



Appeal Decision

Site Visit made on 10 August 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/Y3940/W/21/3272786

Barn to the south of Stock Lane, Landford Wood, Salisbury, SP5 2ER

- 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 & Mrs Atwal against the decision of Wiltshire Council.
 - The application Ref 20/08928/FUL, dated 14 October 2020, was approved on 18 March 2021 and planning permission was granted subject to conditions.
 - The development permitted is the demolition of the existing agricultural barn and the erection of a detached replacement dwelling, hard and soft landscaping and associated works (resubmission of 20/04749/FUL).
 - 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 Order revoking or re-enacting or amending that Order with or without modification), there shall be no extensions to the property or outbuildings erected within its curtilage, and no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the development hereby permitted.*
 - The reason given for the condition is: *Planning permission will be required for changes to the property so that the Local Planning Authority can retain control over changes to the property in the interests of residential amenity and privacy, minimising light pollution and in the interests of visual amenity.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.

Background and Main Issue

3. Planning history confirms that a previous scheme for the replacement of the agricultural building at the site with a detached dwelling was dismissed at appeal¹ in 2020, on grounds of harm to the character and appearance of the surrounding area and that that scheme would conflict with national and local planning policy with regards to the conservation and enhancement of landscape and scenic beauty of the New Forest National Park (the National Park).
4. Subsequently, planning permission for the demolition of the agricultural barn at the site and its replacement with a detached residential building was granted by the Council on 18 March 2021, with the evidence before me indicating that

¹ Appeal Reference: APP/Y3940/W/20/3252379

permission was granted on the basis that the Council considered that the appeal building would retain an agricultural character and appearance, being sympathetic and compatible with the rural character of the area and the setting of the National Park.

5. The disputed condition would prevent extensions to the proposed dwelling as well as restricting erection of outbuildings, whilst also preventing the incorporation of new additional windows, dormers or rooflights. The appeal seeks to remove this condition so that the full range of permitted development rights are available to the proposed detached replacement dwelling.
6. The main issue in this appeal is whether the disputed condition is reasonable and necessary in order to preserve the character and appearance of the surrounding area including the setting of the National Park and the setting of nearby listed buildings, and in the interests of protecting residential amenity.

Reasons

7. The National Park borders the appeal site on its northern boundary. There is residential development within the boundary of the National Park and to the north and east of the site, with the land to the south and southwest of the site comprising predominately open agricultural land.
8. Section 11A(2) of the National Parks and Access to the Countryside Act 1949 requires that 'in exercising or performing any functions in relation to, or so as to affect, land' in National Parks, relevant authorities 'shall have regard' to their purposes for which these areas are designated. The Planning Practice Guidance (the PPG) confirms that this duty is particularly important to the delivery of the statutory purposes of protected areas. It applies to all local planning authorities, not just National Park authorities, and is relevant in considering development proposals that are situated outside National Park or Area of Outstanding Natural Beauty boundaries, but which might have an impact on their setting or protection².
9. The PPG further states³ that 'conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development)(England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn'. Paragraph 54 of the Framework provides that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
10. The Council have put it to me that the disputed condition would pass the relevant tests included within paragraph 56 of the Framework. In respect of the effect of such alterations and additions on the character and appearance of the surrounding area and on the landscape and scenic beauty of the National Park, permitted development rights would allow for extensions which could, based on the extent of those permitted rights, result in a building that no longer retained an agricultural appearance and could therefore result in a building that would be visually discordant within its rural surroundings.

