



## Appeal Decision

Site visit made on 28 June 2023 by S Wilson LL.B. MSc MRTPI

**Decision by John Morrison BA (Hons) MSc MRTPI**

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

**Decision date: 16 August 2023.**

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**Appeal Ref: APP/B9506/D/22/3307438**

**Little Pond Cottage, Bisterne Close, Burley BH24 4AZ**

- 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 and Mrs Salmon against the decision of New Forest National Park Authority.
  - The application Ref 22/00111, dated 9 February 2022, was refused by notice dated 2 September 2022.
  - The development proposed is construction of roof extension to garage.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

3. The effect of the proposed development on the character and appearance of the dwelling and the intrinsic special character of the New Forest National Park (NP) with specific regard to its size individually and cumulatively.

### Reasons for the Recommendation

4. The appeal property lies outside of any defined village. It comprises a detached, two-storey dwelling with a detached outbuilding to one side. The outbuilding is used as a garage, utility area and store at ground floor, but also with a WC and shower room used in connection with a bedroom which occupies a floor in the roof space. This is occupied as ancillary accommodation associated with the main dwelling. There is a linked range of stables that extend to the rear of the outbuilding. The appeal proposal is for an approximately 18 square metre (sqm) first-floor extension to the outbuilding, projecting the pitched roof over a flat roof element to the rear to enlarge a bedroom.
5. Policy DP37 the New Forest National Park Local Plan 2016 – 2036 (2019) (Local Plan) sets, amongst other things, that outbuildings will be permitted where they are proportionate and clearly subservient to the dwelling they are to serve. The explanatory text goes on to state that the scale and design of outbuildings should not detract from the character and appearance of the

- dwelling. Furthermore, DP37 dictates that domestic outbuildings will be permitted where they are not providing additional habitable accommodation.
6. The outbuilding, as it has been altered, is already of some substance. The use of the first floor and the inclusion of rooflights has not expanded it in material terms but has given it the impression of something more substantial which has begun to visually compete with the host building despite its own scale and mass. Whilst the proposal by itself is limited in its scale overall, it would add a more than marginal amount to the existing roof structure, and yet more rooflights, thereby increasing its visual effect on the plot. The proposal would give the outbuilding the presence of a substantial building akin to an independent dwelling in its own right and would therefore no longer be perceived as subservient to the host dwelling.
  7. It appears that the existing habitable space in the outbuilding has a Lawful Development Certificate (LDC) due to immunity from enforcement. Whilst not the grant of express planning permission, Policy DP37 clearly refers to 'additional' habitable accommodation and the plans read more as an expansion or enlargement of the same unit and indeed room of habitable space that is within the building already.
  8. The Policy DP36 of the Local Plan seeks to limit the size of extensions to dwellings outside of defined villages in the interests of, amongst other things, maintaining a balanced housing stock and protecting the intrinsic special character of the NP as one with such. It sets out that proposed extensions must not increase floorspace of the 'original' dwelling more than 30%. There is no dispute that the appeal site lies outside of a defined village, and that the dwelling is not a small one as defined in the Local Plan. I am aware that the scheme concerns an outbuilding which is not attached, but the proposed development would nonetheless expand the residential use of the existing dwelling as well as through what it is seeking to provide.
  9. The evidence suggests that the 'original' dwelling had a floorspace of around 160sqm, and that the dwelling prior to the implementation of this proposal is approximately 260sqm, which amounts to an increase of about 60% above the 'original'. There appears to be no dispute over these figures. A 60% increase in floorspace is significantly above the 30% figure. The proposal seeks to increase this amount further.
  10. DP36 does allow exceptions where it can be demonstrated that exceptional circumstances exist. It is submitted that a family member requires extra storage for the needs of their employment. On my site visit there was work related clothing hanging in the garage area which appeared adequate and of a generous size in itself. I remain to be convinced that this area, which for some noticeable part was unused, would be insufficient for the requirements cited. The appellant has further submitted that said family member has specific needs but there is no further evidence on such for me to consider. Only limited weight can thus be apportioned to these matters. There is insufficient justification therefore to depart from the restrictions of Policy DP36 in this regard.
  11. The proposal would thus be contrary to the Policy DP37 insofar as it seeks to ensure that the scale and design of outbuildings should not detract from the character and appearance of the dwelling and Local Plan Policy DP36, insofar as it seeks to ensure that the size of extensions to dwellings does not detrimentally affect the special intrinsic character of the NP.

