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# Appeal Decision

Site visit made on 5 April 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 23<sup>rd</sup> May 2022**

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**Appeal Ref: APP/B9506/W/21/3289188**

**Tansy, Kiln Lane, Redlynch, Salisbury SP5 2HT**

- 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 Harvey Euridge against the decision of New Forest National Park Authority.
  - The application Ref 21/00554, dated 21 July 2021, was refused by notice dated 5 November 2021.
  - The development is described as replacement of garden summer house.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. At my site visit, I saw that the building has already been erected. I have dealt with the appeal on this basis.
3. The description of development in the banner heading above has been taken from the planning application form. However, the appeal form includes different wording which reflects the description in the Council's decision notice and better describes what has been built.
4. As the appeal proposal is located within the New Forest National Park (the National Park), I have had regard to my duties under Part II, section 11A of the National Parks and Access to the Countryside Act 1949 (as amended), which requires relevant authorities in exercising any functions in relation to (or affecting) land in a National Park, to have regard to the purposes for which National Parks are designated.
5. Amongst other aspects, this includes conserving and enhancing natural beauty, wildlife and cultural heritage. In addition, the National Planning Policy Framework (the Framework) sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks.

## Main Issues

6. The main issues are:
  - Whether the outbuilding meets the Authority's strategy for such buildings within the National Park; and
  - The effect of the proposal on the character and appearance of the locality.

## Reasons

### *Whether the Authority's Strategy is met*

7. Policy DP37 of the New Forest National Park Local Plan 2016-2036 (the Local Plan), adopted 2019, permits a domestic outbuilding where, amongst other things, it is subservient to the main house in terms of design, scale, size and height (part a); it is required for purposes incidental to the use of the main dwelling (c); and it does not provide additional habitable accommodation (d).
8. From my site visit, I saw that the building contains a bedroom, ensuite, kitchen and a living room. It therefore provides habitable accommodation and all the facilities necessary for day-to-day occupation. However, it has a smaller size and height to that of the main dwelling and a similar design. I am therefore satisfied that the outbuilding is proportionate and clearly subservient physically to the dwelling and so complies with Policy DP37(a).
9. Part of the Council's concern is that the building could also be used as an independent unit of accommodation, possibly for tourist use, which would not normally be permitted here, being outside of the circumstances where Local Plan Policy SP19 permits new dwellings. However, the Appellant makes clear that the outbuilding has only been used by family members and their guests and has never been made available to those without a connection to the main dwelling.
10. Despite the Appellant's Statement of Case referring in places to the contrary, the Appellant's application covering letter also sets out that the proposed building is incidental to the use of the main building. In addition, the Appellant's Letter<sup>1</sup> makes clear that their intention is not to use the building other than as ancillary accommodation to the main dwelling. They say that a separate self-contained residential unit would cause significant detriment to their enjoyment of the main house.
11. My attention has been drawn to an appeal<sup>2</sup> relating to an annex within the South Downs National Park. However, this is within a different Authority with a different local plan, and the evidence available to me indicates that the appeal did not involve similar considerations relevant to part (d) of Policy DP37.
12. I have considered the current appeal on its own merits and facts. I saw on site that the outbuilding is located to the rear of the site, and shares an access path, parking area and garden space with the main dwelling. The position of the outbuilding means that it cannot be accessed without passing close by the main house and its windows. The outbuilding's orientation and close proximity to the main house mean that its windows allow views directly into the dwelling and vice versa.
13. All these factors would make future severance very difficult. It therefore seems to me unlikely that the outbuilding would be used independently of the main dwelling. In any case, were a material change of use to take place, to create an independent dwelling, a separate grant of planning permission would be required. It therefore complies with Policy DP37(c) and does not conflict with Policy SP19.

