



Appeal Decision

Site visit made on 10 May 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th June 2024

Appeal A Ref: APP/B9506/D/23/3328931

Forest Glade House, Brockishill Road, Bartley, Hampshire SO40 2LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jack Nethercott of Prime Oak against the decision of New Forest National Park Authority.
 - The application Ref is 23/00021FULL.
 - The development proposed is the erection of an oak framed garage following demolition of the existing garage.
-

Appeal B Ref: APP/B9506/D/23/3331367

Forest Glade House, Brockishill Road, Bartley, Hampshire SO40 2LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jack Nethercott of Prime Oak against the decision of New Forest National Park Authority.
 - The application Ref is 23/00030FULL.
 - The development proposed is the erection of an oak framed party barn following demolition of the existing stables.
-

Appeal C Ref: APP/B9506/D/23/3331948

Forest Glade House, Brockishill Road, Bartley, Hampshire SO40 2LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jack Nethercott of Prime Oak against the decision of New Forest National Park Authority.
 - The application Ref is 23/00036FULL.
 - The development proposed is the erection of an oak framed orangery to the existing dwelling.
-

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 21 May 2024.

Decision

Appeal A Ref: APP/B9506/D/23/3328931

1. The appeal is dismissed.

Appeal B Ref: APP/B9506/D/23/3331367

2. The appeal is dismissed.

Appeal C Ref: APP/B9506/D/23/3331948

3. The appeal is dismissed.

Procedural Matters

4. As set out above there are 3 appeals on this site. They all relate to the same host dwelling and differ only in relation to their location and proposed ancillary use. They have been refused for similar reasons and the main parties have submitted similar evidence for each. As such I have dealt with each appeal on its individual merits but to avoid duplication, I have considered the proposals together in this decision. For ease of reference, I refer to the different cases as Appeal A, Appeal B and Appeal C, as set out in the headers.
5. For Appeal B it is noted that during the application process the use of the proposed development has changed from that originally applied for, a party barn, to a workshop, storage, and games room. The Authority has considered the latter the proposed use and this decision reflects that.

Background and Main Issues

6. Although only explicitly referred to within a reason for refusal relating to Appeal A, the appeal site is within the Forest North East Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, places a statutory duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area, so I must consider this for all 3 appeals.
7. The main issues are therefore the effect of the proposed developments on the special character of the New Forest National Park; whether the proposals would preserve or enhance the character or appearance of the Forest North East Conservation Area; and their effect on protected species.

Reasons

8. The appeal site constitutes a primary residential dwelling known as Forest Glade House which is positioned centrally to the site. There are a series of outbuildings to one side of the main dwelling which include the existing garage and stable block. These are set out in such a way as to create a courtyard with open views out towards Brockishill Road. On the other side of the main dwelling towards the appeal site access is a secondary and smaller residential dwelling known as Forest Cottage.
9. Although there is another 2-storey building within this courtyard complex, its location, form, and relationship to the other buildings means Forest Glade House is read as the main building with all other buildings subservient to it, creating a modest farmstead aesthetic.
10. The appeal site is in an open part of the New Forest with woodland towards the rear. To the fore are smaller paddocks beyond which are other dwellings and Brockishill Road. It is not within any defined village or settlement within the New Forest.

