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# Appeal Decision

Site visit made on 1 March 2022

**by S Leonard BA (Hons) BTP MRTPI**

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

**Decision date: 10 March 2022**

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**Appeal Ref: APP/B9506/W/21/3285216**

**Longacres, Bashley Common Road, New Milton BH25 5SF**

- 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 Darryl Charlwood against the decision of New Forest National Park Authority.
  - The application Ref 21/00401, dated 15 April 2021, was refused by notice dated 20 July 2021.
  - The development proposed is new access and gate.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Since the refusal of the planning application, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. I have taken the revised Framework into account where relevant to my decision.
3. For the avoidance of doubt, the description of development in the heading above is taken from the application form. Although it differs from that of the decision notice and appeal form, which do not include reference to a new gate, I have no evidence before me that an amended description was formally agreed by both main parties prior to the determination of the planning application. This description also accords with the details shown on planning application drawing Ref DR2 Rev B and the appellant's supporting Planning Statement.
4. I have noted the appellant's view that the proposed gate does not require planning permission. However, the determination of what could potentially be built under permitted development rights is not a matter for me to decide within the context of an appeal made under section 78 of the Act. To that end, it is open to the appellant to apply for a determination under section 192 of the Act, and my determination of this appeal under section 78 does not affect the issuing of a determination under section 192 regardless of the outcome of this appeal.

## Main Issues

5. The main issues are:
  - The effect of the appeal scheme on the character and appearance of the area; and

- The effect of the appeal scheme on the integrity of the New Forest European sites and the special interest features of the New Forest SSSI.

## Reasons

### *Character and appearance*

6. The site lies to the south of Tiptoe Road, within open countryside north of New Milton. It lies within Landscape Character Area 18: *Sway Pasture and Residential Settlements* and the Landscape Type of *Heath Associated Smallholdings and Dwellings*, according to the *New Forest National Park Landscape Character Assessment* (2015) (the LCA). This is described as having historic origins and a New Forest character, defined by small rectangular paddocks and fields which are often used for grazing. Copses and thick hedgerows with frequent oaks, are noted to contribute to a feeling of being in the Forest. Moreover, the LCA identifies that hedgerow loss and field subdivision has a harmful impact on the character and appearance of the landscape, detrimentally impacting on ancient field patterns and biodiversity.
7. The stretch of the southern side of Tiptoe Road, where the new access is proposed, has a wholly rural character, comprising a network of fields, with trees/hedging around their field boundaries. There is sporadic built development along the road frontage, including housing further east and a public house to the west. The application site lies within an open undeveloped area of fields between these sections of built development.
8. Hedging and trees define the road frontage of these fields, making a significant positive contribution to the rural character of this part of the road. There is also a deep, soft-landscaped highway verge, which incorporates an ancient boundary bank and ditch. The verge is subject to common grazing rights, and this, together with its open and soft-landscaped nature, combine to provide a strong visual connection with the open forest land on the opposite side of the road.
9. The proposal comprises the replacement of frontage hedging/shrubs with a new field gate, which would be set back behind the established frontage hedge and fence line. The gate would provide access to the appeal site, which comprises a strip of grazing land, bounded on its east side by a row of trees/hedging and post and rail fencing and on the other side by post and rail fencing alone.
10. The Council has adopted a *Guidelines for Horse Related Development Supplementary Planning Document* (2011) (the GHRD SPD) in recognition of the potential individual and cumulative impact of horse-related development and associated recreational pressure on the landscape of the National Park. Amongst other things, this advocates that wherever possible, existing field gates should be used to provide access to paddocks and stables, in order to prevent hedgerow removal and an associated urbanising impact on the rural environment. This reflects a recognition within the LCA of harmful impacts on the National Park landscape arising from hedgerow removal, where thick hedgerows and frequent oaks are identified as forming part of the impression of being within the New Forest. I afford weight to the GHRD SPD, due to its role in supporting the relevant Policies of the *New Forest National Park Local Plan 2016-2036* (2019) (the Local Plan).

11. The proposal would result in the permanent removal of approximately 6m of frontage hedgerow, to provide a new recreational equestrian access from Tiptoe Road to the appeal site, and beyond, to the appellant's grazing and paddock land further south. This would replace the former arrangement, whereby equestrian access took place via an existing field gate sited further west along Tiptoe Road and through a neighbouring field.
12. There is no proposal before me to remove that field gate access, and there is also an existing field gate immediately to the east of the appeal site.
13. I have noted that the hedgerow at the proposed point of access is not as substantial in terms of its structure as other nearby hedging. However, it nonetheless makes an important contribution to the soft landscaped, hedged and treed, edge to the highway verge, which is a notable positive characteristic of the street scene along this part of the road. Its loss would be permanent as a result of the proposal. The impact would not be adequately compensated for by proposed additional hedgerow planting elsewhere, including leading off to the south from the access, which even if within the appellant's control, would depend upon future implementation and retention.
14. Whilst the design of the proposed field gate per se is not out of keeping within the rural environment of the National Park, this does not automatically justify the removal of frontage landscaping, particularly when an alternative access exists elsewhere, and where the proposal would have a cumulative urbanising impact due to the proximity of other accesses within close proximity.
15. Having regard to the GHRD SPD, I am not persuaded by the evidence before me, that the proposed access is necessary to facilitate the appellant's recreational equestrian access into the open forest, given that lawful existing access exists via Bashley Common Road, where an associated dwelling, Longacres, and stable buildings are located. I have no cogent evidence before me, such as traffic accident data, to demonstrate that traffic conditions along Bashley Road are such that riding horses along this road to reach the open forest would be unacceptably dangerous.
16. Moreover, notwithstanding that the appellant has confirmed that purchase of further neighbouring land is not possible, there is no substantive evidence before me to demonstrate why arrangements could not be put in place for either the continued utilisation of the existing gated access to the west, or the use of the adjacent gate to the east.
17. In addition, having regard to the stated objective of only providing access for recreational horse riding, I am not persuaded of the requirement for a new access of the width proposed, which would be more akin to that associated with a vehicular access.
18. The combined impact of an additional vehicle-width access, with a gate set back in relation to the existing regular line of frontage landscaping along this part of the road, and an associated permanent removal of frontage hedging, would have an unduly urbanising impact on this strongly rural part of the road, and would detrimentally erode the intrinsic landscape qualities and visual amenities of this part of the National Park.
19. Notwithstanding that the appellant has confirmed that no vehicular access is proposed, and that there is no intention to alter the area in front of the

