



Appeal Decisions

Site visit made on 30 October 2024

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal A: APP/B9506/W/24/3339327

Byways, Hightown Hill, Hampshire BH24 3HG

- 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 S Bourn against the decision of New Forest National Park Authority.
 - The application Ref is 23/00655FULL.
 - The development is the erection of a store/tack room, cladded storage container with open fronted tractor store, duck house and pond and hardstanding.
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Appeal B: APP/B9506/W/24/3339297

Byways, Hightown Hill, Hampshire BH24 3HG

- 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 S Bourn against the decision of New Forest National Park Authority.
 - The application Ref is 23/00658FULL.
 - The development is the construction of a track.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. Since the refusals of the applications, the subject of these appeals, a revised version of the *National Planning Policy Framework* (the Framework) was published in December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decisions.
4. Having regard to both appeals, the planning applications were submitted retrospectively. I have dealt with the appeals accordingly. Notwithstanding that the developments have already taken place, I have dealt with the appeals on the merits of the appeal schemes.
5. In the case of both appeals, the description of development in the banner heading above is taken from the decision notice and appeal form as it more accurately describes the appeal scheme than that on the application form.

6. Amendments to drawings Ref 298.RD.GA.01b and 298.RD.GA.05a were submitted as part of appeal A. These did not form part of the planning application determined by the Council. The former of these plans, Ref 298.RD.GA.01.02, shows the repositioning of structures on the site further to the northeast and a reduction of and change of layout to the hardstanding element of the scheme. The latter plan, Ref 298.RD.GA.05b, removes the reference to 'garage' on the store/tack room drawings.
7. The planning appeals procedural guidance¹ (Section 16.1) states that the appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted. It goes on to say that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage.
8. In considering whether, exceptionally, to accept the revised plans, I have had regard to the tests in *Holborn Studios Ltd*². Accordingly, notwithstanding the development that has taken place, given that there is a notable amount of change to the siting of the appeal scheme, and having regard to the proximity of the appeal scheme to the neighbouring site boundary and to mature boundary trees, I have determined appeal A based on the scheme that was before the Council at the time of determination and the plans listed on the decision notice. I have not considered the merits or otherwise of the aforesaid revised plans submitted with the appeal.

Main Issues

9. The following main issue is common to both appeals:
 - Whether the appeal site is a suitable location for the appeal scheme, having regard to the impact of the development on the character and appearance of the New Forest National Park landscape.

Reasons

Background to both appeals

10. Both appeal sites lie within the property known as Byways, a dwelling with a large area of equestrian paddock land to the rear. It is situated on the north side of Milky Down Back Lane (MDBL), which is an unmade rural track serving a number of residential properties set within spacious plots within heavily treed, quiet and secluded surroundings. It comprises one of several similarly rural unmade lanes within the locality where low density, dispersedly positioned dwellings are located within wooded settings.
11. Equestrian use forms a significant component of the immediate locality. Many of the residential properties include paddock land, including those to the east and north of Byways. There is also an equestrian development to the west side of the site. The sites are within open countryside outside the designated settlement boundary, where new built development is tightly controlled, and generally restricted to that for which a countryside location is necessary. Moreover, they also lie within an area of the highest level of landscape protection being within the New Forest National Park (the National Park).

¹ Procedural Guide. Planning Appeals – England. The Planning Inspectorate. 17 September 2024.

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

12. The dwelling known as Byways benefits from planning permission for a replacement dwelling, garage, pool house and stables³. Works are currently underway on this development, which is in the southeast corner of the site, close to the site frontage and having direct vehicular access from Milky Down Back Lane. A second vehicular access leads directly to a horse training area sited to the west of the house and garage.
13. There is a large parcel of land within the same ownership as the group of residential buildings and adjacent horse training area and separated from it by a mature hedge. This land is mainly given over to equestrian use paddock land comprising open fields with post and rail fencing enclosures. Both appeal sites are located within this land, which lies outside of the residential curtilage of Byways, as approved by means of a certificate of lawfulness⁴.
14. The southern third of the wider appellant-owned land which falls within the approved residential curtilage comprises a tightly knit group of buildings, hard surfaced driveways, paths and parking and formalised garden land associated with the dwelling and adjacent horse training area.
15. The land within the domestic curtilage is enclosed by mature trees along the south, west and east boundaries and a mature hedge along the northern boundary. As such, it is clearly demarcated, and has a secluded, closed-in character. Its position adjacent to the site frontage reflects its role as forming an element of the road frontage residential development along this part of MDBL.
16. In contrast, the wider area of paddock land to the north has a notably different open spacious and green character. It comprises undeveloped fields which are almost completely devoid of built development and where field boundaries are defined by low and open post and rail and wire fencing. As such, and given its use for equestrian purposes, this land has a distinctly rural character.

