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## Appeal Decision

Site visit made on 19 February 2024

**by Robin Buchanan BA (Hons) MRTPI**

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

**Decision date: 29 February 2024**

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**Appeal Ref: APP/B9506/W/23/3323688**

**Ramsley, Southampton Road, Boldre, Lymington SO41 8PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Steve Rose against the decision of New Forest National Park Authority.
  - The application Ref is 22/00706.
  - The application sought planning permission for a detached outbuilding with office over without complying with a condition attached to planning permission Ref 19/00434, dated 17 September 2019.
  - The condition in dispute is No.2 which states that: *'Development shall only be carried out in accordance with drawing nos: 6517 PL 01 and 6517 PL 02 Rev A. No alterations to the approved development shall be made unless otherwise agreed in writing by the New Forest National Park Authority'*.
  - The reason given for the condition is: *'To ensure an acceptable appearance of the building in accordance with Policies SP16, SP17, DP18 and DP2 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. The Authority has taken enforcement action by serving a breach of condition notice<sup>1</sup>. There is no evidence it has served an enforcement notice. In these circumstances and considering article 37(8) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, this is not a Type A appeal. Accordingly, the 28 day time limit in article 37(2)(b) for lodging an appeal in accordance with article 37(1)(a)(i) does not apply in this case.
3. The reason given by the Authority for imposing condition No.2 in Ref 19/00434 cites Policies SP16, SP17, DP2 and DP18 of the New Forest National Park Local Plan, August 2019 (the LP). The reason for refusing application Ref 22/00706 to vary condition No.2 omitted LP Policy SP16 and added LP Policy DP37. The appellant has had an opportunity to consider all these policies. I have, therefore, determined the appeal on this same basis.
4. In the application form condition No.2 is said to include drawing number 6517 PL 05 but it is not listed in this condition. Elsewhere in the application form the appellant seeks to rely on drawing number 6517 PL 02 and at my request provided a copy of this plan. It is not referred to in decision

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<sup>1</sup> Town and Country Planning Act 1990 (as amended) – section 171A(2)

Ref 19/00434 or Ref 22/00706. The appellant states it is otherwise identical to drawing number 6517 PL 03, which was considered by the Council in making its decision on Ref 22/00706, and confirms it is the plan to be considered in this appeal. I have, therefore, determined the appeal on this same basis.

### **Background and Main Issue**

5. The appeal site contains a large, detached house currently being extended, altered and refurbished. It is one of a few sporadic dwellings along both sides and this section of the A337 in a rural location in the New Forest National Park, a nationally designated protected historic landscape (the New Forest). A large outbuilding has been constructed between the house and this road, off-set narrow end on to one side. The approved plans in Ref 19/00434 show it to be a four bay garage with a garden office room in the roof space above.
6. To obtain this planning permission the appellant agreed to submit an amended plan changing 3 dormer windows to 3 rooflights. As now built and in use it includes these dormer windows and no rooflights. The appellant seeks planning permission retrospectively for the outbuilding with a variation to the wording of condition No.2 of Ref 19/00434. This would substitute the approved drawing number 6517 PL 02 Rev A (which shows 3 rooflights) with drawing number 6517 PL 03 (which shows 3 dormer windows).
7. The main issue in this appeal is whether condition No.2 is necessary having regard to the objectives of LP Policies SP16, SP17, DP2, DP18 and DP37, as amplified by the Authority's 'Design Guide' Supplementary Planning Document, January 2022 (the Design Guide).

### **Reasons**

8. The Design Guide explains that a mosaic of buildings and their setting in the landscape contribute to the underlying character of the New Forest. Amongst other things, it aims to retain distinctiveness having regard to features and rural characteristics that make the New Forest such a special place. This includes barns and outbuildings, which are an integral feature of this historic landscape.
9. There is, though, considerable pressure for large outbuildings which can impact adversely on the character of the New Forest. LP Policy DP37 includes that outbuildings should be proportionate and clearly subservient to the dwelling they serve in terms of design, scale, size, height and massing and for a purpose incidental to a main dwelling, not additional habitable accommodation. The LP Policies also include that the design of development must enhance features of local character and distinctiveness in the built and historic environment, such as local vernacular buildings, be contextually appropriate and sympathetic in scale, appearance and form. Development that would individually or cumulatively erode the character of the New Forest or result in a gradual suburbanising effect is resisted.
10. The outbuilding is a large structure even in proportion to the house, but most of its height and bulk is moderated by the extensive pitched roof slopes front and back and because these fall to a low eaves level above relatively narrow vertical elevations. Visually and spatially this helps to give an impression of built form set closer to the ground, so a subservient relationship to the house. In these respects, although recently constructed, the outbuilding has the

overall impression of a traditional barn converted within the residential curtilage of Ramsley. It is also constructed with suitable high quality materials.

