



Appeal Decision

Site visit made on 9 May 2023

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Appeal Ref: APP/B9506/D/21/3268387

The Cottage, Toms Lane Corner, Minstead SO43 7GF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Dee against the decision of New Forest National Park Authority.
 - The application Ref 20/00821, dated 9 November 2020, was refused by notice dated 30 December 2020.
 - The application sought planning permission for first floor extensions; conversion of attached stables to facilitate additional accommodation; alterations to fenestration; raised patio; demolition of existing porch; associated landscaping without complying with conditions attached to planning permission Ref 20/00452, dated 24 September 2020.
 - The conditions in dispute are Nos 1 and 3 which state that:
 1. *The development hereby permitted shall be begun before: The expiration of three years from the date of this permission; or the carrying-out of any further extension or enlargement to the dwelling otherwise permitted under Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order subsequently revoking or re-enacting that Order; whichever is the sooner.*
 3. *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, garage or other outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.*
 - The reasons given for the conditions are:
 1. *To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure the dwelling remains of an appropriate size in accordance with Policies DP35 and DP36 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).*
 3. *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).*
 - This decision supersedes that issued on 26 August 2021. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is accompanied by plans which show an extension the appellants are hoping to build. However, since the application is to remove and vary conditions on a previous planning permission, my consideration of this appeal must be made on that basis.

Main Issue

3. The main issue is whether the disputed conditions are reasonable and necessary, having regard to development plan policy on the extension of dwellings in the New Forest National Park (the National Park).

Reasons

4. Policy DP36 of the New Forest National Park Local Plan 2016-2036 (the Local Plan) sets out the approach of the National Park Authority towards the extension of dwellings. The policy places special restrictions on the extension of small dwellings but in all other cases outside the Defined Villages (which includes the appeal property) it stipulates that the extension must not increase the floorspace of the existing dwelling¹ by more than 30% unless exceptional circumstances can be demonstrated whereby a larger extension would meet the genuine family needs of an occupier who works in the immediate locality.
5. Paragraph 7.79 of the Local Plan explains that the rationale for the policy is twofold; firstly, to protect the locally distinctive character of the New Forest and secondly, to prevent an imbalance in the range and mix of housing stock available. The latter is a cumulative impact which can occur over time through proposals to incrementally extend dwellings. The supporting text goes on to state that where necessary the Authority will use appropriate planning conditions to ensure that permitted extensions are not used in conjunction with national permitted development rights to undermine the aims of Policy DP36.
6. The National Planning Policy Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance further advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. However, there are valid reasons in the National Park to remove permitted development rights, to support the policy aims. This scenario is anticipated within the Local Plan, which has been examined and found to meet the criteria for soundness.
7. The planning permission authorised a series of extensions and alterations which together would result in a 29% increase in floorspace at the dwelling. The purpose of varying condition no.1 and removing condition no.3 would be to enable the construction of an extension under permitted development rights. The submitted plans illustrate what the appellants would like to build. They show a single storey extension with a footprint of 2.78m by 6.44m (measured

¹ Defined within Paragraph 7.82 of the Local Plan to mean the dwelling as it existed on 1 July 1982, or as the dwelling was originally built or legally established, if the residential use post-dates 1 July 1982.

externally). This would provide 16.1m² of additional floorspace, bringing the total floorspace to 156.8m².

8. I am satisfied that the appellants' proposed extension would not have an unacceptable impact on the character of the National Park. However, it would breach the 30% floorspace threshold. The appellants argue that the dwelling would remain a modest property. However, its expansion beyond the policy threshold would undermine the objectives of the development plan. I am mindful that, although the appellants have a particular project in mind, the proposal would allow for a larger single storey rear extension than shown on the plans.
9. The Local Plan includes a clear policy to guide decisions for extensions to dwellings; this is justified and ensures fair and consistent decision-making. The conflict with the aims of Policy DP36, arising from the proposed variation and removal of conditions, attracts significant weight. Whilst I have sympathy with the appellants' desire to improve their home, this does not outweigh the conflict with the development plan. There is no suggestion that exceptional circumstances apply here, and I note that such circumstances would only permit extended dwellings with up to 120m² of internal floorspace in any event.
10. I therefore conclude that conditions 1 and 3 are reasonable and necessary, having regard to the legitimate purpose of maintaining a balanced range and mix of housing within the New Forest National Park, in line with the provisions of Local Plan Policy DP36. It would always be open for the appellants to make a planning application for an extension to the property, but that is not a matter for my consideration under the appeal.

Conclusion

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

Robert Parker

INSPECTOR