Appeal A

17. The Council has confirmed that, prior to the aforesaid planning permissions listed under footnote 3, built development within the paddock land comprised stable blocks and a hardstanding area measuring circa 89 sq m. The information before me is that these were located close to the northernmost corner of the residential curtilage and within the land which is the subject of appeal A.
18. Moreover, the Council has sought to ensure that there is no proliferation of rural buildings within this area by requiring the removal of those stables prior to the construction of the newly approved stables, in the interests of protecting the character and appearance of the area. I saw during my site visit, that the stables have been removed and that a new stable block has now been erected on the site of appeal A.
19. The development the subject of appeal A significantly increases the amount of built development around the immediate vicinity of the new stable block, including 3 additional single storey buildings and an area of hardstanding comprising over six times the size of that which was required to be removed as part of the aforesaid planning permissions.

³ LPA Refs 21/00527, 21/00783, 22/00120 and 22/00952

⁴ LPA Ref 01/73375

20. I accept that, individually, having regard to their use and size, the tack room/store and tractor store/storage container structures are not, in principle, inappropriate structures within equestrian land.
21. However, in this instance, instead of comprising small visually discrete and functionally designed clearly horse-related structures, these buildings form part of a wider conglomeration of built development which results in a large enclave within the otherwise open fields.
22. Instead of the approved standalone stables building, the cumulative result of the appeal A scheme is a long rectangular block of built development which protrudes into the paddock land. This is at odds with the prevailing open undeveloped nature of this part of the site and would significantly erode the equestrian grassland which forms part of the intrinsic landscape character of this part of the National Park.
23. Moreover, although the appeal A scheme does not relate specifically to a change of use to residential, the development has a notably domestic character. This arises in part from the inclusion of a duck house and small ornamental pond, with features including a small rockery, pebbled edging and a pump-powered waterfall. The size and design of these structures are such that they would be more typically associated with residential garden land than horse paddock land.
24. For clarity, I have determined this appeal based on the stated store/tack room use of the northernmost building, and I have noted the inclusion of garages within the recently approved developments sited within the residential curtilage.
25. However, having regard to its scale, footprint, height, and design incorporating 4 doors on the front elevation, its appearance is not dissimilar to that of a car barn commonly associated with rural dwellings. Within the context of the appeal site development, this element of the scheme adds to its suburban appearance.
26. The domestic character of the appeal scheme is further added to by the large area of pea shingle surfacing, a material which is routinely used for driveways, parking and within gardens of dwellings. The extent of the hard surfacing exceeds that which would reasonably be expected to be necessary in association with small rural outbuildings. Moreover, the large expanse of this material, combined with its light colour serve to visually emphasise the extent of encroachment of built development into the open fields.
27. The managed layout of hard and soft landscaping in front of the buildings also contributes to the development assuming an overall domestic feel, including the use of timber sleepers to formally edge the areas of pea shingle and the inclusion of shrub planted beds, an area of grass verge and non-native hedging.
28. The cumulative result is that the proliferation of built development assumes the appearance of comprising an extension of the adjacent residential curtilage to the south of the site into the rural paddock fields. This encroachment with a large and formal arrangement of structures has a harmful suburbanising impact upon the open fields, reducing the intrinsic landscape value of the rural

- informal grazing land to the detriment of the character and appearance of this part of the National Park.
29. The extensive site coverage with structures and hard surfacing would reasonably be expected to require external lighting for practical and safety reasons. Having regard to the flood lights that have already been installed on buildings, and notwithstanding the appellant's confirmed intention to incorporate PIR sensors, in the absence of a supporting lighting assessment and overall lighting strategy, I am not persuaded, on the basis of the information before me, that there would be no harmful visual intrusion and light pollution to the rural darkness and tranquillity of this part of the National Park as a result of light spill from external lighting associated with the appeal scheme.
30. I acknowledge that the wider visual impact of the appeal scheme is minimised by its position parallel with, and close to, a maturely landscaped site boundary and adjacent to the approved position of the new stables building. I also accept that the proposed materials for the new buildings are not inappropriate for this rural location. I also acknowledge the appellant's willingness to accept a planning condition requiring additional planting of native species on the appeal site.
31. However, these factors do not outweigh or justify the landscape harm I have identified, having regard to the cumulative amount of new built development and its design and layout. Moreover, having regard to the latter, I cannot be certain that any approved landscaping scheme would be implemented and thereafter remain, and this is not a reason to allow development that is unacceptable.
32. For the above reasons, I therefore conclude that the appeal A site is not a suitable location for appeal scheme A, having regard to it having a materially harmful impact upon the character and appearance of the New Forest National Park landscape. The appeal scheme is therefore contrary to Policies DP2, DP37, DP45, SP4, SP7, SP15 and SP17 of the *New Forest National Park Local Plan 2016-2036* (2019) (the Local Plan).
33. These policies, amongst other things, seek to avoid a gradual suburbanising effect, individually or cumulatively, require new domestic outbuildings to be located within the curtilage of an existing dwelling, and generally aim to ensure that new development is of a high-quality design, is appropriate and sympathetic in terms of appearance, form, siting and layout, respects the natural environment and landscape character, reduces the impacts of light pollution, and conserves and enhances the New Forest landscape and protects the natural beauty of the National Park.
34. The Council's first reason for refusal also refers to Local Plan Policies DP50 and DP52. Since these policies relate to "agricultural and forestry buildings" and "field shelters and stables" respectively I do not find them to be directly relevant to the determination of this appeal.
35. For similar reasons, the appeal scheme does not accord with policies of the Framework which seek to achieve well-designed and beautiful places (Chapter 12) and the conservation and enhancement of the natural environment (Chapter 15). In particular, Paragraph 182 confirms 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, and within which, the scale and extent of development should be limited.