New Forest National Park

11. National Parks are designated for the purposes of a) conserving and enhancing natural beauty, wildlife and cultural heritage, and b) promoting opportunities for the understanding and enjoyment of their special qualities by the public. Section 11A(2) of the National Parks and Access to the Countryside Act 1949 places a duty upon me to have regard to these purposes in this decision, and where there is conflict greater weight should be given to purpose a).
12. Paragraph 182 of the National Planning Policy Framework (The Framework) requires that great weight should be given to conserving and enhancing the landscape and scenic beauty of a National Park. This ethos is upheld in the general development principles within Policy DP2 of the New Forest National Park Local Plan (LP) and supported by various other LP Policies.
13. On a strategic level LP Policy SP15 seeks to protect the tranquillity of the New Forest National Park (NFNP) which, in the policy's supporting text, is considered a special quality. LP Policy SP17 seeks to protect the NFNP's local distinctiveness and LP Policy DP18 sets out the overarching design principles for new development within the NFNP.
14. Due to the high bar of protection afforded to National Parks, the LP also has specific policies which relate to domestically scaled buildings. With relevance to Appeal C is LP Policy DP36. This sets out specific parameters for extensions to dwellings. For Appeal A and Appeal B it is LP Policy DP37 which sets out 5 criteria that any domestic outbuilding must comply with.
15. LP Policy DP36 specifically requires that for dwellings not considered small and located outside the defined villages, such as the host dwelling, extensions must not increase the floorspace of the existing dwelling by more than 30%. The supporting text to this policy clearly states that the existing dwelling is considered the dwelling as it existed on 1 July 1982 or when built or legally established if after this date.
16. The Authority has calculated that the proposed orangery within Appeal C, along with other previous extensions post 1 July 1982, would consist of an increase in floorspace of 47%. The appellant does not dispute this figure. Accordingly Appeal C fails to comply with LP Policy DP36.
17. It is appreciated the appellant considers that the prior extensions, which would represent approximately 30% of the increased footprint, have done the 'bulk of the damage', and that LP Policy DP36 is there to protect smaller houses and so the host dwelling should be exempt. However, the cumulative impact is still relevant and LP Policy DP36 clearly states the 30% maximum footprint is relevant to properties not considered small dwellings¹.
18. The significant increase in bulk, double storey height and domestic characteristics, namely the glazed central gable of the proposed garage within Appeal A would create a significantly more substantial building than existing. This would visually compete with the host dwelling when viewed from the surrounding area and appear out of proportion and overly dominant.
19. The footprint and scale of Appeal B's proposed outbuilding would not be so different to the existing stable block. However, the near full-length glazing and

¹ Considered within the supporting policy text as those with 80sqm floor areas or less as of the 1 July 1982 or when built or legally established if after this date.

roof lights would visually dominate the courtyard and appear disproportionate to the proposed uses as a workshop, storage, and games room. This, like the proposed garage, would not retain the subservient relationship between the current buildings and host dwelling.

20. Although I am satisfied that on the evidence before me, the proposed garage and outbuilding would be located within the residential curtilage of the existing dwelling; would be considered incidental to the use of the existing dwelling; would not provide additional habitable accommodation; and does not reduce the existing private amenity space, including parking, to unacceptable levels. This does not however negate the fact neither proposed building could be considered proportionate or clearly subservient to the host dwelling. Therefore, Appeal A and Appeal B would both fail to comply with all 5 criteria of LP Policy DP37.
21. Notwithstanding the lack of compliance for all 3 appeals in relation to the specific domestic development LP policies, it is also necessary to consider the impact on the special qualities of the NFNP.
22. Appeal C's proposed orangery would have a large roof lantern and a high level of glazing would provide a significantly higher level of light spill than the host dwelling. Its proposed location on the opposite side of the host dwelling to the courtyard, also means it would not be screened by existing buildings. This in combination with the proximity to the woodland behind and the open nature of the appeal site's surroundings means it would be disproportionately dominant when viewed from the wider area. This would be further exacerbated when lit at night. It would therefore have a visually intrusive impact on its surroundings, and incrementally add to the erosion of the visual tranquillity of the NFNP, thus erode the local character of the area.
23. The high level of glazing within Appeal A and Appeal B would also have a significant impact on the visual tranquillity of the NFNP. Due to the open nature of the appeal site's surroundings, the level of light spill would mean the proposed buildings could be visible for some distance thus represent an urbanising effect on the otherwise rural character of the area.
24. It is noted that the appellant considers that the proposed storage uses within Appeal A and Appeal B would only be intermittently used so the impact of light spill would be limited. However, with no mechanism before me to limit the use of these spaces, I must take a precautionary approach due to the very high protection attributed to National Parks in general and consider the maximum potential use of that proposed.
25. That the existing garage may be structurally unsound is noted, but this does not alter my findings in relation to the harm the proposed replacement within Appeal A would have.
26. For the above reasons I find that Appeal A, Appeal B and Appeal C would have a detrimental effect on the special character of the NFNP and would undermine the purposes of a National Park. Appeal A and Appeal B would therefore fail to comply with LP Policies DP2, SP15, SP17, DP18 and DP37; Appeal C would fail to comply with LP Policies SP17 and DP36; and all 3 appeals would fail to conserve and enhance the landscape and scenic beauty of the NFNP, contrary to the Framework.

