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## Appeal Decision

Site visit made on 29 July 2021

**by Rebecca McAndrew BA Hons, PG Dip Urban Design, MSc, MRTPI**

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

**Decision date: 03 November 2021**

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**Appeal Ref: APP/B9506/D/21/3273359**

**Timbers, Coxhill, Boldre SO41 8PS**

- 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 Malcom Stewart against the decision of New Forest National Park.
  - The application Ref 21/00010, dated 6 January 2021, was refused by notice dated 11 March 2021.
  - The development proposed is the erection of a single storey extension; alteration to orangery roof'.
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### Decision

1. The appeal is dismissed insofar as it relates to the erection of a single storey extension. The appeal is allowed insofar as it relates to alterations to the orangery roof.
2. Planning permission is therefore granted for the alteration to orangery roof at Timbers, Coxhill, Boldre SO41 8PS in accordance with the terms of the application, Ref 21/00010, dated 6 January 2021, and the plans submitted with it, so far as relevant to those parts of the development hereby permitted and subject to the following conditions:
  1. The development hereby permitted shall begin no later than three years from the date of this decision.
  2. The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, 01 CP05 Version A, 01 CP06 Version A
  3. The materials to be used in the construction of the external surfaces of the alteration hereby permitted shall match those used in the existing dwelling.

### Procedural Matters

3. The description of development included on the planning application form does not include reference to works to the orangery roof. I have therefore used the description of proposed development included on both the application decision notice and the appeal form submitted by the appellant in considering this appeal.
4. The appellant confirms that, if the proposed side extension is acceptable but the removal of the of the roof lantern on the orangery is unacceptable, he would be willing to retain the roof lantern. He has therefore submitted an

altered set of plans which reflects this option in support of the appeal, References CP05 Version C and CP06 Version C. I am satisfied that the plans show the single storey side extension as per the appeal plans considered by the Council. On this basis, the plans are not so changed that it would deprive those who should have been consulted on any changes the opportunity to comment. I have therefore considered these plans as part of the appeal.

### **Main Issue**

5. The main issue is whether the proposed development would meet the Authority's strategy for the extension of existing dwellings within the New Forest National Park (the 'National Park') in the context of adopted policy.

### **Reasons**

6. The appeal property is a large detached dwelling situated in a semi-rural location within the National Park. The property has been previously extended.
7. Policy DP36 of the Local Plan New Forest National Park Local Plan (2019)(LP) seeks to limit the cumulative size of additions to dwellings in order to safeguard the locally distinctive character of the New Forest and ensure the retention of a balance in the housing stock. For dwellings which are not small dwellings and are outside the defined villages, as is the case of the appeal property, the policy states that extensions must not increase the floorspace of the existing dwelling by more than 30%. Paragraph 7.82 defines the terms 'small dwellings' and 'existing dwellings' for the purposes of LP policy DP36.
8. Turning first to the proposed extension, the Council states that the existing floorspace of the appeal property, as defined by the supportive text for Policy DP36, was 209 square metres. Cumulatively, the previous enlargement of the property, the orangery and the appeal proposal would give rise to a floorspace of 335 square metres. This would represent an increase of 60% in the amount of the habitable floor area of the dwelling as it existed on 1 July 1982. These calculations are not disputed by the appellant. As such, the proposal would significantly exceed 30% of the floorspace of the original dwelling and therefore would fail to comply with the permitted increase allowed under LP Policy DP36.
9. The appellant has secured a certificate of lawfulness to confirm that a proposed single storey rear extension would be permitted development. He has also submitted a Unilateral Undertaking (UU) which, if the appeal for the single storey extension were allowed, he would forfeit permitted development rights for this rear extension. As such, I accept that there is a reasonable chance that, in the event of this appeal being dismissed, the appellant would construct this structure. The appellant advises that the fallback proposal would measure approximately 24.8 square metres in area, which would be around 6 square metres larger than the proposed single storey side extension.
10. I accept that the appeal proposal would be slightly smaller than the fallback extension. However, the fallback scheme would sit comfortably on the rear of the property, responding to the context of the existing orangery, in terms of design and form. By comparison, the proposed side extension would widen an already broad property. On this basis, the fallback rear extension would be a more acceptable design approach than the side extension which is the subject of this appeal, which would have a more harmful impact on the character and appearance of the host dwelling.

