
Appeal Decision

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2020

Appeal Ref: APP/B9506/W/20/3246760
40 New Road, Ashurst SO40 7BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Karl Ward and Ms Eve Manning against the decision of New Forest National Park Authority.
 - The application Ref 19/00922, dated 8 December 2019, was approved on 28 January 2020 and planning permission was granted subject to conditions.
 - The development permitted is a single storey extension; demolition of outbuilding.
 - The condition in dispute is No 3 which states that:
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) England Order 2015 (or any re-enactment of that Order) no extension (or alterations) otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.
 - The reason given for the condition is:
To ensure the dwelling remains of a size which is appropriate to its location within the countryside and to comply with Policies DP35 and DP36 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In response to travel restrictions in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council were given an opportunity to provide comments on this approach and I have taken any responses into account.
3. The planning permission imposed condition 3, which removed permitted development rights for future alterations to the dwelling. The appellant seeks the removal of this condition.

Main Issue

4. The main issue is whether the condition is necessary and reasonable, having regard to local policy in respect of extensions to dwellings.

Reasons

5. Policy DP36 of the New Forest National Park Local Plan (adopted 2019) (the Local Plan) sets out the circumstances where extensions to existing dwellings will be permitted. In the case of small dwellings (those with a floor area of 80 square metres (sqm) or less), extension should not result in a total habitable floorspace of more than 100 sqm. The justification to the policy explains that proposals to incrementally extend dwellings in a nationally designated landscape can affect the locally distinctive character of the built environment. In addition, extensions can result in an imbalance in the range and mix of housing stock that is available.
6. The parties agree that the existing property comprises a small dwelling, for the purposes of policy DP36. The figures provided by the Authority show that the floorspace of the extended dwelling would be approximately 99 sqm. On this basis, the extension would take the floorspace of the dwelling to almost the maximum limit as imposed by policy DP36. Any further extensions would therefore be likely to result in the 100 sqm limit being breached; the Authority highlights that further rear extensions would be possible within permitted development allowances. Condition 3 therefore prevents any further extensions taking place without the need for planning permission.
7. I am aware that the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Furthermore, the Planning Practice Guidance (the PPG) advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.
8. I acknowledge that the appellant contends that the Authority has removed pre-existing permitted development rights, which conflicts with the Framework and the PPG. However, I do not accept this. There is a clear policy basis to prevent the further extension of the dwelling, so as to prevent incremental extensions, for the policy reasons I set out above. I am also aware that this approach of limiting the scope of extensions to existing dwellings was endorsed by the Inspectors who examined the Local Plan. Accordingly, I find that there is a clear justification for removing permitted development rights.
9. Therefore, the condition is necessary and reasonable, having regard to the legitimate purposes of protecting the character of the built environment and maintaining a balanced range and mix of housing within the New Forest National Park, as sought by local planning policy.

Other Matters

10. The appellant refers to the inclusion of the external porch area within the internal floorspace calculations of the Authority, stating that it should not be included. The appellant indicates that this area extends to in the region of 2.5 sqm. Whilst the Authority states there is no reference to the inclusion of the porch within the Case Officer Report or the floorspace calculation sheet, it seems clear from the information provided that it was included. Nonetheless, whether or not the porch area is included in the measurement of floorspace is not critical to the matter that is before me. The Council state that an additional 14 sqm could be added to the rear of the property if permitted development rights remained. Consequently, even if the porch were excluded, without a

condition removing permitted development rights, it would be possible to extend the dwelling to beyond the 100 sqm limit. Such an extension would have the potential to conflict with the purposes of policy DP36 and as such it would be reasonable to assess it through a planning application.

11. The appellant refers to agreeing to the possible enlargement of the extension as part of this appeal. This however is not a matter that I am able to consider within the remit of this appeal; the issue before me is the appropriateness of the planning condition.
12. There is reference to the removal of a garage compensating for the increased footprint of the dwelling. However, the clarification attached to policy DP36 states that the floorspace contained within outbuildings, whether attached or detached, will not be included within the consideration of the floorspace of small dwellings. As such, the removal of the garage has little bearing on my decision.

Conclusion

13. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR