
Appeal Decision

Site visit made on 28 September 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/B9506/W/21/3272413

Land to rear Tyrrell Lodge, Southampton Road, Lyndhurst SO43 7BQ

- 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 Ms A Wade against the decision of New Forest National Park Authority.
 - The application Ref 20/00597, dated 18 August 2020, was refused by notice dated 6 October 2020.
 - The development proposed is new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity to address this matter, and I have taken this into account where relevant to my decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the Lyndhurst Conservation Area (the LCA).

Reasons

4. The appeal site comprises the rear-most part of the original back garden of Tyrrell Lodge, together with part of a more open grassed area of land to the rear. The former lies within the defined settlement boundary of Lyndhurst. The latter is within open countryside, and contains two small detached former agricultural buildings which are used as garages and are accessed via Queens Road. The site lies within the LCA and the New Forest National Park (NFP).
5. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended (the Act) requires that with respect to development affecting buildings or other land in a conservation area, 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'
6. The Council's Conservation Area Character Appraisal for the LCA (the CACA) states that late Victorian and Edwardian residential areas are an important

feature of the LCA, exhibiting consistency of design, use of materials, particularly brick, and a 'garden city' plan form.

7. The CACA confirms that the relationship between settlement and historic landscape is still evident in the way that the surrounding Forest and commons flow into the built environment, and that trees, hedges and green open spaces are an important part of the character of the settlement of Lyndhurst, which is described as rural in nature and having retained its village character rather than becoming a regional town.
8. The appeal site lies within Character Area L of the LCA, comprising Victorian and Edwardian planned residential development, including detached and semi-detached villas, together with lower status terraces of cottages, in a linear arrangement fronting onto Southampton Road and a U-shaped crescent comprising Queens Road and Princes Crescent. The whole area is described as sylvan in nature, with open agricultural land to the northwest and open forest to the south.
9. Dwellings are mainly finished in brick under tile or slate roofs, often with steeply pitched full height gables facing onto the road. A number of buildings in the LCA are locally listed due to their vernacular interest, and these include the two-storey host property, Tyrrell Lodge, and three-storey buildings at Heather House and Rufus House to the east of the appeal site.
10. Moreover, the site and adjacent properties lie within the Eastern Forest Heaths Landscape Character Area according to the Council's *New Forest National Park Landscape Character Appraisal*. This area is distinct from the main built-up area of the settlement of Lyndhurst. This reinforces the close affinity of the appeal site and neighbouring properties with the open forest which lies to the south, and the more spacious character of the edge-of-settlement residential areas befitting the location of the settlements within a National Park.
11. The locally listed Tyrrell Lodge and associated appeal site make a positive contribution to the significance of the LCA, exhibiting characteristics which are intrinsic to the rural-edge character of this part of the LCA as described above. The garden land part of the appeal site contributes to the spacious soft-landscaped transition between built development fronting onto Southampton Road and Queens Road and open countryside to the rear, flowing into the undeveloped open land outside the settlement boundary. Whilst there is currently vehicular access from Queens Road to the existing outbuildings, this is a low-key arrangement, involving driving over grass to access the garaging, and it does not have a noticeably urbanising impact on the open countryside.
12. The proposal is to construct an L-shaped, single storey, one-bedroom dwelling at the northern end of the garden land, fronting onto the grassed area to the rear. Garaging and cycle parking for the dwelling would be provided in the existing outbuildings and a parking/turning area would be provided in front of the dwelling.
13. The proposed back-land position of the dwelling would be contrary to the historic layout of residential properties within this part of the LCA, which is of a single plot depth, fronting onto Southampton Road. A combination of a narrower plot width and shorter plot depth than those historically associated with residential development in this location, together with the proposed close positioning of the new dwelling to the northern and both side plot boundaries,

would give rise to an unduly cramped and congested form of built development. This is particularly evident on the western side, where the whole depth of the building would be sited adjacent to the boundary. This layout would be out of keeping with this part of the northern edge of the settlement, where a more spacious layout of buildings defines the edge of the settlement immediately adjacent to the open countryside. The proposed small single-storey dwelling size would serve to further emphasise the constricted nature of the dwelling plot.

14. Whilst the principle of additional residential development is not disputed in this location, the proposed positioning of the new dwelling and its orientation, with its frontage and main entrance facing the open countryside would be at odds with the prevailing road-facing development characteristic of the locality. The proximity of the building to the open land at the rear, combined with its width extending across the plot, would give building an obvious visual presence. This, combined with activity associated with comings and goings of the future occupants and their visitors, including vehicular activity and parking and turning directly in front of the dwelling, and a likely introduction of domestic paraphernalia in front of the building, would collectively result in a harmful urbanising impact on this rural edge of the settlement.
15. The presence of the neighbouring dwelling known as Buena Vista does not alter my view in this regard, since that property is inward-looking towards the frontage development, accessed via Southampton Road, and is set in more spacious surrounds than would be the case with the appeal proposal. As such, it does not compromise the semi-rural spacious character of the immediate locality adjacent to the open countryside in the way that the appeal scheme would.
16. In coming to this view, I have had regard to the previous dismissed appeal¹ in respect of a new dwelling on the appeal site. I acknowledge that the current appeal scheme represents an amended scheme from that of the previous appeal, including a reduction in dwelling height and footprint, changes to the detailed building design, and alterations to the proposed parking and access arrangements. However, for the above reasons, these changes are not sufficient to address my concerns in respect of the impact of the proposal on the character and appearance of the area. I note that in the case of the previous appeal, the NPA did not submit a statement of case, and it is not clear from the information before me whether the previous Inspector had regard to the CACA.
17. The previous appeal was determined on the basis of the policies of the *Core Strategy and Development Management Policies DPD* (2010) (the Core Strategy), which have now been replaced by the policies of the *New Forest National Park Local Plan 2016 – 2036* (2019) (the Local Plan). In respect of the relevant policies related to the Council's reasons for refusal, the current policies reinforce the general thrust of the previous policies having regard to the requirement to protect the character and appearance of the area, including the LCA. The Local Plan policies were found to be consistent with the 2019 Framework, and recently revised Framework reinforces the importance of well-designed and beautiful places.

¹ APP/B9506/W/17/3175674

18. I acknowledge that the previous Inspector found that the character of the LCA in land-use terms would be preserved, since residential development is a characteristic use of this part of the LCA, and that there would be no further encroachment of built development into the countryside as a result of the use of the existing access and garaging. I do not disagree with these conclusions, but I have nonetheless found harm to the character and appearance of the area, having regard to the layout of the current appeal proposal, for the reasons stated above. I have reached my decision based on the evidence before me, which includes the CACA, and current national and local planning policies. The latter include Local Plan Policy SP16 which replaced the former Core Strategy Policy CP7, and states that development proposals should not harm the special interest, character or appearance of a conservation area, including spaces which contribute to that special interest, character and appearance, having regard to the conservation area character appraisal.
19. My attention has been drawn to three residential properties that have been approved since the previous appeal decision. However, I do not find these schemes at Heather House and Rufus House to be directly comparable to the appeal scheme. In terms of the positioning of the dwellings, they relate to additions to the built residential development fronting Southampton Road and Queens Road. As such, they consolidate the layout of built development characteristic of this part of the LCA.
20. Moreover, notwithstanding that some smaller plots have resulted from these developments, the layout of these approved schemes in relation to their parent properties do not result in a significantly more cramped form of development than is characteristic of the locality. The appeal scheme has not overcome the previous Inspector's concerns about the limited space between the new dwelling and its northern, western and eastern boundaries, and would still appear as an unduly cramped form of development notwithstanding these other approvals.
21. With regard to Paragraph 202 of the Framework, the harm to the conservation area would be no greater than 'less than substantial'. Less than substantial harm does not equate to less than substantial planning objection, and the Framework sets out the need to address the 'less than substantial harm' against the public benefits of the scheme.
22. The additional dwelling would make a contribution towards the supply of housing, in particular for occupiers requiring a small, lower cost unit of accommodation and/or bungalow accommodation. In this respect, whilst the proposal would provide a new small dwelling within the floor area limitation of the development plan, the contribution to the NPA's supply of housing would be very modest, particularly since the NPA has confirmed that it can demonstrate a five-year housing land supply.
23. There would also be economic and social benefits resulting from the construction and occupation of the dwelling. It would be located in an accessible location within the Lyndhurst settlement boundary, as such it is close to community facilities and services and public connections. However, whilst these matters attract weight as public benefits, they do not outweigh the less than substantial harm to the designated heritage asset of the LCA.

24. The NPA has not identified any harm in respect of other issues, including the impact on neighbouring living conditions and highway safety. However, these factors are a requirement of the development plan in any case.
25. For the above reasons, the proposal would fail to preserve or enhance the character and appearance of the LCA. As such, it would be contrary to Local Plan Policies DP2, DP34, SP16 and SP17. These policies, amongst other things, seek to ensure that new development comprises high quality design which enhances local character and distinctiveness, is appropriate and sympathetic in scale, appearance, form, siting and layout, respects local development densities and the built environment and landscapes within the New Forest, and does not harm the special interest or character and appearance of the conservation area, having regard to the relevant CACA.
26. For similar reasons the proposal would not accord with Policies of the Framework which require well-designed places and the conservation and enhancement of the historic environment as set out in Chapters 12 and 16.
27. It would also conflict with Paragraph 176 of the Framework, which confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and that the scale and extent of development within these designated areas should be limited.

Other Matter

28. It has been brought to my attention by the main parties that a scheme of mitigation is required to mitigate against potential harm to the New Forest and Solent Coast European designated nature conservation sites (EPS), arising from increased recreational usage and increased output of nutrients into the Solent water environment associated with new residential development. The Council has carried out an Appropriate Assessment (AA), concluding that the adverse impacts would be avoided if planning permission were to be conditional upon the approval of proposals for the mitigation of those impacts in accordance with the Council's Mitigation Strategy or equivalent. The Council proposes to deal with the nutrient impacts by means of a planning condition.
29. The appellant has confirmed willingness to provide the appropriate level of mitigation in respect of both impacts, and has submitted a draft Unilateral Undertaking (UU) in respect of mitigation against recreational impacts.
30. In the context of this appeal, the responsibility for assessing the effects of the proposal on the EPS falls to me as the competent authority. Notwithstanding the above, were I minded to allow the appeal, I would need to carry out an AA before considering the proposed mitigation set out in the UU and planning condition, since the proposal would be likely to have a significant effect on the EPS. However, as the first main issue provides clear reasons for dismissing the appeal, I have not had cause to pursue undertaking an AA. As a consequence, I do not need to consider the UU and this matter further, since any findings on this issue would not change the appeal outcome.

Conclusion

31. The proposal conflicts with the development plan as a whole, and there are no material considerations to outweigh this conflict. As a consequence, the appeal should be dismissed.

S Leonard

INSPECTOR