
Appeal Decisions

Site visit made on 28 August 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 26th October 2020.

Appeal A Ref: APP/B9506/D/19/3239585

7 Clarence Road, Lyndhurst, Southampton, Hampshire SO43 7AL

- 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 Lincoln against the decision of New Forest National Park Authority.
 - The application Ref 19/00451, dated 28 May 2019, was refused by notice dated 30 July 2019.
 - The development proposed is 2 storey and single storey rear extension to existing house plus single storey side extension.
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Appeal B Ref: APP/B9506/D/20/3246518

7 Clarence Road, Lyndhurst SO43 7AL

- 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 J Lincoln against the decision of New Forest National Park Authority.
 - The application Ref 19/00811, dated 18 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed is single storey and first floor rear extension.
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Decisions

1. Appeals A and B are both dismissed.

Procedural Matters

2. As set out above there are two appeals, which both relate to the same existing dwelling and its plot, however they differ in terms of the number and design of the extensions proposed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. The Local Planning Authority (LPA) adopted the Local Plan 2016-2036 (LP) after it determined Appeal A. It has confirmed that this supersedes the policies of the previous Local Plan referenced in its reasons for refusal for Appeal. The appellants' submissions refer to the new LP and as such they have had the opportunity to comment on this change.

Main Issues

4. The main issue for Appeals A and B is the effect of the proposed development on the living conditions of 5 Clarence Road in respect of privacy. For Appeal A there is an additional main issue: the effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

Appeals A and B

5. The appeal property and its attached neighbour No 5 both have single-storey projections at the rear, and No 5 has a patio area immediately behind theirs, which contained chairs and a table at the time of my visit. A section of pitched roof at the rear of No 7 blocks views between its existing first-floor rear window and the patio. On the other side of No 5, No 3A is set further back into the plot and as such, there are only very limited, oblique views from its rear windows towards the patio area. Vegetation in the garden of No 5 and along the rear boundary significantly restrict views through from the property to the rear. Consequently, although parts of the rear garden of No 5 can be seen from neighbouring properties, the patio is secluded and not directly overlooked. It therefore provides private outside space which contributes positively to the living conditions of the occupiers of that property.
6. Both Appeals A and B propose a first-floor extension containing a bedroom, with a window to the rear. Although set within a dormer, in both schemes the proposed window would be level with the rear wall of the proposed extension. While smaller than the existing first-floor rear window, the proposed window would nevertheless serve a habitable room. The use of that room as a bedroom is unlikely to generate significantly more noise than the use of the existing rear bedroom, however there is potential for it to be used frequently, particularly in the morning and evening.
7. In Appeal A, due to its elevated position and siting relatively close to the patio, the proposed window would provide direct and close views down into the patio area of No 5. Consequently, while some degree of mutual overlooking is common in this type of relatively tight-knit residential area, the proposal would result in a significant and harmful increase in overlooking of the private outside space of No 5, to the detriment of the privacy of the occupiers.
8. In Appeal B the proposed first-floor extension would be less deep, so the window would be set slightly further away from the patio. However, with the pitched roof of the existing outshot removed, it would still offer views down towards the patio area. As such, it would also have an unacceptable adverse impact on the privacy of the occupiers of No 5.
9. In both cases, this harm could be mitigated by requiring the proposed window to be fixed and obscure glazed, however this would almost entirely remove the outlook from that bedroom. Reduced outlook may be acceptable in some circumstances, such as in the appeal decision the appellants refer to¹ where clear glazed rooflights were also to be provided. However, neither Appeal A or B propose any other windows or rooflights for the bedroom. As such, a condition to require the window to be fixed and obscured would harm the living conditions of the occupiers of the host property and would not therefore be reasonable.
10. The appellants suggest that the proposals could be amended to change the dormer to a rooflight, however no such plans are before me and therefore, I cannot be certain that such an amendment would overcome the harm identified. Furthermore, it would be a material change to the appeal scheme on which interested parties should have the opportunity to comment. Therefore, it would not be reasonable to impose a condition requiring such amendments.

