The Planning Inspectorate

Appeal Decision

Site visit made on 29 January 2019

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2019

Appeal Ref: APP/B9506/W/18/3215481
The Old Shop, Manchester Road, Sway SO41 6AS

- 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 Mrs F L MacDuff against the decision of New Forest National Park Authority.
- The application Ref 18/00548, dated 3 July 2018, was refused by notice dated 21 September 2018.
- The development proposed is the erection of a detached house and shed in rear garden.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached house and shed in rear garden at The Old Shop, Manchester Road, Sway SO41 6AS in accordance with the terms of the application, Ref 18/00548, dated 3 July 2018, subject to the condition in the schedule at the end of this decision.

Preliminary Matters

2. I note that the draft New Forest National Park Local Plan has been submitted for examination but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the Framework. Consequently, I am only able to give it limited weight in my decision.

Main Issues

3. The main issues are:

   - the effect of the proposed house on the character and appearance of the surrounding area; and
   - the effect of the proposed development on Special Protection Areas, Special Areas of Conservation or Ramsar sites.

Reasons

Character and appearance

4. Manchester Road contains a variety of types and style of development, comprising a mix of more modern bungalows, chalet bungalows and two storey houses generally set behind front gardens. This results in a varied character

and appearance to the area. The existing property at The Old Shop is a two storey Victorian property set close to the road edge.

5. To the side of The Old Shop is an access drive that leads to a series of garages, with a paddock beyond the gardens of the property and its neighbours, such that the appeal site appears to be on the edge of the village. The garden to The Old Shop is long and rises to the rear, extending behind the neighbouring properties, Shelley's Cottages and The Old Bakehouse. The proposed dwelling and shed would be located on the garden to the rear of those properties. Access would be shared with the garages and paddock and extend around the end of the retained garden of The Old Shop.

6. The proposed house would be single storey with a low roof, constructed in brick and timber with a slate roof and would be set within a generous garden area. It would not be dissimilar in character and appearance to a residential outbuilding or stable block. As a result, whilst visible from neighbouring properties and the paddock to the rear, it would be a modest building of unpretentious, rural appearance and in a discrete location.

7. For these reasons, I conclude that the proposed dwelling and shed would not harm the character and appearance of the area. As such, it would comply with Policies CP7, CP8, DP1, DP6 and DP9 of the New Forest National Park Core Strategy and Development Management Policies Development Plan Document (DPD) and the Sway Village Design Statement that seek development of the highest standards of design that enhances local character and distinctiveness, including the density, appearance, form and layout of development

Special Protection Areas

8. The New Forest Special Protection Area (SPA) comprises a mix of habitats and qualifying features, including extensive wet and dry heaths with rich valley mires and associated wet and dry grasslands, ancient pasture woodlands and enclosure woodlands, network of rivers and streams. It supports important populations of breeding birds associated with these habitats, including nightjar, woodlark and Dartford warbler. There are a number of species supported that are listed on Annex I of the Birds Directive (79/409/EC).

9. The Solent Special Areas of Conservation (SACs), SPAs and Ramsar sites cover most of the coastline of the New Forest National Park and contain a large and diverse assemblage of waterbirds. These include geese, ducks and waders, including a substantial proportion of the world's population of dark-bellied Brent Geese.

10. The appeal site is located within 400m of the New Forest SPA and 5.6km of the Solent sites. As the proposal would not be directly connected with or necessary to the management of the protected sites, it would, either alone or in combination with other projects, be likely to have a significant effect on those areas. As a result, it is necessary to carry out an appropriate assessment (AA) to determine the extent of those effects, whether they could be avoided or whether mitigation measures could remove or reduce the effects. I note that the Council have carried out an AA during the course of the application process. As I am the competent authority in relation to the appeal, it is necessary for me to complete an AA in coming to my decision but will take the Council's AA into account.

Appropriate Assessment

11. The conservation objectives for the New Forest SPA and Solent sites aim to ensure that the integrity of the sites are maintained or restored as appropriate and that they contribute to achieving the aims of the Wild Birds directive. In addition, the conservation objectives for the New Forest SPA aim to maintain or restore the extent and distribution of the population of each of the qualifying features and the distribution of the qualifying features within the site. In both cases, there is a threat to the integrity of the sites from public access and disturbance, including activities such as walking, dog walking, model aircraft and boat mooring.

12. The proposal would comprise residential development whose occupants are likely to cause increased recreational activity that would disturb the protected birds on the New Forest and within the Solent sites. Therefore, the development, alone and in combination with other development, would be likely to have significant adverse effect on the integrity and conservation objectives of the sites.

13. The New Forest National Park Authority's Habitat Mitigation Scheme and the Solent Recreation Mitigation Partnership's Scheme provide measures to avoid an adverse impact on the integrity of the sites. These comprise mitigation projects such as access management, education and research that are management and monitoring rather than infrastructure measures.

14. A Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 has been provided that would result in financial contributions toward these schemes. As the measures in the schemes comprise management and monitoring measures, they do not include infrastructure provision that would fall under the pooling restrictions at Regulation 123(3) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

15. I note that Natural England have stated that there would be no adverse effect on the integrity of the sites subject to contributions toward the mitigation schemes. Taking all of the above into account, I conclude that there would be no adverse effect from the proposed development on the integrity of the New Forest and Solent SPAs.

Conclusion

16. For reasons set out in the AA, I conclude that the proposed development would not have an adverse effect on the integrity of the New Forest and Solent sites such that it would comply with Policy CP1 of the DPD and the Framework. These policies seek to protect nature conservation sites of international importance, such as SACs, SPAs and Ramsar sites, including requiring adequate measures are put in place to avoid or mitigate any potential adverse effects on the ecological integrity of sites.

Other matters

17. The proposed development would be located close to the edge of the village of Sway and I understand that significant levels of development have taken place within the village. Nevertheless, this would not affect my conclusion that the dwelling would not harm the character and appearance of the area.

18. The proposed dwelling would result in additional light in this edge of village location. However, the site is part of an existing garden close to existing dwellings, such that it would not result in material additional light emissions in the area. There is no firm evidence that development would have any materially adverse effect on local services and infrastructure, including drainage and sewerage systems, nor on local ecology other than in relation to the protected sites that I have considered above.

19. The proposed dwelling would be of modest height and single storey such that the proposal would not result in material overlooking of neighbouring properties. As a result, the proposal would not have a material effect on the living conditions of occupiers of neighbouring properties with regard to privacy. The issue of impact on property values has also been raised. It is a well founded principle that the planning system does not existing to protect private interests such as value of land or property.

20. The proposal would result in limited additional traffic movements to and from the proposed dwelling. Parking would be provided for occupiers of and visitors to the proposed dwelling. Consequently, the proposal would not result in a material increase in demand for on-street parking in the vicinity and would not affect highway safety.

Conditions

21. To meet legislative requirements, a condition shall be imposed to address the period for commencement. I shall also impose conditions for the following reasons. I have imposed a condition specifying the relevant drawings as this provides certainty.

22. A condition is necessary for samples of materials to be submitted and approved to ensure that the building is constructed in materials that would maintain the character and appearance of the area. A condition is necessary for details of levels of the proposed development to be provided prior to development commencing in order to protect the character and appearance of the area and living conditions of neighbouring occupiers in terms of outlook and privacy. A condition is necessary to ensure the development is completed in accordance with the Ecology Report to protect and enhance biodiversity in the area.

23. A condition is necessary to ensure adequate parking and turning is provided on site to protect highway safety. A condition is necessary requiring approval prior to development commencing of landscaping works in order to ensure the development would reflect the character and appearance of the area. A condition requiring their subsequent implementation and retention is necessary for the same reason.

24. In some cases I have amended the wording of conditions suggested by the Council in the interests of clarity. I have not included a condition removing permitted development rights as I do not consider it to be necessary. Such rights should be removed only in instances of specific and precise justification. Given the limited height of the proposed building and location within an

existing garden, it is unclear development in accordance with these rights would affect the living conditions of neighbouring occupiers or the character and appearance of the area. Consequently, I find no exceptional circumstances in this case such as to warrant the removal of these rights.

Conclusion

25. For the above reasons and taking into account all other matters raised, I conclude that the proposed dwelling and shed would comply with the development plan and the appeal should succeed.

AJ Steen

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 416/5A – Crossover Details, 416/10B - Layout, 416/11A – Elevations and Floor Plans, 416/12 – Shed details.

3) No development shall take place above slab level until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

5) Development shall only take place in accordance with the recommendations for ecological mitigation and enhancement which are set out in the Ecology Report by Martin Noble dated 28 June 2018. The specified measures shall be implemented and retained at the site in perpetuity.

6) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 416/10B for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

7) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.