Appeal B

36. The access track was constructed with the intention of serving the aforesaid approved stables which lie within the site of appeal A. The planning approvals for such, as listed under footnote 3, do not include specific provision of an access track to this structure. Moreover, the access point from the residential curtilage to the former and now removed stables is no longer available following the construction of the approved new swimming pool element of the replacement dwelling scheme.
37. The track, the subject of appeal B, enables access to be provided from the western vehicular access point from MDBL via the west side of the horse training area. This effectively separates the equestrian access arrangements from those of the dwelling which uses the easternmost road access point.
38. I acknowledge the appellant's reasons for seeking a hard surfaced vehicular access to the approved stables, having regard to matters including horse welfare and the potential for waterlogging of the grassed fields. However, I find that the design of the appeal scheme has a distinctly domestic character which arises from a combination of its pea shingle surfacing, curved corner alignment, timber sleeper edging, non-native hedgerow planting along one side and installation of numerous lights along its length.
39. Whilst the track follows the alignment of paddock field boundaries, it has a significantly greater visual impact upon the landscape than the low, open post and rail fencing which bounds the other paddock fields and is typically associated with such equestrian use. Moreover, it results in a long expanse of shingled surfacing protruding into the undeveloped open grassland, thereby significantly eroding its green open character and having a harmfully suburbanising impact upon the rural grazing land. This reduces the intrinsic landscape value of the rural informal grazing land to the detriment of the character and appearance of this part of the National Park.
40. The appeal scheme does not include a change of use. However, the highly manicured design of the track, which is more akin to that of a residential property than rural equestrian land, together with its alignment along two edges of the triangular field to the north of the existing residential curtilage, means that the appeal scheme gives the visual perception of separating that field from the remaining paddock land north of the track and enclosing it within the domestic curtilage.
41. Whilst noting the appellant's reference to avoiding nearby underground drainage infrastructure, I am not persuaded, based on the evidence before me, that a much shorter, less visually prominent, length of track, more closely positioned to the northern edge of the residential curtilage could not be provided to serve the stables block.
42. For the above reasons, I therefore conclude that the appeal B site is not a suitable location for appeal scheme B, having regard to it having a materially harmful impact upon the character and appearance of the New Forest National Park landscape. The appeal scheme is therefore contrary to Local Plan Policies DP2, DP18, DP45, SP4, SP7, SP15 and SP17.

43. These policies, amongst other things, seek to avoid a gradual suburbanising effect, individually or cumulatively, and generally aim to ensure that new development is of a high-quality design, is appropriate and sympathetic in terms of appearance, form, siting and layout, respects the natural environment and landscape character, reduces the impacts of light pollution, and conserves and enhances the New Forest landscape and protects the natural beauty of the National Park.
44. For similar reasons, the appeal scheme does not accord with policies of the Framework which seek to achieve well-designed and beautiful places (Chapter 12) and the conservation and enhancement of the natural environment (Chapter 15). In particular, Paragraph 182 confirms 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, and within which, the scale and extent of development should be limited.

Other Matters

45. The appellant has drawn my attention to an approved planning application⁵ in respect of the adjoining land at Long Barn. On the basis of the evidence before me, I do not find the site circumstances and development details and siting of this scheme, which comprises ground-mounted solar PV arrays, to be directly comparable with those of appeals A and B. As such, this decision does not persuade me to come to an alternative view regarding the current appeals, which I must determine on the basis of the particular circumstances of the appeal sites and on the merits of the schemes before me, taking into account the relevant development plan policies in each case.

Conclusion

46. The developments the subjects of appeals A and B conflict with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decisions should be made other than in accordance with the development plan.
47. Therefore, for the reasons given above, I conclude that both appeal A and appeal B should be dismissed.

S Leonard

INSPECTOR

⁵ LPA Ref 22/00341