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## Appeal Decision

Site visit made on 4 September 2019

**by S Thomas BSc (hons) MSc MRTPI**

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

**Decision date: 04 March 2020**

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**Appeal Ref: APP/B9506/W/19/3231235**

**Cherries, Crabbswood Lane, Sway, Lymington, Hampshire SO41 6EQ**

- 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 & Mrs Mays against the decision of New Forest National Park Authority.
  - The application Ref 18/00931, dated 25 November 2018, was refused by notice dated 26 March 2019.
  - The development proposed is described as a two and single storey replacement dwelling in lieu of extant consents to extend
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. During the course of the appeal the New Forest National Park Authority (the Authority) has adopted the New Forest National Park Local Plan (2016-2036) (the Local Plan) on the 29 August 2019. This has replaced the New Forest Local Development Framework Core Strategy and Development Management Policies DPD (2010). I have sought the parties comments on the adoption of the new Local Plan and following this I am satisfied that the Core Strategy policies (DP10, DP11, CP6 and DP6) are carried forward to the new Local Plan, albeit with new Policy numbers but with no substantive change to the policy stance. Therefore, for clarity the Local Plan policies that are now relevant to the determination of this appeal are policies DP35, SP15 and DP18. I have therefore determined the appeal in line with these policies.
3. The Authority have referred to Policy DP36 of the Local Plan which is a replacement for Policy DP11 as a relevant policy for me to determine the appeal on. However, Policy DP36 is concerned with extensions to dwellings as opposed to new dwellings. Given the proposal before me, I consider that this policy is not relevant to my determination of this appeal.
4. Since the determination of the application, the appellants have undertaken further survey work in relation to the possible presence of bats a (a phase 2 survey) with the aims of addressing one of the reasons for refusal. The Phase 2 survey report sets out that there is a highly unlikely chance that the bats identified as part of the survey work would be using the existing building, and therefore no further survey work is required. As such, the Authority considers that the reason for refusal 2 has been overcome and I have no reason to disagree with that view.

## **Main Issue**

5. The main issue is the effect of the proposed development on the character and appearance of the National Park, with particular regard to the Authority's adopted policy on replacement dwellings and light pollution.

## **Reasons**

6. The appeal property to be demolished is a single storey dwelling which is set in a substantial plot located off Crabbswood Lane. This is a quiet leafy lane of tranquil character and contains varying styles and sizes of properties scattered along it. The property is set back from the lane with fencing to the front boundary and partial vegetation along the front boundary. A mobile home is situated alongside this fence and therefore the property is reasonably screened. The property, being single storey, is not prominent and is visually unobtrusive when viewed from the lane and surrounding area.
7. Policy DP35 of the Local Plan sets out the basis for which proposals for replacement dwellings will be assessed. It is accepted between the parties that the dwelling does not fall within the remit of a small dwelling for the purposes of this policy. As the property is located outside a defined village, Policy DP35 states that a replacement dwelling should be of no greater floorspace than the existing dwelling. The explanatory text to the policy defines the existing dwelling as the dwelling as it existed on 1 July 1982.
8. The reasoning to the policy sets out that a tighter approach to replacement dwellings is taken outside the defined villages, as the landscape impact in these locations is greater and the fundamental aim is to reduce the loss of smaller houses in the National Park through their replacement by substantially larger dwellings. This is to ensure replacement dwellings do not have an increased impact on the landscape and on the protected landscape of the New Forest National Park. In line with the National Planning Policy Framework (the Framework), great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks.
9. The Authority indicate the existing property has a floorspace of 106.8 square metres (sqm) and the replacement dwelling would have a floorspace of 184.9sqm which would represent a percentage increase of around 73%. The appellants indicate the floor area of the existing dwelling is of 107sqm with them referring in the design and access statement to a floorspace of 182sqm, but then showing a floorspace of 184.9sqm on the submitted plans. Notwithstanding the difference in figures between the parties, it is clear that the replacement dwelling would be a significant increase in floorspace when compared to the existing dwelling. Therefore, it is a matter of fact that the proposal would conflict with the provisions of Policy DP35.
10. Notwithstanding the above, there exists planning permission to raise the roof of the existing dwelling to facilitate additional habitable accommodation, and a certificate of lawful development for a single storey extension<sup>1</sup> which had already commenced using permitted development rights. From the evidence before me, the floor area of these extensions should they be implemented would be broadly similar to that proposed in the replacement dwelling scheme. Whilst I acknowledge the Authority's position that they were not aware that the

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<sup>1</sup> 17/00912 and 18/00100

extension subject of the certificate of lawful development had been implemented prior to the issue of planning permission 17/00912, the fact remains both these extensions can be undertaken. Thus, an enlargement of the floorspace of the dwelling equivalent to that proposed by the replacement dwelling could be carried out.

11. The appellants' planning statement sets out that the layout which could be achieved through those additions would be contrived and would not fully meet their needs or aspirations. That said, the appellants are clear that should the appeal fail, they will implement the extant consents as this will result in significantly enhanced living accommodation when compared to the existing dwelling. I have no reason to take an alternative view. I also noted the presence of a mobile home at the site that the appellants' have indicated that they will use while they undertake either scheme.
12. Accordingly, it is clear there is a desire from the appellants to extend their home to increase the amount of living accommodation and I have little doubt that should the appeal be dismissed, the appellants will implement the fallback schemes. I acknowledge the conclusions of the Inspectors in two appeals that have been drawn to my attention by the Authority. However, in this appeal I have found that the fallback schemes would be less harmful than that of the appeal proposal and that they would be very likely be implemented.
13. The plans of the fallback position for the roof extension and single storey extension show an increased height of the dwelling. This appears a well-proportioned scheme resulting in a modest increase to the scale of the property and would retain its single storey form which is in contrast to the two-storey scale of the replacement dwelling. Therefore, if the fallback position is implemented, I consider it would be more acceptable than the replacement dwelling scheme subject of this appeal.
14. The supporting text to Policy DP35 identifies that the fundamental aim of the policy is to reduce the loss of smaller homes in the National Park through substantially larger dwellings and to ensure that replacement dwellings do not have an increased impact on the protected landscape of the New Forest. I acknowledge that the design of the replacement dwelling is good. However, whilst set back into the plot the proposed massing and scale of the two-storey dwelling would have a much more prominent impact given its predominantly two storey form when viewed from the lane than that of the current single storey dwelling in place, which is unobtrusive. Whilst it would be of a similar floorspace to the extant consents this would have a more dominant effect on the street scene than that would be delivered by the existing consents. On this basis it would result in a prominent new dwelling which would have an increased impact on the landscape. This would be heightened when the mobile home is removed from the front of the site and the property is in full view. I acknowledge there is a varied nature of properties along the lane, but this would clearly have a greater impact than the existing dwelling and that could be delivered by the extant consents. It would thus by virtue of its increased visual impact be contrary to the policy objectives.
15. Whilst I note the appellants' point that the replacement dwelling may have a reduced impact on the neighbouring property than that would be caused by the fallback position, no harm was found when the application for the roof extension was determined. Accordingly, I give this limited weight.

16. My attention has been drawn to an appeal decision at Cotton Cool<sup>2</sup> which also relates to a replacement dwelling. Whilst I find there are similarities in this case, including the position on fallback I do not have the full details of the site and cannot be sure it presents the same set of circumstances particularly in relation to the scale and massing and impact on the landscape. The Council identify in the officer report that the schemes are materially different due to the material impact upon the street scene of Crabbswood Lane. Further, a new Local Plan has recently been adopted, and whilst the policy position on replacement dwellings remains similar its continued existence highlights to me the importance that the National Park places on the control of the size of replacement dwellings to protect the landscape of the National Park. Notwithstanding this, I have considered this case on its own merits based on the evidence before me.
17. In addition to the above, the Authority consider that the level of glazing in the proposed replacement dwelling would be excessive resulting in an unacceptable level of light pollution. Policy DP18 of the Local Plan seeks to reduce the impact of light pollution on the dark skies of the National Park to prevent artificial lighting from eroding rural darkness and tranquillity.
18. Should the fallback scheme be implemented this proposes a higher level of glazing than existing and this will increase light spill compared to the existing situation, however it is acknowledged this would not be to the same extent as the replacement dwelling owing to the overall height and amount of glazing in the appeal scheme. However, the main the windows in the north, east and west elevations of the proposed replacement dwelling would appear to have domestic windows and is unlikely to cause a great amount of harm given there are other two storey properties in the area. The windows on the south elevation would have the greatest impact with the large openings at ground and first floor level. However, the nearest property this faces is Highfield which is a hipped roof bungalow and considering the separation distances would be unlikely to be significantly visible from this property. Therefore, whilst it is acknowledged there will be additional light spill I am not persuaded this would lead to a detrimental impact on the dark skies of the National Park and would erode rural darkness to a degree that would cause significant harm. Thus, I do not find it would be contrary to Policies SP15 and DP18 of the Local Plan.
19. I have not found harm in terms of light pollution. However, the proposed development would have a harmful effect on the character and appearance of the National Park and conflict with the development plan. I also find conflict with the Framework that states great weight should be given to conserve and enhance landscape and scenic beauty in the National Park.

### **Conclusion**

20. For the reasons given above, the appeal is dismissed.

*Stephen Thomas*

INSPECTOR

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<sup>2</sup> Reference APP/B9506/W/17/3171773