



Appeal Decision

Site visit made on 21 May 2021

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2021

Appeal Ref: APP/B9506/D/21/3269573

Warwick Farmhouse, Beckley Road, Beckley BH23 7ED

- 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 T Goode against the decision of New Forest National Park Authority.
 - The application Ref 20/00893, dated 2 December 2020, was refused by notice dated 26 January 2021.
 - The development is an existing conservatory.
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Decision

1. The appeal is allowed and planning permission is granted for an existing conservatory at Warwick Farmhouse, Beckley Road, Beckley BH23 7ED in accordance with the terms of the application, Ref: 20/00893, dated 2 December 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: MBA/100/100 (Existing Location Plans), MBA/100/101 (Existing Floor Plans) and MBA/100/102 (Existing Elevations).
 - 2) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing No. MBA/100/102.

Background

2. The conservatory was constructed at the appeal property in Spring 2020. Following construction, the appellant was notified by the Authority's Enforcement Officer that the works required planning permission. The applicant made an application to the Authority for planning permission on 2 December 2020 to retain the conservatory as built, which was refused by notice dated 26 January 2021. The Authority's refusal to grant planning permission forms the basis of this appeal. Given that the works have been completed, I am considering this appeal as a retrospective development.

Main Issues

3. The main issues are: (i) whether the development adheres to the Authority's strategy for the extension of existing dwellings within the New Forest National Park, in the context of adopted policy; and (ii) if harm arises, whether this is outweighed by other material considerations.

Reasons

The Authority's strategy for the extension of existing dwellings

4. Warwick Farmhouse is a large detached dwelling located off Beckley Road situated within the New Forest National Park (the 'National Park'). The property occupies a substantial plot in a rural location.
5. The supporting text for Policy DP36 of the New Forest National Park Local Plan 2016-2036 (the 'LP') explains that proposals to incrementally extend dwellings in a nationally designated landscape can affect the locally distinctive character of the built environment of the New Forest. In addition, extensions can over time cause an imbalance in the range and mix of housing stock available. For these reasons, the policy aims to restrict the size of extensions which will be permitted to existing dwellings.
6. For dwellings which are not small dwellings¹ and are outside the defined villages, as is the case with the appeal property, the policy states that extensions must not increase the floorspace of the existing dwelling by more than 30%. Paragraph 7.82 of the LP explains that the term '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 explain that the original dwelling had a gross internal floor area of 132 square metres. They further state that previous extensions undertaken at the property taken together with the existing conservatory would amount to a floorspace increase of about 98% of the internal habitable floor area of the original dwelling. These calculations have not been disputed by the appellant.
8. Consequently, the retention of the existing conservatory together with the previous works would amount to a floorspace increase of more than 30% of the internal habitable floor area of the existing dwelling, which would conflict with Policy DP36 of the LP.
9. In design terms, I am cognisant of the shared position between the main parties that the conservatory does not result in any visual harm to the character of the wider area. Nevertheless, this does not overcome or outweigh the very weighty conflict with Policy DP36 which seeks to limit the extension of existing properties in order to prevent the harmful incremental extension of dwellings within the National Park, which is a nationally designated landscape.
10. For the reasons set out above, I conclude that the development would exceed the 30% criterion set out in Policy DP36 of the LP. Therefore, the development is contrary to Policy DP36, which aims to prevent the harmful incremental extension of dwellings in the National Park.
11. The development plan policy aligns with the aims of Paragraph 172 of the National Planning Policy Framework (the 'Framework') which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. The development does not accord with the Framework in these respects.

¹ Paragraph 7.82, part of the supporting text for Policy DP36, explains that the term 'small dwelling' means a dwelling with a floor area of 80 sq. metres or less 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.

Other Considerations

12. Planning law², as noted by Paragraph 12 of the Framework, requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
13. In this instance, it has been brought to my attention that the Authority granted planning permission³ in November 2020 for alterations to the existing conservatory to create a detached garden room to the rear of the appeal property. The approved drawings⁴ show that a small section of the existing conservatory would be removed to form a detached garden room. The works would result in a gap of approximately 0.2m between the conservatory and the appeal property.
14. The Courts have set out a two-stage approach where a determination must first be made concerning whether the fallback position is a material consideration, before weight is ascribed. The first stage is to determine whether there is a greater than a theoretical possibility that the development might take place. The second stage is that if it is found that there is a greater than theoretical possibility, then the decision-maker should exercise their planning judgement to determine what weight should be ascribed to the fallback position.
15. The appellant explains that there is a realistic prospect of the approved development being delivered at the appeal site. Given the minor extent of the works that would be required to alter the existing conservatory to form the approved garden room, I am satisfied that there is a greater than theoretical possibility of this fallback option being implemented. As such, I have afforded significant weight to this fallback position as a material consideration.
16. The approved garden room would be physically detached from the host building, and, thus it would not increase the internal habitable floor area of the existing dwelling. However, by virtue of its very close proximity to the appeal property, and, its convenient access with doors sited near to the existing dwelling, I consider that the garden room could reasonably function as an extension to the main dwelling by providing additional floorspace for occupants of the appeal property, which could be used on a frequent basis.
17. Moreover, given that the garden room would be sited in an identical position to the existing conservatory, with the exception of the 0.2m gap, the retention of the existing conservatory would have no materially greater impact on the landscape and scenic beauty of the National Park when compared to the approved development.
18. For these reasons, I afford significant weight to the appellant's fallback position as a material consideration. I have found that the implementation of the approved development would have a similar effect to the appeal development. Therefore, notwithstanding the conflict with Policy DP36 of the LP, the material considerations in this case indicate that planning permission should be granted.

² Section 38(6) of the Planning and Compulsory Purchase Act 2004

³ Authority Ref: 20/00601

⁴ Drawing Nos: MBA/100/104 and MB/100/105

Other Matters

19. The Authority argue that allowing this appeal would set an undesirable precedent which would make it difficult for them to resist similar development in the National Park. However, I have considered the development on its individual planning merits and, despite the identified conflict with the development plan, I have found that other material considerations indicate that planning permission should be granted. As such, the appeal decision would not set an undesirable precedent.

Conditions

20. The development pursuant to this appeal has already commenced and this appeal has been determined on a retrospective basis. Therefore, it is not necessary to impose the standard three-year time limit condition.
21. It is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
22. In the interests of the character and appearance of the area, it is necessary to impose a condition requiring the external materials to be those as specified on the drawings hereby approved.

Conclusion

23. For the reasons given above, I conclude that the appeal should succeed.

Christopher Miell

INSPECTOR