11. The gabled pitched roof dormer windows incorporate complementary high quality materials and are each relatively narrow. However, they sit high up in the front roof slope close to the main ridge and of necessity protrude well beyond the plane of the roof with appreciable volume of built form. They are evenly spaced in a line so stretch across most of this elevated part of the outbuilding. As such, this intervention adds pronounced complexity to the roof form and markedly increases the size of the upper part of the already large outbuilding. While the dormer windows do not individually or collectively overwhelm the roof visually or spatially, or the outbuilding overall, they do nonetheless have a distinct influence for these reasons and this is, therefore, significant.
12. The roof space has a desk and computer workstation at one end. It is also partitioned into two rooms not shown in the approved plans – one used for domestic storage and the other a shower room, including toilet and washbasin said to be required for the office. I saw that a study is under construction in the house and there is a family bathroom. Use of this part of the outbuilding in compliance with condition No.4 of Ref 19/00434 (for incidental use, not habitable accommodation such as kitchen, living room or bedroom) would be a matter for the Authority.
13. However, though smaller, the outbuilding dormer windows have similar design attributes, finishes or materials as dormer windows and other fenestration in the house. The proximity of these uniform features reinforce a suburban impression of the upper part of the outbuilding and, even if not in actual primary residential use, convey a tangible perception of such use spread further across the site in this rural part of the New Forest. The dormer windows are, as a result, also significant for these reasons.
14. The Design Guide cautions that new garages can be large and bulky so should be low-key in design and appearance to avoid having a dominant influence or regimented appearance in rural settings. Moreover, traditional buildings in the New Forest are very simple in their form and elevational treatment. Though dormer windows do occur they are not a traditional feature and the examples shown in the Design Guide relate to dwellings. The outbuilding does not, therefore, reflect these important aspects of the Design Guide or comply with equivalent or relevant objectives of the LP Policies in these respects.
15. Though also three in a row with a similar spacing, the approved smaller flush fitting (conservation style) rooflights would project a short distance beyond the roof slope only when open. They would be positioned lower down in the roof slope further from ridge level. This limited intervention would complement the intrinsic roof form and maintain an uncluttered low-key appearance to the outbuilding overall, maintaining an impression of the upper part as ancillary or secondary in function and form to the house. The Design Guide does not support visual clutter from 'large expanses of rooflights' but the number, size and placement in this case would not offend this guidance and blinds could prevent excessive upward light spill. Nor is there any evidence that rooflights would prevent use of the roof space as the approved garden office or for any other incidental use.

16. Normal height boundary fencing or hedgerow would not obscure the dormer windows and while trees or shrubs might eventually grow taller, this would take some time. Landscaping cannot anyway be relied on in perpetuity or to screen inherently unsympathetic development to begin with. A garage outbuilding with dormer windows at Bridge House is smaller, with 3 bays and 2 dormer windows, and in a different part of the A337. There is no evidence it is in the countryside as opposed to in the built-up confines of Brockenhurst, nor that it was established after the LP and Design Guide were adopted; or, therefore, that it is directly comparable to the current appeal.
17. Boldre Parish Council objected to retaining the dormer windows. That there is no greater public objection, or observation of the dormer windows than by those who would occupy Ramsley, visit it or glimpse them passing by along the road or using a distant public footpath, does not mean absence of intrinsic harm to the New Forest or justify or mitigate such harm.
18. Taking account of all the above, as a matter of fact and degree, and albeit in a small but nonetheless important way, I consider that the dormer windows render the upper part of the outbuilding no longer proportionate or clearly subservient in terms of design, scale, size or massing and as such, it no longer conveys a purpose or intent as incidental to the house. Alone, or in combination with similar unjustified potential development elsewhere in the New Forest, the outbuilding in its present form has an unwarranted suburbanising effect which erodes the character of the New Forest. This is contrary to LP Policies SP16, SP17, DP2, DP18 and DP37, as amplified by relevant objectives of its Design Guide and undermines these objectives of the Authority for the New Forest.

