relation to the first main issue.

### **Other Matters**

12. The appellant has argued that the A31 is increasingly busy where traffic speeds regularly exceed the speed limit and most accidents occur on the access points to the road and it for this reason that a new access has been applied for. However, the access onto the A31 is not solely used by the occupants of the appeal property as it serves a depot and offices so will remain in use and traffic upon it would not be significantly reduced. Reference has been made by the appellant about their desire to locate the access onto a quieter road as encouraged by the Framework. Though this proposal would not result in the removal of the existing access as the appellant wishes to retain occasional use of the existing garage. Travelling north from the appeal property would still require vehicles to negotiate access on the A31 and therefore in the wider context any highway safety benefit to this particular property would be small.
13. The appellant highlights the complexity of the Authority's committee processes and comments that he was not invited to attend the meeting. Whilst frustrating for the appellant I have dealt with the appeal on its own merits and the behaviour of the authority during the application process has no bearing on the planning merits of the scheme.

### **Conclusion**

14. Whilst I have not found harm to nature conservation interests, I have found that less than substantial harm would be caused to the character and appearance of the CA. Where less than substantial harm occurs the Framework indicates that this should be weighed against the public benefits of the development. An access in the proposed location would give the occupants increased choice and achieve the perception of a safer access, though this benefit is not a public one and would not outweigh the policy or visual harm to

the CA. Therefore there is no justification to reach a decision other than in accordance with the development plan and the Framework.

15. For the reasons given above and having had regard to all other matters raised I conclude that the appeal should be dismissed.

*Janet Wilson*

INSPECTOR