## Other Matters

12. The appellant submits that a fallback position exists following the issue of a LDC, ref 19/00196 for a single storey rear extension. This confirmed that, on the balance of probability, the proposed single storey rear extension would be permitted development, as defined in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GDPO) Schedule 2 Part 1 Class A (Class A).
13. At the time of my site visit, a single storey rear extension was under construction. The appellant submits that there is remaining floorspace from this to be utilised as permitted development elsewhere following the LDC. However, the LDC specifically sets out that the permitted development is the rear single storey extension and is lawful by means of its height, depth and location in relationship to the dwellinghouse as defined by Class A. It does not grant a floorspace allowance and it does not provide a balance to be utilised elsewhere for a different purpose. Even if it did, then seeking to extend an outbuilding would fall under Class E, not A.
14. Whilst Class E permits the provision of a building for a purpose incidental to the enjoyment of a dwellinghouse and allows for the improvement or alteration thereof, development is not permitted if the building would have more than one storey. Furthermore, the location of the proposal within the NP and a Conservation Area means that development is not permitted by Class E as the building is situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse. In addition, Class E relates to use incidental to a dwellinghouse, and the proposal is for ancillary use. Whilst it is not for me to determine whether the proposal would be permitted development under Class E, on the evidence before me, it appears that the proposal would require express planning permission and therefore cannot utilise permitted development rights.
15. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas. The National Park Authority (NPA) did not refuse planning permission on these grounds and there is nothing compelling before me to lead me to a different conclusion. The works to the outbuilding would satisfy its setting architecturally speaking and it would be in amongst existing built form of a distinctly modern type. The harm that would arise to the character and appearance of the host dwelling would not therefore translate to the Conservation Area.
16. Paragraph 172 of the National Planning Policy Framework (the Framework) makes clear that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues. Whilst the appeal scheme would give rise to harm to the special intrinsic character of the NP in terms of it being the disproportionate cumulative growth of a dwelling and harming its character and appearance, such harm would not translate to the landscape or scenic beauty of the NP given its immediate setting in architectural and scale terms.
17. There are examples where appeal decisions have turned in favour of an appellant where the 30% limit has been exceeded. Equally, there are other cases where such circumstances have resulted in the appeal being dismissed.

This case has been considered on its own merits and based upon the information available.

18. Appeal reference APP/B9506/D/18/3211694 in 2018 focused on Policy DP11. Whilst that appeal development is similar there are material differences, namely the development plan situation, which distances it from the appeal here to the point that my recommendation would not change. Appeal references APP/V4630/D/16/3152755, APP/U1240/D/19/32286767 and APP/B9506/D/19/3224156 considered the use of a fallback position. In this case the fallback development has already been constructed and I have concluded that the proposed use of the remaining permitted development rights would not be relevant. APP/B9506/D/21/3288303 considered the matter of housing being beyond the financial means of a great number of potential purchasers. This is not a matter of contention in this appeal.
19. The appellant cites the decision to grant planning permission under planning application reference 22/00043 (Hobbs Oak) stating that it confirms that the authority accept fallback on ancillary accommodation. The evidence suggests that the garage in this instance was attached to the dwellinghouse which is materially different to the current appeal proposal. However, I cannot be certain under what circumstances this decision was made. I cannot be certain an email that I have seen formed part of the decision. Even if it did it, the email specifically discusses a '*...larger than policy would otherwise permit extension upon the dwellinghouse*'. I have explained above, in any case, why the perceived fallback position would not lead to a different conclusion on the appeal scheme.
20. The appellant states that the conversion of the outbuilding at Little Pond was not unauthorised, that there were no conditions on the original permission for the outbuilding to restrict residential use and therefore use of the outbuilding for habitable accommodation was not the result of an unauthorised conversion. Whilst there may not have been any conditions attached to that grant of permission, this submission contradicts the application reference 18/00083, which sought a LDC for the use of detached garage as ancillary accommodation. I have in any case responded to the matter of additional accommodation in the context of the LDC above.

### **Conclusion and Recommendation**

21. The appeal scheme would be contrary to the development plan and there are no other material considerations worthy of sufficient weight to find otherwise. I therefore recommend the appeal be dismissed.

*S Wilson*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

22. I have considered all the submitted evidence and my representative's report and on that basis I dismiss the appeal.

*John Morrison*

INSPECTOR