¹ APP/D1780/W/19/3224346

11. Consequently, both Appeals A and B would significantly harm the living conditions of the occupiers of No 5 in respect of privacy. They would therefore conflict with LP Policy DP2 which, amongst other things, requires that development would not result in unacceptable adverse impacts on amenity. Furthermore, they would conflict with paragraph 127 of the National Planning Policy Framework (the Framework) which requires development to create places with a high standard of amenity for existing and future users.
12. Although a larger window with Juliet balcony was approved in a similar position at 10 Pemberton Road nearby, the evidence before me indicates that its attached neighbour had deeper rear extensions than those at No 5. As such, I cannot be certain that the relationship between those two properties was the same as between Nos 5 and 7.
13. There are two dormer windows in the rear roofslope of 26 Clarence Road, which are no closer to its neighbour than the first-floor windows of that property. When granting permission, the LPA concluded that due to the existing windows, the dormers would not result in any additional adverse impact on the neighbour in terms of overlooking. For the reasons set out above, this is not the case with either of proposals before me. Consequently, the LPA's approval of these other developments does not justify the harm I have identified from both appeal proposals.
14. The appellants suggest that the LPA's Design Guide SPD does not make specific reference to overlooking. However, LP Policy DP2 does make specific reference to overlooking, and I have found conflict with that part of the development plan.

Character and appearance

Appeal A

15. The appeal site and No 5 are one of six pairs of traditional style dwellings in a residential street which contains a mix of dwelling types and ages. Many of the dwellings in the area have been extended in various ways, including both single and two storey side and rear extensions. Plot sizes vary significantly, and given the variety of styles in the area there is no particular prevailing form of development. Nevertheless, the traditional form and proportions of these six pairs, and their prominent ground floor bay windows, make a positive contribution to the character and appearance of the area.
16. Although the existing dwelling is set in a relatively small plot, this is not evident from public vantage points, as a side gate screens views to the rear. Overall the proposed extensions would result in a slight decrease in the useable space around the dwelling, however the rationalisation of the existing rear extensions would result in a larger yard area to the rear of the dwelling than at present, creating a more useable outside space.
17. Due to its small scale, lean-to design and significant set back from the front wall of the existing dwelling, the proposed side extension would not be prominent in the street scene. Nor, given its position, would it significantly affect the overall proportions of the frontage or compete with the bay window, both key features of the dwelling. Moreover, it would be similar in appearance to the side projection of No 5 and therefore would not appear out of place in the local area. The proposal would fill the gap to the boundary at ground floor level, however the space between properties at first floor would be retained. Therefore, from the road a sense of space around the property would remain.

18. The proposed first-floor rear extension would be set in from the flank wall and together with the hipped roof and low ridge height, this would mean that little of it would be visible from Clarence Road. As such, it would have little impact in the street scene. Although it would be visible from neighbouring properties, it would be similar to other first-floor extensions in the local area, including those referenced by the appellant. As such, it would not appear out of place in this context.
19. Consequently, the Appeal A proposals would not appear cramped or congested and would be appropriate and sympathetic to the existing property and local area in terms of their scale, appearance and form. In this relatively tight-knit residential area, they would not have a suburbanising effect or significantly affect the pattern of development in the area.
20. Accordingly, the Appeal A proposals would not harm the character and appearance of the area. I therefore find no conflict with LP Policies DP36 and SP17, which allow extensions where they are appropriate to the existing dwelling and its curtilage, and seek to resist development which would erode the local character of the National Park or result in a gradual suburbanising effect. Nor do I find any conflict with the guidance of the Design SPD as set out in the limited excerpts provided. The lack of harm in this regard does not however weigh in favour of the proposal.

Conclusions

21. Both Appeal A and Appeal B would significantly harm the living conditions of the occupiers of No 5 in respect of privacy. While I have found that there would be no significant adverse impact on the character and appearance of the area in relation to Appeal A, this does not outweigh the significant harm that I have identified in terms of living conditions. Therefore, and taking into account all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

L McKay

INSPECTOR