
Appeal Decision

Site visit made on 27 May 2026

by **R Cahalane BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 June 2026

Appeal Ref: 6005374

Batchley Farm, Broadmead, Sway, Hampshire SO41 6DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr H Murray Philipson against the decision of New Forest National Park Authority.
 - The application Ref is 25/01036.
 - The development proposed is replacement annexe (demolish existing).
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Decision

1. The appeal is allowed and planning permission is granted for replacement annexe (demolish existing) at Batchley Farm, Broadmead, Sway, Hampshire SO41 6DH in accordance with the terms of the application, Ref 25/01036, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr H Murray Philipson against New Forest National Park Authority. That is the subject of a separate decision.

Main Issue

3. The main issue is whether or not the proposed development is within a suitable location having regard to development plan policies governing the countryside.

Reasons

4. The appeal site is outside of a “Defined Villages”¹ settlement boundary, as set out in the New Forest National Park Local Plan 2016-2036 (NFNPLP) (adopted 2019). It therefore lies within the countryside.
5. The officer report to Planning Committee outlines that following a 2010 planning permission for a replacement dwelling, during its construction the occupants temporarily moved into the appeal outbuilding. It was altered to provide bedrooms, a bathroom, kitchen and living spaces. In 2023, use of the existing appeal outbuilding for ancillary residential purposes to the main dwelling, in breach of a 1995 planning condition restricting use beyond a farm office and design studio/workshop, had been established, lawful due to the passage of time and thus immune from planning enforcement action. The National Park Authority (NPA) issued a lawful development certificate² (LDC) in 2023 confirming the above.

¹ Ashurst, Brockenhurst, Lyndhurst and Sway

² NPA Ref: 23/00754

6. It is put to me that should the appeal outbuilding, which was occupied in breach of planning condition, be demolished, the subsequent proposed replacement would be a new building which does not benefit from the immunity confirmed within the LDC. On this basis, the NPA contends that the appeal proposal would result in the provision of a new, purpose-built, self-contained unit of accommodation that would be contrary to adopted policies within the NFNPLP. The NPA also describes the proposal as being tantamount to a new dwelling.
7. Whilst the appeal scheme would provide primary living accommodation and facilities for independent day-to-day living, that does not automatically mean that the proposal amounts to a material change of use and a separate planning unit from the main dwelling. This is a matter of fact and degree.
8. In the specific circumstances of this case, the plans accompanying the LDC before me show a mix of rooms including a bedroom, bathroom, kitchen, sitting room, utility, and games/store areas. Such use accords with what I observed during my site visit, which included access within the existing outbuilding. The appellant states that the replacement building would contain the same range of facilities as the existing building, and that the use would also remain the same, described as an annexe to the main dwelling for use by the appellant's family.
9. I observed during my visit that the appeal building shares garden space with the main dwelling, and there would be unhindered access between these buildings. Having regard to all above matters, I am satisfied that the proposed replacement outbuilding would continue to be used as part and parcel of the existing main dwelling use. It follows that the appeal scheme would not amount to a material change of use or creation of a new planning unit.
10. NFNPLP Policy SP19 governs new residential development in the New Forest National Park (NFNP) to achieve a certain amount of additional dwellings during the plan period. However, for the above reasons, as a matter of fact and degree, I find that the proposed development would not be tantamount to the creation of a new dwelling. It would thus not amount to a new dwelling in the open countryside. It follows that the listed criteria within NFNPLP Policy SP19 are not relevant considerations for this appeal. In turn, the requirements of NFNPLP Policy DP35 governing replacement dwellings also do not apply to the appeal proposal.
11. Policy DP37 is relevant to the proposal, as it states that domestic outbuildings will be permitted subject to a list of five criteria. None of the criteria require the location to be within a defined village settlement boundary, nor do they refer to unauthorised use, planning conditions or other legal restrictions to development. Criteria a) requires such outbuildings to be proportionate and clearly subservient to the dwelling they are to serve in terms of their design, scale, size, height and massing.
12. The NPA accepts that the proposed replacement outbuilding would have a slightly smaller footprint and lower ridgeline height than the outbuilding in which it would replace. It would also be sited mainly within the existing outbuilding footprint, with a consistent single-storey eaves level. It would have only one floor of accommodation which would therefore be a more significant reduction from the existing floorspace that includes some at first floor. It would thus appear and be designed as being secondary to the main dwelling. Given the above, along with my site visit observations, the proposal complies with criterion a).