11. Thus, whilst the fallback position is a material condition and I recognise that the appellant would be willing to relinquish permitted development rights for this scheme through a UU, I attach limited weight to this in support of the scheme. Given that the LP was adopted in 2019 and its Policy DP36 accords with the aims of the Framework in respect of protecting the National Park, I attach significant weight to the conflict with LP Policy DP36 as the LP was adopted in 2019 and the policy accords with the aims of the Framework in respect of protecting the National Park.
12. In conclusion, the proposed extension would be contrary to LP Policy DP36 which aims to prevent the harmful incremental extension of dwellings in the National Park, recognising the effect that this can have on the character of the National Park. The development plan policy aligns with the aims of Paragraph 176 of the National Planning Policy Framework (the Framework) which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. The proposal does not accord with the Framework in these respects.
13. Turning to the proposed conservatory, I note that the structure was approved on the basis of an exemption to Policy DP36, which allows conservatories to be constructed as secondary accommodation. The supporting text to this policy defines a conservatory as a structure where not less than three-quarters of the area of its roof and not less than one-half of the area of its external walls are made of clear or translucent materials. Given that the appeal proposal would result in a roof with no glazing, it would not meet the requirements of LP Policy DP36.
14. However, on my site visit I noted that the conservatory included a range of furniture including a dining table, sofa, sideboard and small kitchen area. Also, it opens directly into the main house, with no separation between the two. As such this space is already being used as primary accommodation. The proposed design is of a good standard and the removal of the lantern roof is unlikely to significantly alter the way in which this space is used. The proposed roof would also improve the thermal qualities of the structure. On this basis, I do not consider that the proposal would prejudice the aims or intentions of Policy DP36 or Paragraph 176 of the Framework.

### **Other Matters**

15. I acknowledge that the scheme would improve the appellant's existing living conditions. While I appreciate the appellant's desire to provide living space more suitable to their needs, the fallback extension could achieve this in a more acceptable manner. Therefore, I give this matter limited weight in considering the appeal.
16. I have considered a number of appeal decisions submitted by the appellant in support of their appeal. I recognise that the Inspectors in these cases afford significant weight to the fallback positions in considering these appeals. However, the circumstances in those cases appear to vary from the current appeal proposal as in those cases the appeal schemes were considered to be less harmful than the fallback scheme. By contrast, I have found the current appeal proposal would have a greater impact on the appearance of the host dwelling than the fallback scheme. In any event, each proposal must be considered on its own merits.

## Conditions

17. I impose conditions in regards to timescales and setting out the approved plans to provide certainty. I attach a condition regarding external materials to ensure the scheme preserves the character and appearance of the host dwelling.

## Conclusion

18. Section 38(6) of the Planning Compulsory Purchase Act 2004 requires the determination of this appeal in accordance with the development plan unless material planning considerations indicate otherwise.
19. Paragraph 10 of the Framework sets out a presumption in favour of sustainable development. However, given that I have found harm to the National Park in respect of the single storey extension, the scheme would not protect the natural environment and therefore would not constitute sustainable development.
20. In terms of the erection of a single storey extension, I have found conflict with LP Policy DP36 and Paragraph 176 of the Framework. There are no material considerations, even when taken cumulatively, to indicate that the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that, in so far as the proposed side extension, the appeal should be dismissed.
21. In terms of the proposed alteration to the orangery roof, the proposals would conflict with LP Policy DP36. However, this structure is already used as an integral part of the habitable accommodation of the appellant's home and there would be benefits in favour of the scheme in terms of thermal efficiency and a good standard of design. As such, on the basis of the individual circumstances of this case, I attribute limited weight to the conflict with the development plan. I therefore conclude that, in so far as the removal of the lantern roof, the appeal should be allowed.

*Rebecca McAndrew*

INSPECTOR