² Planning Practice Guidance Paragraph: 039 Reference ID: 8-039-20190721

³ Planning Practice Guidance Paragraph: 017 Reference ID: 21a-017-20190723

11. Furthermore, in respect of outbuildings, by reason of the size of the site and the curtilage associated with the approved dwelling, additional outbuildings could result in a significant spread of built form across the site. This would further erode and harm the rural character and appearance of the area and would be harmful to the landscape and scenic beauty of the adjacent National Park.
12. Accordingly, whilst I do not concur with the Council that submission of the planning appeal to remove the disputed condition shows an intention to carry out works restricted by the disputed condition, I find that the restriction on permitted development rights identified within the disputed condition would be justified and necessary to enable proper consideration of alterations and extensions and thus avoid unacceptable harm being caused to the character and appearance of the surrounding area or to the setting of the National Park by the construction of unsuitable or unsightly additions.
13. Under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a duty to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest. In this respect, the consultation from the Conservation Officer included reference to an earlier application at the site and which considered whether the site formed an important part of the setting of a number of nearby listed buildings.
14. The listed buildings referenced in the consultation includes Landford Wood House and Landford Wood Mission Hall located north of the site, and South Lodge which is located west of the site. The submissions in this appeal indicate that the Conservation Officer concluded that the rural outlook from the principal elevations of Landford Wood House, South Lodge and Landford Wood Mission Hall contributes to the setting and significance of these designated heritage assets.
15. By reason of the separation distance between the site and the buildings at South Lodge and Landford Wood Mission Hall, and given that intervisibility between the site and Landford Wood Mission Hall is very limited on account of intervening vegetation, I find no harm to the significance or setting of these heritage assets.
16. Nonetheless, the agricultural appearance of the permitted replacement dwelling would help ensure that the rural outlook from Landford Wood House is preserved. The extensions and provision of outbuildings provided under permitted development rights could significantly alter the character and appearance of the site as noted above, eroding the rural nature of the site which, in my view, contributes to the setting of this listed building so causing harm, albeit less than substantial harm, to its significance. Whilst it was noted on my visit that the site is partially screened by vegetation, the site and the replacement dwelling would still be visible in views from Landford Wood House.
17. In terms of the effect on existing nearby residents' amenity, I find that, by reason of the separation distance between the permitted dwelling and its immediate neighbour, even in the event that additional openings were inserted on the eastern elevation at first floor level, there would be no unacceptable overlooking or loss of privacy.

18. Notwithstanding the above with regards to nearby resident's amenity, in terms of the restriction of permitted development rights with regards to additional windows, dormer and rooflights, I find that the inclusion of additional openings at first floor level would further erode the rural character and appearance of the permitted dwelling, resulting in a building that would have a more domestic residential appearance being harmful to the character and appearance of the area, harmful to the scenic and landscape beauty of the National Park and harmful to the setting and significance of the listed building at Landford Wood House.
19. For the above reasons, and given the importance placed within national planning policy with regards to the conservation and enhancement of landscape and scenic beauty of National Parks and to the conservation and enhancement of the historic environment, I find that development in non-compliance with the disputed condition would mean there would not be proper consideration of alterations and extensions and so could result in unacceptable harm being caused to the character and appearance of the surrounding area, including the setting of the National Park, and less than substantial harm being caused to the significance of Landford Wood House. I am not aware of public benefits to outweigh this harm to the significance of the listed building.
20. The disputed condition would allow for greater control to be applied to the size, bulk and appearance of the permitted dwelling, ensuring that it retained its agricultural form and scale. In light of the above, the removal of the disputed condition could result in a form of development that would not comply with the provisions of Policies 24, 51, 57 and 58 of the Wiltshire Core Strategy and Saved Policy C6 of the Salisbury District Local Plan which, amongst other matters, aim to protect landscape character including the landscape and scenic beauty of the National Park and which requires that development conserves the historic environment.
21. The Appellants have referred me to a recent appeal at Landford Wood⁴ which concerned a disputed condition which appeared to restrict potential change of use of an agricultural building to a residential dwelling under Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO). In that appeal the Inspector considered that the condition did not satisfy the required tests and that the prior approval process would ensure that the Council would retain an element of control over the external appearance of the relevant building. Whilst the conclusions of that appeal are noted, the circumstances of the cited appeal are not comparable to this appeal given that the replacement dwelling has already been approved and that no such elements of control would exist in relation to further alterations and additions made under the GPDO. Consequently, I have determined this appeal on its own merits.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR

⁴ Planning Appeal Reference: APP/Y3940/W/20/3257751