



## Appeal Decision

Site visit made on 9 April 2019

by **S Edwards MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2019

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**Appeal Ref: APP/E1210/W/19/3219668**

**Longcroft, Barrack Road, West Parley BH22 8UB**

- 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 Peter Dick against the decision of Christchurch Borough Council.
  - The application Ref 8/18/0467/FUL, dated 19 February 2018, was refused by notice dated 21 November 2018.
  - The development proposed is demolish steel clad dwelling and retain brick built dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Whilst I note that the brick building has been erected, retention does not constitute an act of development. I shall therefore consider the appeal on the basis of permission being sought for the erection of the building.
3. The appeal site extends across two Council administration areas. The evidence presented by the Council indicates that no separate planning application was submitted to East Dorset District Council. I am required to determine the appeal before me and shall proceed on this basis.

### Main Issues

4. The appeal site lies within the Green Belt and the main issues are:
  - Whether the development constitutes inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - The effect on the openness of the Green Belt and the purposes of including land within it;
  - The effect on the rural character of the area; and
  - If found to be inappropriate development, whether the harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development;

## Reasons

### *Whether inappropriate development*

5. Situated within the South East Dorset Green Belt, Longcroft lies within open countryside, outside of any settlement boundary. It is located on a narrow, unmade track, which also provides access to a small number of residential properties. The appeal site comprises a single storey steel clad dwelling and a brick building with pitched roof, which currently form part of a larger plot owned by the appellant. The site is largely laid to grass and bordered by mature trees and landscaping and is adjacent to a solar farm to the eastern boundary.
6. There is a lengthy planning history associated with the appeal site. This includes two retrospective applications<sup>1</sup> for the erection of a brick building refused by the Council in 2012. In addition, an Enforcement Notice<sup>2</sup> (EN) was served by the Council, requiring the removal of this building. The appeals in respect of the application refused in December 2012 and the EN were dismissed<sup>3</sup>, resulting in the EN being upheld. A Certificate of Lawful Use (CLU) for the erection of and retention of a steel-clad dwelling was issued by the Council in November 2015<sup>4</sup>.
7. Policy KS3 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy<sup>5</sup> (CS) states that the most important purposes of the Green Belt in the area are to protect the separate physical identity of individual settlements in the area by maintaining wedges and corridors of open land between them, and to maintain an area of open land around the conurbation. This policy is considered consistent with the Framework.
8. Paragraph 143 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt, except in a limited number of exceptions. These include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
9. The existing brick building has been erected outside the residential curtilage which was approved by the Council as part of the CLU application for the steel-clad building. The development which is in situ does not replace the existing building which also remains in place and it cannot therefore be considered as a replacement building for the purposes of paragraph 145 d) of the Framework. Consequently, it constitutes inappropriate development in the Green Belt, contrary to Policy KS3 of the CS and the Framework. Saved policy H13 of the Borough of Christchurch Local Plan (adopted March 2001) deals specifically with replacement dwellings in the Green Belt and, for the reasons detailed above, is not considered relevant to the appeal before me.

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<sup>1</sup> Local Planning Authority references 8/12/0316 (refused 2 October 2012) and 8/12/0451 (refused 14 December 2012).

<sup>2</sup> Local Planning Authority reference ENF/12/0055.

<sup>3</sup> APP/E1210/C/12/2180400.

<sup>4</sup> Local Planning Authority reference 8/14/0436.

<sup>5</sup> Adopted April 2014.

### *Openness*

10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Within the Framework, openness is identified as an essential characteristic of the Green Belt. The site is screened to a large extent by existing landscaping and is accessed by a long, narrow driveway, hence it is not particularly visible. However, that limited visual effect does not equate to limited impact on openness. Whilst the Framework does not include a definition of 'openness', case law<sup>6</sup> has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect.
11. From my own observations, and having regard to the plans, it is clear that the brick building has a greater footprint and height than the existing steel-clad structure. By reason of its scale, the brick building reduces the openness of the Green Belt in spatial terms. The brick structure has been erected on land where there previously was no building and constitutes a noticeable increase in built development, in addition to the steel-clad dwelling. Despite the demolition of the steel-clad structure, the development would still result in a loss of openness in visual terms, by reason of the larger size of the brick building. Furthermore, the extended area used for residential purposes (compared with the area identified for the purposes of the CLU) would inevitably have an adverse impact on the Green Belt, by reason of the domestic paraphernalia associated with the dwelling.
12. The development therefore results in a loss of openness of the Green Belt. The site is located in the open countryside and the appeal scheme introduces additional development of a greater scale, which encroaches into the countryside and therefore is contrary to one of the five purposes of Green Belt policy, as set out in paragraph 134 of the Framework.

