

Appeal Decision

Site visit made on 15 February 2016

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 April 2016

Appeal Ref: APP/B9506/D/15/3139442

Roydon Cottage, Sandy Down, Boldre, Lymington, Hampshire SO41 8PL

- 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 Mrs Ruth Forsyth against the decision of the New Forest National Park Authority.
 - The application, Ref. 15/00623/FULL, dated 2 August 2015, was refused by notice dated 13 October 2015.
 - The development proposed is a garden room.
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Application for Costs

1. An application for costs was made by Mrs Ruth Forsyth against the New Forest National Park Authority. This is the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for a garden room at Roydon Cottage, Sandy Down, Boldre, Lymington in accordance with the terms of the application, Ref. 15/00623/FULL, dated 2 August 2015, 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 shall be carried out in accordance with the approved plans;
 - 3) Prior to the commencement of development, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details;
 - 4) The development shall be carried out in accordance with the Construction Management Statement submitted with the application.

Main Issue

3. The main issue is whether the proposed extension in relation to the cumulative enlargement of the dwelling is acceptable having regard to adopted policy which seeks to both safeguard the character and appearance of the New Forest National Park and maintain a balance in the housing stock within it, whilst also taking other material considerations into account.
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Reasons

4. Policy DP11 of the New Forest National Park Core Strategy and Development Management Policies DPD 2010 seeks to limit the cumulative size of additions to dwellings in order to safeguard the locally distinctive character of the New Forest and ensure the retention of a balance in the housing stock. In the case of the appeal property the limit for extensions under the policy has already been exceeded as a result of previous additions of habitable accommodation and the NPA argues any further extensions would be in harmful conflict with the policy.
5. In principle I recognise the merit of this argument and note that the NPA has drawn attention in its application report to several appeal decisions that support the refusal of incremental additions beyond the policy floorspace limit. However, one of the basic tenets of development management within the planning system is that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is a statutory requirement and as pointed out for the appellant in the Design and Access Statement, it is repeated in paragraph 196 of the National Planning Policy Framework 2012 ('the Framework').
6. Whilst I acknowledge that a permission in this case would be a departure from Policy DP11, it is a material consideration that there is a 'fallback' position in that the appellant could implement permitted development rights across the rear of the original house and which the appellant calculates amount to 38sqm, or double that if a basement were to be constructed at the same time. This compares with the 18sqm extension sought in the appeal proposal.
7. From all that I have seen and read I consider firstly that the 38sqm extension fallback is a realistic proposition whether implemented by the appellant or a future owner. Secondly, compared with the appeal scheme, if carried out it would have a significantly greater impact on the appearance of the host dwelling; its 'position' in the housing stock and on the potential for increasing the pressures on the National Park with adverse consequences for its character and appearance.
8. In these circumstances, paragraph 203 of the Framework is relevant. This says that '*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition*'.
9. In this case I take the view that there are potential difficulties with the enforcement of a condition, whereas an obligation would be satisfactory in that regard and also meet the tests in paragraph 204 of the Framework. Moreover, through the preclusion of a more substantial enlargement the obligation would have more relevance than a dismissal of the appeal proposal to the achievement of the objectives of Policy DP11 and indeed Policies DP1 and CP8, which although not included in the Notice of Refusal are also cited in the officers' report as being relevant.
10. Following the appellant's amendment of the submitted Unilateral Undertaking at my suggestion, the NPA took the view that its wording would not prevent future occupiers of Roydon Cottage from implementing permitted development rights. However, as the appellant points out, the Undertaking is a Deed and makes

specific reference to the provisions of section 106(3) of the Town and Country Planning Act 1990 (as amended). This states that a planning obligation is enforceable by the Local Planning Authority against the person entering into the obligation and against any person deriving title from that person.

11. I have had regard to the other planning appeal decisions referred to be the NPA, but whilst I share my colleague Inspectors view of the importance of Policy DP11, I consider that none of these appeals sufficiently replicate the individual circumstances of this case to alter my conclusion that I should allow this appeal as a justified exception to the policy.
12. In granting permission I shall impose a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition requiring prior approval of the external materials will ensure that the extension is in keeping with the dwelling. Finally, a condition to ensure that the development is carried out in accordance with the Construction Management Statement will safeguard the immediate surroundings from harm during the period the extension is being built.

Martin Andrews

INSPECTOR