Forest North East Conservation Area

27. The Forest North East Conservation Area (CA) covers an area including several traditional settlements within a rural setting of pastures and woodland on the edge of the New Forest. The significance of the CA is how, via enclosure, these settlements and the surrounding farmsteads and manors have encroached on the New Forest, with the appeal site located on the very edge of the main area of historic forest encroachment. Accordingly, its current visual appearance as a modest farmstead is important to the overall character of the CA.
28. In relation to Appeal A and Appeal B the visual impact of that proposed and the loss of the subservient relationship with the host dwelling would physically and visually alter the appearance of the appeal site from that of a main dwelling with ancillary buildings surrounding it, to one where there would be 2 competing and outwardly domestic buildings (in Appeal A the host dwelling and proposed garage; and in Appeal B the host dwelling and the proposed outbuilding). This would unbalance the scale and form of the appeal site and alter its visual appearance to the detriment of its farmstead character. Due to the appeal site's location at the very edge of the CA this change would have an urbanising effect on the site's surroundings thus fail to preserve or enhance the CA's character and appearance.
29. The harm identified to the CA by Appeal A and Appeal B would be less than substantial so needs to be balanced against any public benefits. The appellant has stated that the benefits of Appeal A and Appeal B relate to a sensitive design, material choice and sustainable construction methods. Although commendable attributes of any proposal, these do not represent a public benefit beyond the very limited environmental impact the sustainable construction methods would have. Accordingly, I do not find the public benefits of the scheme would outweigh the less than substantial harm identified in both Appeal A and Appeal B.
30. The proposed orangery in Appeal C would be attached to the host dwelling and would not therefore alter the building hierarchy of the appeal site and would retain the domestic nature of the host dwelling. Accordingly Appeal C would preserve the character and appearance of the CA.
31. For the reasons given above, only Appeal A and Appeal B would fail to preserve or enhance the character or appearance of the Conservation Area and would not therefore satisfy the statutory requirements of the Act as set out above. They would not comply with LP Policies DP2, SP16, and DP18 as far as they require development to respect, and protect, maintain, or enhance the historic environment.

Protected species

32. Both Appeal A and Appeal B would require the removal of existing buildings, a garage and stable block, which have partially open roof structures. The Authority's Ecologist has identified that both buildings could therefore have the potential to accommodate protected species, namely bats. My observations on site accord with this.
33. Therefore, in conjunction with the immediate proximity of the site to habitats highly conducive to supporting protected species, and a lack of technical

assessment contradicting this position or providing appropriate mitigation, it is necessary to take a precautionary approach on this issue. Accordingly, I am not satisfied the evidence in either Appeal A or Appeal B demonstrates that the associated proposed developments would not have a harmful effect on protected species.

34. That the appellant chose not to undertake a Preliminary Ecology Survey prior to submission of the applications relating to Appeal A and Appeal B, preferring to wait for notification from the Authority is acknowledged. However, this does not negate the fact that without evidence to the contrary I am unable to conclude anything other than potential harm.
35. Consequently, the proposed development related to Appeal A and Appeal B could have a harmful effect on protected species. Appeal A and Appeal B would not therefore comply with LP Policy SP6 and the Framework as far as they seek to protect, maintain, and enhance protected habitats and species.

Other Matters

36. The appeal site is adjacent to the New Forest Special Area of Conservation, Special Protection Area and RAMSAR site, and could have a likely significant effect on this protected environment so an appropriate assessment (AA) could be required. However, clause 63(1) of the Conservation of Habitats and Species Regulations 2017 states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. An AA is not, therefore, necessary where there is no intention to grant permission.
37. Concerns have also been raised in relation to the potential impact on trees, and how the Authority dealt with the submission of information relating to this during the various applications. Likewise, there is some conflict in Appeal B in relation to the use of some of the other buildings on the site.
38. However, as I am dismissing the appeal for other reasons, I have not pursued these matters further.

Conclusion

39. It is acknowledged that I have not found against Appeal C in the second and third main issues. However, that Appeal C would not affect the CA or protected species would constitute a lack of harm and so does not outweigh the harm identified in the first main issue.
40. Consequently, for the reasons given above, all 3 proposals would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. Appeal A, Appeal B and Appeal C are, therefore, dismissed.

RJ Redford

INSPECTOR