

Appeal Decision

Site visit made on 22 July 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2019

Appeal Ref: APP/B9506/D/19/3229804

Forest Way, Lyndhurst Road, Landford, Salisbury SP5 2AJ

- 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 C Marshall against the decision of New Forest National Park Authority ('the NPA').
 - The application, Ref. 19/00045, dated 18 January 2019, was refused by notice dated 13 March 2019.
 - The development proposed is alterations and extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is whether the increase in size of the original building would be acceptable having regard to (i) the objectives of the NPA to maintain the balance of the housing stock and manage the pressures on the countryside of the National Park and (ii) all other material considerations.

Reasons

3. Consideration of the main issue in this case turns on an assessment of the appeal scheme under Policy DP11 of the New Forest National Park Core Strategy and Development Management Policies DPD 2010 ('the Core Strategy').
 4. The policy precludes extensions to dwellings where the cumulative floorspace would be more than 30% of the gross internal habitable floor area that existed at the site on 1 July 1982. Supporting paragraph 7.39 for the policy explains that the floorspace of the dwelling will be measured as the total internal habitable floorspace of the dwelling but will not include floorspace within (amongst others) attached outbuildings, irrespective of whether the outbuildings' current use is as habitable floorspace.
 5. The NPA's Planning Information Leaflet ('the PIL') on Extensions to Dwellings repeats Policy DP11 and its supporting text but adds that outbuildings are normally defined as subsidiary buildings which have not been designed or built for habitable use as part of the main dwelling and are normally distinguishable as such from their visual appearance and physical construction. Applying these provisions to the appeal building, it seems to me that the disputed Areas 2, 3, 4 & 5 on the Existing Floor Plan, Drawing No. 2566/06, do fall within the definition
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of attached outbuildings which paragraph 7.39 says will be excluded from the internal habitable floorspace calculation *'irrespective of whether the outbuilding's current use is as habitable floorspace'*.

6. In this instance the evidence of Mrs Harries suggests extensive previous use of these areas for habitable purposes by the previous, now deceased, owner and I have no reason to doubt that this is a genuine and largely accurate account. However, this still does not bring Areas 2-5 clearly within the ambit of Policy DP11 when both paragraph 7.39 and the definition of outbuildings in the PIL preclude them from being counted towards the total of existing habitable floorspace even though they have been / are being occupied as such.
7. The PIL refers to discretion being used when there are borderline cases where it can be argued that attached buildings are part of the main house, but my reading of this provision in its context in the Core Strategy is that it refers rather more to the visual appearance and physical construction of the attached outbuildings rather than an anecdotal account of previous habitation within them, particularly as that occupation was at least in part associated with the arguably unconventional lifestyle of one individual. And in this case the character, appearance and form of construction of the outbuildings accommodating Areas 2-5 is noticeably different from the brick built building that can be clearly seen as being the original dwelling.
8. For the outbuildings to be included as part of the existing building for the purposes of calculation, the PIL implies that they would need to have been 'designed or built' for habitable use as the main dwelling. In my view this suggests accommodation of a similar standard in terms of construction and with the express intention of it being used as a habitable room that the average person would recognise as such.
9. The evidence in this case, including both of Mrs Harries' statements, suggest that the previous owner with family members, and subsequently on his own, adapted what would ordinarily be regarded as 'outbuildings' for habitation because of their particular circumstances or lifestyle. This suggests an evolution into the use of the floorspace for habitable purposes which would be contrary to the NPA's guidance as to how Policy DP11 should be interpreted rather than an intention to design and build new living space that would count as such on the qualifying date in 1982. That said, there is certainly an area of doubt which precludes unequivocal conclusions in either direction.
10. Overall, and also taking into account the views of the interested parties, I conclude that the appeal proposal would be in technical conflict with Core Strategy Policy DP11, which I note appears to have survived largely intact, albeit with a different reference, in the Proposed Modifications to the draft New Forest National Park Local Plan 2016-2036 and therefore merits substantial weight.
11. As regards the extent to which this conflict would be harmful, the appeal scheme is a modernisation of the property to achieve a family house with the same number of bedrooms, and there are no other planning objections to it. The area of doubt to which I have referred also suggests that in all fairness there could be some discretion to allow flexibility in the additional floorspace total, notwithstanding my comments in paragraph 8 and 9 above.

12. However, the officer's report attaches considerable weight to the consistent application of the policy to ensure that its objectives are not undermined. And whilst I consider that the particular circumstances of this case do not permit the degree of discretion necessary to allow a proposal for the full amount of floorspace sought (more than three times the policy limit), I do consider that there is a reasonable argument for negotiation and compromise of some lesser amount that would reflect the comment in the PIL that the individual characteristics of the site and buildings can sometimes be taken into account in the interpretation of the policy.
13. As this would be a matter for subsequent consideration, I shall dismiss the appeal.

Martin Andrews

INSPECTOR