13. Criterion b) requires domestic outbuildings to be located within the residential curtilage of an existing dwelling. Related to this, criterion e) requires domestic outbuildings to not reduce private amenity space, including parking provision, around the dwelling to an unacceptable level.
14. As already set out above, the appeal building shares garden space with the main dwelling, and there would be unhindered access between these buildings. As a matter of fact and degree based on my site observations and the evidence before me, the proposed replacement building complies with criterion b). The lack of footprint increase or alteration to the existing access and parking provisions also avoids conflict with criterion e).
15. Criterion c) requires domestic outbuildings to be for purposes incidental to the use of the main dwelling. The supporting text to Policy DP37 advises that the NPA will normally impose a planning condition limiting the use of the outbuilding to purposes incidental to the dwelling on the site and excluding any use as habitable floorspace.
16. However, the LDC confirms that the appeal building is in lawful use ancillary to the main dwelling. As already set out above, the replacement building would provide for the same range of facilities. Given this, along with the net footprint and floorspace reductions, the scheme would comply with criterion d) which requires no provision of additional habitable accommodation. Whilst the current building can be better described as an existing baseline rather than a fallback, that does not reduce the full weight that I afford to this existing situation as a material consideration.
17. Supporting text to Policy DP37 outlines that there remains considerable development pressure to provide for larger outbuildings, and associated concerns are listed as: (i) impact on the character of the NFNP; (ii) circumvention of restrictions on residential extensions and replacement dwellings; (iii) taking up important amenity space, including parking provision, within the curtilage of dwellings, resulting in parking being pushed beyond sites onto protected verges; and (iv) the overdevelopment of sites.
18. However, for the reasons already given, allowing this appeal would not result in these on-the-ground adverse impacts. Supporting text does not have the same force as policy and cannot trump it, but is nonetheless relevant to its interpretation. To my mind, the above factors substantially reduce the weight to be given to the conflict with criterion c) of Policy DP37. When read as a whole, the proposal therefore complies with the aims and objectives of Policy DP37.
19. Moreover, the submitted evidence before me does not indicate any harmful impacts on historic environment, landscape character, biodiversity, trees and hedges, living conditions, traffic, pollution or car parking. Appropriate external materials can be secured by means of planning condition. Existing trees and protected species and biodiversity matters can also be appropriately governed by means of conditions.
20. The decision notice also cites conflict with NFNPLP Policy DP2, which lists a number of general development principles. The officer report however does not articulate the precise policy conflict in this respect. Having regard to my above findings, there is no conflict with Policy DP2 and in this context, the appeal scheme is therefore a sustainable form of development.
21. In conclusion, for the above reasons the proposed replacement building would not materially conflict with the relevant aims and objectives of the NFNPLP, namely

those set out within Policies DP37 and DP2. It is therefore within a suitable location having regard to the development plan policies governing the countryside.

22. The breach of the 1995 planning condition does not alter my above findings. Whilst Policy DP35 resists replacement dwellings in circumstances where the existing dwelling is the result of an unauthorised use, as I have found the proposal to not be tantamount to the creation of a new dwelling, this is an irrelevant consideration.
23. None of the other abovementioned policies, as also listed in the decision notice, refer to an unauthorised use. It would thus be wholly illogical for me to treat the existing outbuilding as being restricted from the proposed redevelopment by the 1995 planning condition, particularly given that the LDC confirms that its current use in relation to the main dwelling is immune from that condition.

Other Matters

24. The NPA has cited what it views as two relevant examples elsewhere within the NFNP. The example at No 2 Rose Cottages, Brook³ however includes a planning enforcement case, whereby the appeal building was being let out. The Inspector for that appeal found that the development associated with that building amounted to a separate planning unit comprising a self-contained dwelling, separated from the main dwelling by a substantial fence.
25. The second example at Vaggs Lane, Hordle involved the NPA refusing an application for extensions to an existing annexe. However, it is also materially different to the proposal subject of this appeal insofar as it relates to a building in mixed use as incidental residential accommodation and as ancillary farm office accommodation⁴. These examples therefore do not justify dismissing this appeal.

Conditions

26. Condition 1 is necessary in the interests of planning certainty. Condition 2 is necessary to clarify the approved plans. Condition 3 is necessary in the interests of the character and appearance of the area within the NFNP. Condition 4 is necessary in the interests of protected species and biodiversity. Condition 5 is necessary to ensure that surrounding trees are protected during construction works. Condition 6 is necessary in the interests of protected species and the character and appearance of the area within the NFNP. Condition 7 is necessary for clarity.

Conclusion

27. The first statutory purpose of National Parks (NP) is to conserve and enhance their natural beauty, wildlife and cultural heritage. The second statutory purpose is to promote opportunities for the understanding and enjoyment of the special qualities of the NP by the public. Section 245 of the Levelling-up and Regeneration Act 2023 strengthens the above duty on relevant authorities in respect of their functions which affect land in NPs, who now must “seek to further” their statutory purposes.
28. I find that the proposal would not harm the NFNP’s special qualities relevant to the proposal and its location. The NFNP’s natural beauty, wildlife and cultural heritage would be unharmed, and the development would not diminish opportunities for the

³ Appeal Ref: APP/B9506/C/18/3214572

⁴ As set out in the certificate of lawful use or development dated 25 February 2005

understanding and enjoyment of the special qualities of the NFNP by the public. In such circumstances, allowing this appeal would not conflict with the abovementioned strengthened duty.

29. For the above reasons, the appeal scheme is in accordance with the development plan as a whole, and the material considerations before me do not indicate that a decision should be made otherwise than in accordance with it.

30. The appeal is therefore allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: A-S3-100; A-S3-101; A-S3-110; A-S3-111; A-S3-112; A-SX-200; A-SX-202; A-SX-203; A-SX-204.
- 3) No development above ground level shall take place until details/samples of the materials to be used in the construction of the external surfaces of the annexe building hereby permitted have been submitted to and approved in writing by the National Park Authority. The development shall be carried out in accordance with the approved details/samples.
- 4) The development hereby permitted shall be carried out in accordance with the biodiversity mitigation and enhancement plan as set out in Section 4 of the submitted Ecological Assessment Report (ABR Ecology Ltd, dated 25 August 2025).
- 5) The development hereby permitted shall be carried out in accordance with the tree protection measures as set out in the submitted Arboricultural Impact Assessment & Method Statement (Owen Allpress, Project Ref 2707, dated 01 September 2025).
- 6) No external lighting shall be installed on the site unless details of such proposals have been submitted to and approved in writing by the National Park Authority.
- 7) The building hereby permitted shall only be used for annexe accommodation ancillary to the enjoyment of the main dwelling at Batchley Farm, and shall not be used as a separate self-contained unit of accommodation as a dwelling, or as a holiday let.

*****End of Schedule*****