### *Rural Character*

13. The brick building, which is noticeably bulkier and taller than the steel-clad structure, erodes the contribution of the site to the open countryside. Within the Case Officer's report, the Council refers to the Hurn Conservation Area, as well as a number of listed and locally listed buildings. These are located some distance away from the appeal site and are therefore considered of limited relevance. Nevertheless, whilst the design of the building may not be objectionable in isolation, it fails to relate to the rural character of its surroundings. The building has a suburban appearance and character, which thus emphasises the inappropriate nature of the development in this sensitive, rural context.
14. Whilst the visual impact from public vantage points may be limited, the development is inconsistent with the rural character of this area. It therefore fails to accord with Policy HE2 of the CS, which requires development proposals to be of a high-quality design, reflecting and enhancing areas of recognised local distinctiveness.

### *Other considerations*

15. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances. Paragraph 144 adds that very special circumstances will not

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<sup>6</sup> Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466.

exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this regard, a number of other considerations have been highlighted.

16. The appellant has drawn my attention to an application granted by the Council, for a replacement dwelling and garage block at Red Roofs on Barrack Road, within proximity to the appeal site. Other than a drawing showing the proposed elevations and floor plan of the replacement dwelling and garage, I have not been provided with full details of the circumstances that led to this scheme being accepted. I therefore cannot be sure that it represents a direct parallel to this appeal which, in any event, I am required to consider on its individual merits.
17. The appellant considers that the demolition of the steel-clad building, which he regards as a negative contributor to the local character, and retention of the brick structure would return the land to an appropriate open setting. I have considered whether the imposition of a condition requiring the removal of the steel-clad structure would mitigate the effect on the appearance of the area or openness of the Green Belt, but this would not overcome the harm caused by the brick building.
18. The appellant would be prepared to accept a condition removing permitted development rights. As stated within the Planning Practice Guidance (the PPG), conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances<sup>7</sup>. Whilst the Green Belt location and the potential effect on the openness of the Green Belt would constitute legitimate reasons for the imposition of such a condition, it would not, in any case, outweigh the harm identified.
19. A condition, which would require the submission of a landscaping scheme, has been suggested by the appellant. However, no substantive details have been submitted to illustrate the form that such landscaping would take. Based on the information before me, I am not satisfied that a landscaping scheme would overcome the harm identified. Furthermore, such landscaping could not be guaranteed to be retained and maintained in the long term.
20. I recognise that the dismissal of the appeal would interfere with the appellant's home. However, such interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 8 of the European Convention on Human Rights (ECHR), as incorporated into domestic law by the Human Rights Act 1998. These include public safety and the economic well-being of the country, which includes the preservation of the environment.
21. In this particular case, the interference is considered permissible because the brick building was erected without the benefit of planning permission, and is subject to an extant EN, which has a legal basis. The Council's reasons for refusing planning permission accord with of the aims set within Article 8 of the ECHR. The lawful steel-clad dwelling could reasonably provide residential accommodation for the appellant. Therefore, the dismissal of the appeal would not inevitably lead to the appellant losing his home, and would subsequently not have a disproportionate effect on him.

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<sup>7</sup> The Use of Conditions, Paragraph: 017 Reference ID: 21a-017-20140306.

## **Other Matters**

22. The Council has referred to a recent appeal decision<sup>8</sup>, where the Inspector considered that the proposal did not constitute a replacement building in the Green Belt. Other than this, the details of this case do not appear to be directly comparable to the appeal before me.
23. The appeal site lies within 400m of internationally protected heathland<sup>9</sup> where, in accordance with the advice from Natural England, no residential development is permitted, as clearly stated within Policy ME2 of the CS. Subject to the demolition of the existing steel clad building which, as detailed above, is considered lawful, the development would not result in the creation of an additional dwelling, and there would therefore be no conflict with Policy ME2 or the Framework in that regard.

## **Planning Balance**

24. The development constitutes inappropriate development in the Green Belt and reduces openness, and there is conflict with the purposes of designating land inside the Green Belt. Substantial weight is ascribed to the inappropriate nature of the development and harm to openness. In addition, significant weight is given to my findings on harm to the surrounding area's rural character.
25. The established residential use of the steel-clad building is an important factor and the appellant would be willing to demolish it, should planning permission be granted. I give significant weight to these considerations. Moderate weight is given to the possibility of imposing conditions to remove permitted development rights, demolish the steel-clad building and require the submission of a landscaping scheme. However, for the reasons given above, the harm caused by the development would not be clearly outweighed by the other considerations advanced in support of the development, whether taken individually or cumulatively. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
26. There is therefore conflict with Policies KS3 and HE2 of the CS and the development conflicts with the development plan as a whole as well as national planning policy.

## **Conclusions**

27. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*S Edwards*

INSPECTOR

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<sup>8</sup> APP/U1240/W/18/3195080.

<sup>9</sup> Dorset Heathlands Special Protection Area, Ramsar Site and Dorset Heaths Special Area of Conservation.