## **Other Matters**

### *National planning policy*

19. The Government's National Planning Policy Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. With other designations, these areas have the highest status of protection in relation to these considerations. As such the scale and extent of development within National Parks should be limited. It also sets out that development should be well-designed so as to be sympathetic to local character and history, including the surrounding built environment and landscape setting, and maintain a strong sense of place recognising the intrinsic character and beauty of the countryside. The dormer windows are not limited in effect and in conflict with these objectives of national planning policy.

### *Other effects*

20. There is otherwise no objection to the outbuilding, including its use for a garden office or other incidental use. The dormer windows do not have an adverse effect on the living conditions of the occupiers of any dwelling and the outbuilding does not cause pollution. The absence of harm in these regards is a neutral factor in my decision.

### *Alleged support for the dormer windows*

21. The appellant believes some comments made by the Authority's enforcement officer and by some members of the Authority's planning committee lend support for the dormer windows. I have seen no objective evidence to this

effect, such as a letter, email or minute of a meeting so this is little more than hearsay. In any event, opinions expressed by individual officers or members do not constitute the formal decision of the Authority, which is what is before me in this appeal.

### *Personal circumstances*

22. Ramsley is the appellant's family home. There has clearly been significant investment in its structure and fabric to improve it in this regard. This has also been a benefit to the character of the New Forest. The uncertainty about the dormer windows has likely been a stressful situation, including that the Authority has served a breach of condition notice. It requires the outbuilding to be permanently altered by removing the dormer windows and replacing them with the approved rooflights. The period for compliance has expired.
23. As I understand it, in error the manufacturer of the prefabricated outbuilding supplied 3 dormer windows instead of 3 rooflights. The structure was then assembled quickly by fitters 'over a couple of days'. However, and despite not originally intended, the appellant nevertheless allowed this work to carry on and be completed knowingly at variance with the approved plans and fully aware that the dormer windows were not supported by the Authority. It seems that the appellant did not contemplate that what appeared to him 'a relatively minor change would present a major issue', but that possibility was signposted by the Authority from the outset.
24. The appellant states that it would now be more difficult and costly to alter the outbuilding to remove the dormer windows and replace with the approved rooflights. I have no doubt that is the case but there was an opportunity to undertake such works sooner. Even if that would have meant delay waiting for delivery of the approved rooflights, or some additional costs to undo part of the work already undertaken, there is no apparent reason why the risk of greater 'adjustment afterwards', more significant collateral costs or increased carbon footprint could not have been avoided.
25. I accept that it may not initially be possible for remedial works to achieve a seamless, integrated finish. However, there is no evidence that the necessary alterations cannot be practically carried out. Nor soon weather in with the rest of the roof over time so that the rooflights would not appear as an 'after thought'. The dormer windows make the roof space more useable and spacious, but there is no evidence the rooflights would not allow it to be used as a garden office, or for other incidental use, including with sufficient natural light or headroom.
26. The private preference of the appellant to retain the dormer windows would endure for the duration of his occupation of Ramsley, so this consideration has little weight in this appeal. In contrast, the adverse impacts on the New Forest are a matter of acknowledged planning interest and would be permanent. I have determined the appeal on its individual planning merits.

### **Conclusion**

27. I recognise that dismissing the appeal may cause interference with the appellant's private rights to enjoyment of the outbuilding roof space as it exists now and as part of his home<sup>2</sup>. It may also cause hardship at least by virtue of

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<sup>2</sup> Article 1 of the First Protocol and Article 8(1) of the Human Rights Act 1998

significant costs if the Authority decides it is expedient to continue taking enforcement action.

28. Nevertheless, these factors must be weighed against the wider public interest. For the reasons given above, I find that the dormer windows harm the New Forest and that this consideration carries great weight. Condition No.2 therefore serves a useful planning purpose so it is necessary. I am also satisfied that the condition is precise, relevant to planning and to the development permitted by the Authority, enforceable and reasonable in the context of the relevant local and national planning policies and in the interests of this National Park.
29. I consider that these legitimate aims can only be adequately safeguarded by the refusal of permission for the development that has been carried out without complying with condition No.2 of planning permission Ref 19/00434. Furthermore, that in these circumstances dismissing the appeal for these reasons would be a proportionate outcome.
30. Consequently, I conclude that planning permission should be granted subject to the same conditions as those subject to which the previous planning permission Ref 19/000943 was granted. The appeal is, therefore, unsuccessful.

*Robin Buchanan*

INSPECTOR