

Application No: 19/00623/FULL Full Application

Site: New Forest Activity Centre, Rhinefield Road, Brockenhurst, SO42 7QE

Proposal: New dwelling; 2No. outbuildings; creation of wildlife pond; jetty; creation of ha-ha; creation of courtyard; associated landscaping; demolition of existing equestrian centre and holding shed; infill of existing manege; removal of existing bund

Applicant: Mr & Mrs McNair-Wilson

Case Officer: Clare Ings

Parish: BROCKENHURST

1. REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

2. DEVELOPMENT PLAN DESIGNATION

Site of Special Scientific Interest

3. PRINCIPAL DEVELOPMENT PLAN POLICIES

- DP2 General development principles
- SP6 The natural environment
- SP7 Landscape character
- SP17 Local distinctiveness
- DP18 Design principles
- SP19 New residential development in the National Park
- SP21 The size of new dwellings
- DP37 Outbuildings

4. SUPPLEMENTARY PLANNING GUIDANCE

Not applicable

5. NATIONAL PLANNING POLICY FRAMEWORK

- Sec 12 - Achieving well-designed places
- Sec 5 - Delivering a sufficient supply of homes
- Sec 15 - Conserving and enhancing the natural environment

6. MEMBER COMMENTS

None received

7. PARISH COUNCIL COMMENTS

Brockenhurst Parish Council: Recommend permission, provided that emergency access to neighbouring properties is preserved.

8. CONSULTEES

8.1 Tree Officer: No objection, subject to condition

8.2 Ecologist: Concerns raised over:

- The robustness of some of the information submitted;
- The need for an informed Biodiversity Mitigation, Compensation and Enhancement Plan;
- A S106 agreement ensuring that not all the site would be domestic curtilage, and that the "meadow" would be suitable managed in perpetuity.

8.3 Landscape Officer: Verbal update to be provided at committee.

8.4 Natural England: No objection, subject to appropriate mitigation being secured

9. REPRESENTATIONS

9.1 Four representations received in support of the proposal. Comments:

- imaginative and harmonious ideas, well designed for the site
- would replace an eyesore
- would remove any future disturbance from the potential business use or D2 use of the site
- as the proposal could meet the requirements of paragraph 79 (of the NPPF) there would not be any issue of precedent
- soil inoculation project would be beneficial

9.2 Friends of the New Forest support the application. Comment:

- pragmatic and acceptable solution of a long-standing problem, which would be of benefit to the forest and local residents

10. RELEVANT HISTORY

10.1 Application to vary section 106 agreement attached to planning permission reference 91/48617 to allow trekking on the open forest and increase the number of horses stabled on site (16/00042) approved without conditions on 30 June 2016

10.2 Two dwellings with associated basements, garages and stable blocks; waste water treatment plants (demolition of existing buildings and removal of bund) resubmission of application 14/00656 (15/00580) refused on 21 October 2015. Subsequent

appeal dismissed on 19 August 2016.

- 10.3 Two dwellings with associated basements, garages and stable blocks; waste water treatments plants (demolition of existing buildings and removal of bund) (14/00656) refused on 18 November 2014
- 10.4 1 no. dwelling including basement, detached garage and stable block; 1 no dwelling including basement, attached garage and stable block; waste water treatment plants (demolition of existing buildings and removal of bund) (14/00656) refused on 18 November 2014
- 10.5 Partial demolition of building (Prior Approval of the method demolition and proposed restoration of site) (13/98719) was determined that further details were required on 20 September 2013

11. ASSESSMENT

- 11.1 The site lies to the north of Rhinefield Road, on the edge of but outside the defined village of Brockenhurst. It is 1.7 hectares in size and irregular in shape, and currently comprises two redundant buildings, originally agricultural, but which benefit from a lawful D2 (assembly and leisure) use as a result of the site being granted planning permission as a riding school and livery in the 1990s. Within the site, there is a former manege and earth bund. To the north, west and east is open forest, with the more residential area to the south of Rhinefield Road. Two dwellings are situated immediately adjacent to the site: Black Knoll House and Black Knoll Cottage.
- 11.2 The proposal is for the demolition of the existing buildings, and the erection of a dwelling, outbuildings, a wildlife pond and associated landscaping. The dwelling would be contemporary in design, based on two "wings", one for living and the other for sleeping and each would have its own design style, eg the living wing would be thatched with the sleeping wings under a flat-roofed sedum roof. The dwelling would essentially be single storey. Between the two wings would be a courtyard. A pond with jetties would lie adjacent to the dwelling. The outbuildings would comprise an office linked to the main dwelling under the thatched roof, and separate garaging using an existing boundary brick wall. The two existing buildings would be demolished, and the existing manege and bund would also be removed.
- 11.3 The key issues are its compliance with policy, and its impact on the adjoining open forest, together with the amenities of Black Knoll House and Black Knoll Cottage.
- 11.4 The site lies outside the defined village of Brockenhurst and therefore any new residential development is restricted to either