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<sup>1</sup> At Appendix 2 to the Appellant's Statement of Case

<sup>2</sup> Reference APP/Y9507/D/15/3136599

14. Nevertheless, the outbuilding provides habitable accommodation. Indeed, this is its current use, and one which Local Plan Policy DP37(d) specifically seeks to resist. Policy DP37's supporting text makes clear that control over domestic outbuildings and their habitable use is necessary to, amongst other aspects, ensure that the Local Plan's restrictions on residential extensions and replacement dwellings are not circumvented.
15. As such, the potential creation of accommodation within a dwelling's roof space does not justify the provision of habitable accommodation in the outbuilding, and such development may well equally be resisted under the terms of the Local Plan.
16. The appeal site is close to the boundary of the National Park, outside of which restrictions would not apply and where 'permitted development' rights may be available. However, it is common ground that the outbuilding here requires planning permission.
17. Planning permission was granted<sup>3</sup> for a home office at the site, but this was for a different use and where a condition was imposed that specifically prevented the uses intended for and found within the appeal building, including a kitchen, living room or bedroom. The Appellant has suggested a condition restricting the outbuilding's occupation to 'incidental' or 'ancillary' use, but this would not prevent its continuing use for habitable accommodation, necessary to comply with Policy DP37(d).
18. I have considered an alternatively worded condition that explicitly prevents its use for habitable accommodation. However, given that this is the actual and intended use of the outbuilding, such a condition would result in development that is substantially different from that sought, contrary to the advice in the Planning Practice Guidance<sup>4</sup>. The imposition of such a condition would not therefore be reasonable.
19. I recognise that no objection has been raised in respect of other parts of Policy DP37, including the outbuilding's siting within the residential curtilage, the amount of development, and the space left available to serve the dwelling.
20. Nevertheless, and despite my finding of its compliance with parts of Policy DP37, and Policy SP19, its use for habitable accommodation means that the proposed development does not comply with the Authority's strategy for such buildings within the National Park, contrary to Local Plan Policy DP37.

### *Character and Appearance*

21. The local area consists primarily of detached, single and two-storey dwellings, accessed from a gravel track. The area's character is a loose knit, rural pattern of development, with a degree of domestication from existing dwellings and their gardens.
22. The appeal site is a bungalow set well back from the track and accessed by a driveway between the properties either side. The dwelling is visible only at the end of the driveway. The appeal building itself, behind the dwelling and the garage, is screened from the track by these buildings. Furthermore, it is

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<sup>3</sup> LPA Reference 20/00655/FULL

<sup>4</sup> Paragraph: 012 Reference ID: 21a-012-20140306

surrounded by the gardens of adjoining properties. As a result, little if any of the appeal building is visible from public viewpoints.

23. I have already found that the building has a smaller size and height to that of the main dwelling. The building's shape and appearance has a domestic design, as does its fenestration by providing natural light to each room. It has also replaced a previous summer house. Accordingly, the building does not have a suburbanising or harmful effect on the locality's visual qualities. In addition, its discrete location does not disrupt the pattern of buildings on the site or nearby, and so I do not consider it to be poorly planned.
24. I therefore conclude that the proposal does not harm the character and appearance of the locality. It would therefore comply with Local Plan Policies DP2 and SP17. Amongst other things, these require development to be sympathetic to its surroundings, including in terms of its scale, appearance and form, and avoid eroding local character or having a suburbanising effect. It would also comply with the Framework's requirement that the scale and extent of development within National Parks should be limited.

### **Conclusion**

25. I have found that the proposed development conflicts with Local Plan Policy DP37 because it provides habitable accommodation. Despite determining that the outbuilding does not harm the character and appearance of the locality, is subservient to the dwelling and does not result in the creation of a separate unit of accommodation, I therefore find that the appeal proposal conflicts with the development plan as a whole.
26. The absence of harm in respect of this individual building to the area's character and appearance and compliance with other aspects of the local plan's policies do not justify or overcome the conflict that I have found with the Authority's strategy for such buildings within the National Park.
27. Therefore, for the reasons given above, and having regard to the Development Plan as a whole, the appeal is dismissed.

*O Marigold*

INSPECTOR