

Case Name: *New Forest National Park Authority v (1) Secretary of State for Housing, Communities and Local Government and (2) Mr Simon Lillington [2025] EWHC 726 (Admin) (27 March 2025) (Admin)*

Full case: [Read here](#)

Commentary: The Claimant, the New Forest National Park Authority, brought a challenge under s.288 of the Town and Country Planning Act 1990 challenging the decision of an Inspector appointed by the first Defendant, the Secretary of State for Housing, Communities and Local Government (“the SoS”), to allow a planning appeal brought by the second Defendant, Mr Simon Lillington. Mr Lillington brought an appeal against the decision of the Claimant, acting as local planning authority, to refuse his application to construct a first-floor rear extension.

The application for statutory review proceeded on two grounds:

- Ground 1: that the Inspector misdirected herself on policy DP36 of the New Forest National Park Local Plan 2016-2036 (“the Local Plan”); and
- Ground 2: that the Inspector failed to discharge the duty to further the statutory purposes of National Parks imposed by section 11A(1A) of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”).

Mr Justice Mould, giving the judgment of the High Court, held that both grounds failed and so the application was dismissed.

Ground 1

Policy DP36 of the New Forest National Park Local Plan was concerned with extensions, and provided that:

“In the case of small dwellings and new dwellings permitted by Policies SP19 to DP31 of this Local Plan, the extension must not result in a total internal habitable floor space exceeding 100 square metres. In the case of other dwellings (not small dwellings) outside the Defined Villages the extension must not increase the floorspace of the existing dwelling by more than 30%.

In exceptional circumstances a larger extension may be permitted to meet the genuine family needs of an occupier who works in the immediate locality. In respect of these exceptional circumstances, the total internal habitable floor space of an extended dwelling must not exceed 120 square metres.

Extensions will not be permitted where the existing dwelling is the result of a temporary or series of temporary permissions or the result of an unauthorised use”.

Counsel for the Claimant submitted that the Inspector misdirected herself in relation to Policy DP36, the purpose of which was to maintain strict control over extensions to dwellings in the National Park. It was suggested that the correct interpretation of the policy and whether a proposed extension was 'appropriate to the existing dwelling and its curtilage' was to be determined by reference to floorspace limits, not a broader based assessment, and more specifically by reference to the totality of increments in the size of the dwelling when measured against as it originally was built. On the policy's true construction, any proposed extension which increased the size of the dwelling beyond the prescribed floorspace limit of 30% was inappropriate. In contrast, the Inspector had adopted a different and unlawful approach: having found that the proposed development would increase floorspace of the existing dwelling by over 75%, the Inspector failed to acknowledge the development was inappropriate, nor considered whether exceptional circumstances arose which justified it in the strict terms of policy DP36.

While the Court accepted that whether a proposed extension is policy appropriate depends principally on the floorspace limits of Policy DP36, the Court did not conclude that the Inspector misdirected themselves in applying that policy. The Inspector's reasoning in the decision letter identified that the proposed development would conflict with policy DP36, but that did not mean they were then obliged to consider whether exceptional circumstances arose. The Inspector instead considered whether and to what extent the proposed development would undermine or conflict with the underlying objective of Policy DP36, which was to maintain the local distinctive character of the built environment of the New Forest and a balance of housing stock in terms of both size and mix in the National Park. Having done so, he gave the conflict with DP36 very little weight. It was for the Inspector to determine the relative weight to be given to all material considerations in the light of the whole material before them, in the exercise of their planning judgment.

Ground 2

The duty on public bodies to 'further the statutory purposes' of National Parks replaced the previous duty on public bodies to merely 'have regard to' the statutory purposes. Those statutory purposes are to conserve the natural beauty, wildlife and cultural heritage of National Parks and to promote opportunities for the understanding and enjoyment of the special qualities of those areas by the public.

Counsel for the Claimant submitted that, for a decision-maker to adequately discharge the enhanced duty, it was not enough for them to be satisfied that the proposed development would conserve the natural beauty, wildlife and heritage of the National

park, but required decision makers to address both conservation and enhancement. The Inspector was required to demonstrate on the evidence what measures could be taken to further the statutory purpose: a positive act was required, and if such measures were found to be impractical, the decision-maker was required to explain why.

However, the Court found that it was not necessary for the proper discharge of the duty that the decision-maker also determines whether development would enhance certain characteristic features of a Park. The duty was analogous to the discharge of positive duties regarding the preservation of listed buildings and their setting, and the preservation or enhancement of the character or appearance of conservation areas: in that context, the duty was discharged by establishing that proposed development will, if permitted, leave the historic building or conservation area unharmed. The Inspector had done just that: he considered carefully whether the proposed development would conserve the natural beauty, wildlife and cultural heritage of the New Forest National Park. He found that the proposed development would do so. His findings provided a clear justification for the conclusion that the proposed development would leave the specified characteristics of the New Forest National Park under section 5(1)(a) of the 1949 Act unharmed.

The Court rejected this Ground , and with it the application as a whole.

Case summary prepared by Gregor Donaldson