proposed gate, it is not unreasonable to assume that the appeal scheme, by introducing an established and regular access point which would be used by shod horses, would result in some physical alterations to the roadside verge, such as compaction and erosion of the verge, and changes to the notable bank and ditch feature. There is potential for these impacts to be greater than those associated with the current natural poaching of the verge by unshod Forest Stock. Whilst the set-back position of the gate within the appeal site would assist in reducing such impacts by providing an assembly area away from the verge whilst the gate is opened and closed, I am not persuaded that this would be sufficient to eliminate harmful impacts arising from regular unregulated use of the access.

20. I acknowledge that the appellant's submitted ecological survey concluded that the verge is currently in transition. However, this does not justify any harm to the verge and to the intrinsic landscape character of this part of the National Park, having regard to the great weight afforded by the Framework to the conservation of the landscape and scenic beauty of National Parks.
21. I observed that the verge is subject to wet ground conditions, particularly during the winter months, resulting in the appellant's proposed use of the access from April to October only. I have also noted the appellant's proposed low number of access movements and use by horses and pedestrians only. However, I consider that planning conditions to control the intensity of use and type of user access would not be effective and enforceable in this case.
22. I also observed that other nearby gated access points have gravelled, or similar, surfacing to the front, and it would not be unreasonable to assume that there could be future pressure to undertake similar works in front of the appeal site to facilitate improved access conditions, particularly given the wet nature of the ground and the access width which could easily accommodate vehicular access.
23. Whilst the proposed use of the access in association with the requirements of the appellant's domestic equestrian activities is noted, I am mindful of the advice contained in Planning Practice Guidance<sup>1</sup> that, in general, planning is concerned with land use in the public interest. It is also probable that the proposed development would remain long after the current personal circumstances cease to be material. For these reasons, I therefore find that this factor is not sufficient to outweigh the aforementioned harm that I have found in respect of the first main issue.
24. For the above reasons, I therefore conclude that the appeal proposal would cause significant harm to the character and appearance of the area. It would therefore be contrary to Local Plan Policies SP7, SP17, DP2 and DP51, Policy NM14 of the *New Milton Neighbourhood Plan* (2021), and the GHRD SPD. These policies and guidance, amongst other things, seek to ensure that new development conserves and enhances the character of the New Forest's landscapes, does not detract from the natural beauty of, or have a suburbanising effect within, the National Park, and does not harmfully increase riding pressures on the Open Forest.
25. For similar reasons the proposal would not accord with Policies of the Framework which require well-designed places and the conservation and

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<sup>1</sup> Paragraph 008 Reference ID 21b-008-20140306 – 'What is a material planning consideration?'

enhancement of the natural environment, noting that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, as set out in Chapters 12 and 15 respectively.

### *European Sites and SSSI*

26. The highway verge is designated as a Special Area of Protection (SPA), Special Area of Conservation (SAC), Ramsar Site and Site of Special Scientific Interest (SSSI). The Council's first reason for refusal relates to the failure of the appeal scheme to demonstrate that there would be no adverse impacts on the integrity of the New Forest European sites or the special interest features of the New Forest SSSI.
27. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated sites fall to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated sites.
28. However, as the first main issue provides clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision, since any findings on this issue would not change the appeal outcome.

### **Other Matters and Planning Balance**

29. I have noted that the appeal proposal represents an amended scheme to that of a previously withdrawn planning application<sup>2</sup>, including setting the gate back into the appeal site. However, this does not alter my findings with respect to the current proposal.
30. There would be potential biodiversity benefits associated with the proposed new mitigation hedge planting. However, these must be offset against any loss of biodiversity arising from the appeal scheme, and would also be dependent upon the future implementation and retention of the hedging, and as such, could not be guaranteed.
31. The appellant has drawn my attention to potential benefits in respect of less noise and air pollution and parking pressure on the Forest car parks and roadside verges as a result of fewer trips involving the transport of the appellant's horses to the open forest via horsebox. However, given the appellant's proposed limitations on the extent of use of the access, including excluding access from November to March, such benefits would be modest, and would not outweigh the harm that I have identified.

### **Conclusion**

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

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<sup>2</sup> Ref 20/00355

*S Leonard*

INSPECTOR