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## Appeal Decision

Site visit made on 15 June 2020

**by Guy Davies BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 July 2020**

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**Appeal Ref: APP/B9506/W/20/3247234**

**Monks Cottage, Pilley Bailey, Pilley, Lymington, Hants SO41 5QT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
  - The appeal is made by Mses Healy and Lindsell against the decision of the New Forest National Park Authority.
  - The application, dated 6 November 2019, sought approval of details pursuant to condition 8 of planning permission ref 17/00649, granted on 23 October 2017.
  - The application was refused by notice dated 29 January 2020.
  - The development proposed is replacement dwelling; demolition of existing dwelling.
  - The details for which approval is sought are: landscaping plan and statement.
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### Decision

1. The appeal is allowed and the landscaping details submitted pursuant to condition 8 attached to planning permission ref 17/00649 granted on 23 October 2017 in accordance with the application dated 6 November 2019 and the landscaping plan and statement submitted with it are approved.

### Procedural Matter

2. At the time of my visit the development was substantially complete. A temporary fence denoted the western boundary approximately along the line shown on the site plan.

### Main Issue

3. The main issue is the effect of the proposed landscaping scheme on the character and appearance of the approved development.

### Reasons

4. Condition 8 of planning permission ref 17/00649 requires that:

*No development shall take place until a scheme of landscaping of the site shall be submitted to and approved in writing by the New Forest National Park Authority. This scheme shall include:*

- (a) *the existing trees and shrubs which have been agreed to be retained;*
- (b) *a specification for new planting (species, size, spacing and location);*
- (c) *areas for hard surfacing and the materials to be used;*
- (d) *other means of enclosure;*

- (e) *a method and programme for its implementation and the means to provide for its future maintenance.*

*No development shall take place unless these details have been approved and then only in accordance with those details.*

*Reason: To safeguard trees and natural features and to ensure that the development takes place in an appropriate way and to comply with Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).*

5. The Council raises no objection to the existing trees and shrubs that have been retained - condition 8(a), the areas seeded to lawn - condition 8(b), and the areas for hard surfacing including a reduction in the parking and turning area, hoggin on the driveway, a patio around the new building edged with a dwarf wall and a sandstone terrace - condition 8(c). I also have no concerns with these features.
6. Little detail has been provided on a method and programme for implementation of these features or their future maintenance, but as these have now all been implemented and their future maintenance forms part of the normal upkeep of the garden I consider the brief details submitted meet the requirements of condition 8(e).
7. So far as means of enclosure are concerned under condition 8(d), the Council's concern relates to the position of these means of enclosure rather than the means of enclosure themselves. I comment on this below under 'Other Matters'.
8. The only part of the boundary enclosure around the property that is proposed to be changed is along the western boundary, where a haha is proposed for part of the boundary and a post-and-rail fence for the remainder. The post-and-rail fence is a traditional form of boundary treatment in a rural area such as this and is acceptable. A haha is more normally associated with somewhat grander properties than Monks Cottage, but I see no reason why it would not also work here. It would provide a suitable separation between the garden and adjacent paddock and would complement the rural character of the area. Both forms of boundary enclosure would sit comfortably within the setting of the property.
9. I consider that the submitted landscaping details would be sympathetic to the character and appearance of the approved development and comply with Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies Development Plan Document 2010, which sets out general development principles requiring development to respect the natural and built environment in which it is located.

### **Other Matters**

10. The reason for the Council refusing the submitted landscaping details is that the landscaping scheme incorporates land outside what the Council considers to be the garden area of the property. The land in question lies at the rear of the new dwelling along its western boundary.
11. While I am required to consider the appeal as lodged, it appears to me that the dispute between the Council and the appellant does not primarily relate to the

landscaping of the development site but is rather a dispute as to the lawful use of part of the land. This appeal cannot resolve that dispute. There are other planning procedures, for example through determination of an application for lawfulness under Sections 191 or 192 of the Town and Country Planning Act 1990, that are available for resolving such disputes. This appeal provides neither the procedural nor factual basis on which to determine such an issue.

12. Information has been submitted with the appeal arguing about the exact meaning of the land edged in red on the location plan to planning permission ref 17/00649, the status of landscaping details approved pursuant to condition 7 on a previous planning permission ref 16/00757, planning history relating to the lawfulness of outbuildings to the south, and correspondence between the appellants and the Council. While this information may be material in determining the lawfulness of the land in question, it is not directly relevant in considering whether the landscaping details are acceptable in terms of their effect on the character and appearance of the approved development.
13. The site lies within the New Forest National Park and the Forest South East Conservation Area. There is no suggestion from the Council that the landscaping details would be unsympathetic to the landscape and scenic beauty of the National Park or the character or appearance of the Conservation Area. I have no reason to disagree in either case and so find that landscaping details would conserve the character and appearance of the Conservation Area and would do so in a way that would conserve the wider landscape and scenic beauty of the New Forest National Park.

### **Conclusion**

14. I conclude that the appeal is allowed.

*Guy Davies*

INSPECTOR