an extant permission, rural exception sites, agricultural/estate workers dwellings or commoners' dwellings, or a replacement dwelling. None of these scenarios are relevant to this application and therefore the proposal would be contrary to Policies SP4 (spatial strategy) and SP19 (new residential development in the National Park) of the Local Plan. In addition, where new residential development is permitted, Policy SP21 of the Local Plan requires it not to exceed 100m². At 488m² (as stated by the applicant), the size of the dwelling would therefore be well in excess of the policy.

- 11.5 The applicant is well aware that what is being proposed would not fall within policy, but has put forward a case that the dwelling could be treated as an exception, taking into consideration paragraph 79 of the National Planning Policy Framework which states:

"Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

[a) - d) would not apply]

e) the design is of exceptional quality, in that it:

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
- would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area."*

However, the applicant has indicated that consideration under paragraph 79 should not be exclusive, and that other issues should be taken into consideration, such as the fact that it is a brownfield site, the previous (and potential) D2 use, a previous residential use, and the fact that two large buildings (built in asbestos) would be removed. Whilst this statement can be seen to weaken any argument for a paragraph 79 dwelling, it still falls for the Authority to consider whether the proposal should be considered against these criteria, and then if it fails those tests, to have regard to the other issues.

Consideration of paragraph 79

- 11.6 The applicant has included commentary from an independent Design Review Panel (The Design Review Panel, South West) who conclude that the proposal *could* meet the requirements of paragraph 79. However, it is the Authority's view that the proposal does not meet the criteria contained within paragraph 79 for the reasons set out below.
- 11.7 The first consideration of a paragraph 79 dwelling is that it should be isolated. The site lies in close proximity to two other fairly sizeable dwellings, and therefore, in that context, would not be considered to be isolated. A similar context was recognised in an

earlier appeal decision for a paragraph 79 dwelling at Battramsley (Appeal ref: APP/B9506/W/18/3199995 dated January 2109) in which the Inspector stated:

"....the current appeal site lies within a cluster of contiguous development spread over a reasonably large sized area. This cluster includes several dwellings, and a number of buildings in a range of agricultural, commercial and other uses. On this basis, regardless of whether or not the site falls outside a settlement boundary, it is not 'isolated' in an ordinary and objective sense. As such advice within paragraph 55 of the previous Framework, as carried forward in paragraph 79 of the revised Framework, is not applicable to the scheme."

- 11.8 Whilst it would therefore appear that the proposal would fail the first consideration under this paragraph, it would be appropriate to have regard to the design. As stated above, the dwelling would comprise two "wings", one for living and the other for sleeping; however, this concept is not truly outstanding or innovative as it has already been permitted on a scheme for a replacement dwelling (that complied with policy) elsewhere in the National Park. Adding contemporary-style flat roofed additions to more conventional-looking dwellings of timber and thatch is also not an innovative concept, examples can also be found elsewhere in the National Park.
- 11.9 Unlike other paragraph 79 dwellings that have been proposed in the National Park (although it should be noted that to date none have been permitted), there is a lack of detail concerning innovation in terms of energy efficiency and renewable energy, other than solar PV panels. However, even if more information were to be submitted, it is not clear that this would meet the exacting standards of paragraph 79 as it is unlikely to be truly outstanding or innovative, a fact noted in another appeal decision (Ref: APP/B9506/W/15/3019437 & 3132040 dated 2 March 2016) in which the Inspector noted that the combination of energy efficiency and renewable energy proposals did not represent innovation as it is required to meet the special circumstances in terms of paragraph 55 [now paragraph 79].
- 11.10 The application has emphasised a strong ecological strategy for the site, including the removal of the existing buildings and other hard surfaces. However, this does not address the fact that the development of the dwelling and outbuildings would of necessity add other hardsurfacing elsewhere in the site, although to a lesser extent. The range of supporting documents included various terms which suggest an unusual or novel model of ecological development, and that many of the features would have a high wildlife value. However, many of these features also have functions for the future inhabitants of the property, and so their efficacy for nature conservation would be necessarily limited over time. An example being the pond which may have a wildlife

function in providing water, but neither its location close to the dwelling and the inclusion of jetties, nor its use would be conducive to delivering high quality wildlife benefits. In addition, many of the measures themselves are not highly unusual or unique given they basically comprise a landscape scheme with objectives to provide ecological benefits. These enhancements would be expected as a matter of planning policy. There is a concern that reference to a 'Model' within the application should be taken to mean that the proposals are scientifically led or based on professional ecological evidence, but there are elements contained within these documents which are queried by the Authority's ecologist. The buildings could be removed and the land reverted to meadow without the need for the dwelling. It is therefore not considered that the development as a whole would significantly enhance its immediate setting.

Other issues

- 11.11 It is not considered that the site comprises 'previously developed land' (brownfield land) as defined by Annex 2 of the National Planning Policy Framework, as the site's origins were in agriculture. However, even if the site did comprise 'previously developed land', this does not override the fact that the site is classified as part of the open forest, outside of the defined village, where a residential use would not be supported as it would be contrary to Policies SP4 and SP19. Policy DP42 considers the re-use of buildings outside of the defined villages and does not provide for residential uses. Policy DP44 allows for the re-development of existing employment sites, but again not for residential uses. An appeal for two dwellings at the site (Ref: APP/B9506/W/16/3145590 dated 19 August 2016) also raised this issue, but the Inspector gave very little weight to either side of the argument. However, in the same appeal statement, it was noted that the site was not considered to be sustainable as, given the distance of the site to the various facilities in Brockenhurst of about 1km, and the lack of a footpath and lighting, most journeys would be likely to be undertaken by car.
- 11.12 The existing use of the site is for D2 purposes, and much of the support for the current proposal is that this would be preferred to the lawful use of the site, and thus the fallback position would be significantly worse. The likelihood of a D2 use being re-introduced at the site was discussed at the appeal hearing in 2016, and at that time it was noted that several years had passed with very little change to the site or any investment into the buildings. Further time has now elapsed, and the site has been bought by the current applicant who is intent on developing it as proposed. Thus, it is not considered that there is a realistic fallback position, a fact recognised by the Inspector at that earlier appeal who stated:

"I place substantial weight on the Authority's argument that the

fallback use is unlikely to happen and attach only moderate weight to the appellant's submissions relating to the fallback position as a material consideration."

- 11.13 There is reference in the supporting documents that within the existing buildings, there was provision for residential occupancy, a "Lad's flat" that was occupied until the site was sold in 1992. There is no evidence that the flat was used after that date, but in any event, if the argument is that the dwelling should be considered as a replacement, it would not comply with policy DP35 of the Local Plan. It would greatly exceed any floorspace restriction, even with the consideration of an extension, it would be located in a vastly different location away from existing built development, and the use of space within the building as a flat could well have originally been unlawful, thus rendering any replacement as contrary to policy.

Conclusion

- 11.14 There is very little discussion contained in any of the supporting documents as to how this proposed new dwelling would meet the two statutory purposes of the National Park, other than the removal of two former agricultural buildings and the return of some of the site to meadow. It is also noted that there is support for the proposal, including from the two adjoining properties and the Parish Council. However, to develop the site for residential purposes would be contrary to policy, and the potential benefits are not considered to outweigh this fact. The dwelling would not meet the exacting requirements of paragraph 79, and so would not be considered an exception on these grounds.

- 11.15 The recommendation therefore is one of refusal. It is interesting to note that the conclusion of the 2016 appeal for two dwellings stated:

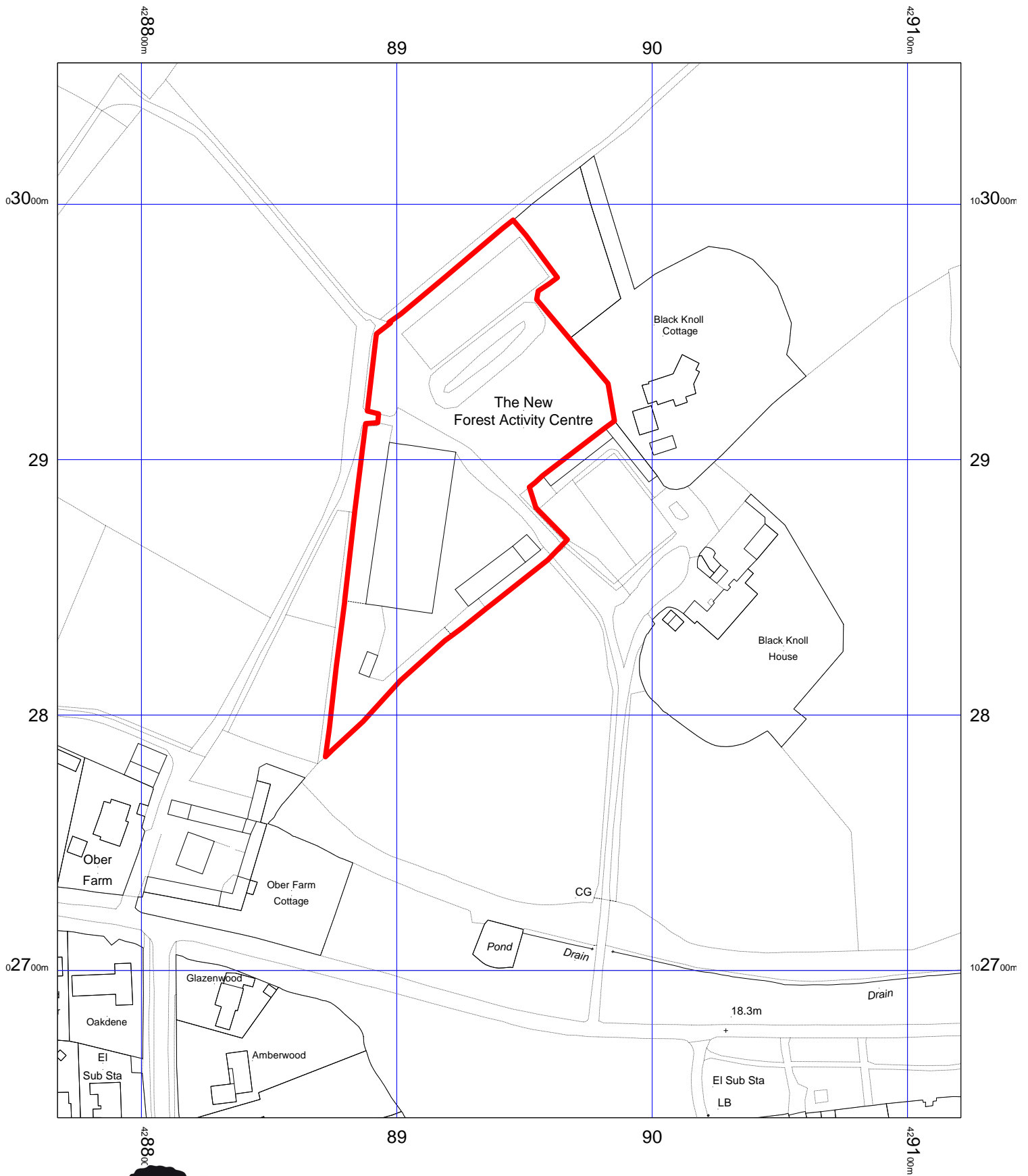
"to allow the proposal could, in theory, prevent events likely to generate more noise and significant amounts of traffic onto a site that is within a tranquil area of the NP. Whilst this is a material consideration and carries some weight, the evidence before me does not conclusively demonstrate that this should override the statutory status of the development plan's policies that seek to control the location of housing as part of protecting the character and economy of the NP and which must form the starting point for my decision. Moreover, the proposal would not accord with the statutory requirements relating to conserving and enhancing the NP. I have also found that the proposal would run counter to national policy."

12. RECOMMENDATION

Refuse

Reason(s)

- 1 The proposal would result in the creation of a significant new dwelling in the open countryside of the National Park which would be contrary to Policies SP4, SP19 and SP21 of the adopted New Forest National Park Local Plan 2016-2036 (August 2019). These policies aim to prevent the creeping suburbanisation of the National Park, to restrict the size of new dwellings in the National Park, and to maintain the rural, open character in the interests of the National Park's two purposes; to conserve and enhance the natural beauty, wildlife and cultural heritage of the Park, and to promote opportunities for understanding and enjoyment of its special qualities.
- 2 The proposed dwelling cannot be reconciled with National Planning Policy Framework paragraph 79 in that the dwelling would not be of a design that is truly outstanding or innovative, and that it would not significantly enhance or protect its immediate setting. The proposal would therefore be contrary to policies SP17 and DP18 of the adopted New Forest National Park Local Plan 2016-2036 (August 2019).
- 3 The development does not provide for any measures to avoid or mitigate any potential adverse impacts on the ecological integrity of the New Forest and Special Protection Area (SPAs) as required by Policies SP5 and SP38 of the New Forest National Park Local Plan 2016-2036 (August 2019) and the National Planning Policy Framework (2019). All residential development in proximity to the New Forest and Solent SPAs should avoid or mitigate any potential adverse impacts upon the ecological integrity of the SPAs, both as a result of residential impacts, as set out in the Development Standards SPD (adopted September 2012) and through adverse impacts on water quality.



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