



Appeal Decision

Site visit made on 25 November 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 06 December 2019

Appeal Ref: APP/B9506/D/19/3236755

Langley Orchard, Lepe Road, Langley SO45 1XR

- 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 David Bailey against the decision of New Forest National Park Authority.
 - The application Ref 19/00369, dated 7 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is an extension to the rear and raised patio to the rear.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In their decision notice, the Authority has referred to Policy DP11 of the New Forest National Park Core Strategy and Development Management Policies DPD 2010 (CSDMPDPD).
3. However, on 29 August 2019, and since the application was determined, the Authority adopted the New Forest National Park Local Plan 2016 – 2036 (LP). Policy DP11 of the CSDMPDPD has been superseded by Policy DP36 of the LP. I have determined the appeal having regard to the recently adopted Policy DP36 and since it is so similar to Policy DP11 neither party would be prejudiced by the consideration of the appeal on the basis of the new policy.

Main Issue

4. The main issue is whether the proposal adheres to the Authority's strategy for the extension of existing dwellings in the New Forest National Park.

Reasons

5. Langley Orchard is a detached bungalow located outside the defined New Forest villages on the edge of the settlement of Langley. The property has a conservatory attached to its south elevation and a cellar positioned beneath the north-west corner of the building. The proposal would erect a single storey rear extension and a raised patio to the rear of the proposed rear extension.
6. Policy DP36 of the LP states, amongst other things, that extensions to existing dwellings will be permitted provided that they are appropriate to the existing dwelling and its curtilage. It goes on to say that, in the case of dwellings outside defined villages the extension must not increase the floorspace of the existing dwelling by more than 30%. The supporting text to Policy DP36 states

that an 'existing dwelling' means the dwelling as it existed on 1 July 1982, or as the dwelling was originally built or legally established, if the residential use post-dates 1 July 1982.

7. The Authority has calculated that the floorspace of the existing dwelling, including the existing conservatory but excluding the cellar, is around 137 square metres. Although the Authority has no planning history for the existing conservatory, they note aerial photographs indicate it was in existence in 1999, thus have given the benefit of doubt to the appellant in relation to whether the existing conservatory forms part of the floorspace of the existing dwelling, that is as it existed on 1 July 1982. Based on the evidence before me I have no reason to disagree with the Authority's assessment in this regard. Furthermore, I note that the appellant's submitted site plan indicates that the 'existing ground floor plan' area is 134.81 square metres. Therefore, there is broad agreement between the main parties about the size of the existing ground floor floorspace of the property.
8. The Authority calculate that the floorspace of the proposed extension is 49.8 square metres. I note that the appellant's appeal form states that the area of floorspace of the proposed development is 49 square metres. Thus, based on the evidence before me there is general agreement between the main parties about the size of the proposed rear extension.
9. For the proposal to adhere to Policy DP36, based on the Authority's calculation of 137 square metres for the floorspace of the existing dwelling, the floor area of the proposed extension must not be greater than approximately 41 square metres (30% of 137 square metres). Therefore, it would appear that the floor area of the proposed extension would be greater than permitted by policy.
10. However, the appellant points out that as the cellar was part of the original building and is habitable floorspace it should be included within the baseline calculation of the floorspace of the existing dwelling; and accepting this would not undermine the policy.
11. The supporting text to Policy DP36 states that a modest basement will not normally be regarded as habitable floorspace. However, it goes on to say some judgement will need to be applied in terms of whether it is genuinely a secondary space in association with the main dwelling. It also sets out the key criteria which should be used to consider whether a basement can be regarded as habitable floorspace and states that basements to houses set into a hillside with any form of exposed elevation will usually be treated as habitable accommodation.
12. By comparison to the existing ground floor floorspace of the bungalow the cellar, which is stated to measure 18 square metres on the appellant's submitted site plan, is modest in size. However, I saw on my site visit that the cellar is accessed via a fixed ladder and has a headroom of approximately 2 metres. It also has natural light by virtue of a window in the north elevation, where the gentle slope in ground level away from the property exposes part of the elevation of the property. I also saw the cellar included an area for the use of exercise machines and shelving for storage of household items. Taking into account these factors, notwithstanding its modest size, I consider that the cellar would amount to habitable floorspace in the context of the criteria set out in the supporting text to Policy DP36.

13. If the cellar is included within the baseline calculation, the total area of the floorspace of the existing dwelling is approximately 155 square metres (137 square metres plus 18 square metres). Using this figure, the floor area of the proposed extension must not be greater than approximately 46.5 square metres (30% of 155 square metres).
14. Thus, even if the cellar is included within the baseline calculation of the floorspace of the existing dwelling, the floor area of the proposed extension, stated to be 49 square metres by the appellant on his appeal form, would be greater than that permitted by policy.
15. For the above reasons, I conclude that the proposal would conflict with Policy DP36 of the LP which, amongst other things, seeks to ensure that the locally distinctive character of the built environment of the New Forest and balance in the range and mix of housing stock is not eroded as a result of extensions that are greater than 30% of the floorspace of the existing dwelling.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR