
Appeal Decision

Site visit made on 24 July 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal Ref: APP/Q1255/W/19/3227279

Netherwood Farm, Willett Road, Wimborne BH21 3DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs J George against the decision of Poole Council.
 - The application Ref APP/18/01104/C, dated 15 August 2018, was refused by notice dated 25 October 2018.
 - The development proposed is change of use of redundant barn to dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's reasons for refusal refer to a number of policies from the Poole Core Strategy (2009), the Development Management Policies DPD (2012) and the draft Poole Local Plan (July 2018). Since the Council's decision, these policies have been superseded by those in the Poole Local Plan (the Local Plan), which was adopted on 13 November 2018, and now forms part of the Development Plan. The Council identified the relevant policies from the Local Plan that should be considered in the determination of the appeal, in its Statement of Case. The reasons for refusal also refer to the National Planning Policy Framework (2018), which has now been replaced by the National Planning Policy Framework (2019) (the Framework). The appellant has had the opportunity to comment on the implications of the change in status of the Local Plan and the revised Framework since the Council's decision.
3. The decision to refuse planning permission was made by Poole Council, which ceased to exist on 1 April 2019, following a merger with Bournemouth Borough Council and Christchurch Borough Council to form the new Bournemouth, Christchurch and Poole Unitary Authority. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any "plan, scheme, statement, or strategy" prepared by one of the merging authorities to be treated as if "it had been prepared and, if so required, published by the single tier council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates". The status of the Local Plan has not therefore changed as a result of the merger.

Main Issues

4. The main issues are:

- a) Whether the proposal would preserve the openness of the Green Belt or conflict with the purpose of including land within it, and therefore whether the development would, or would not, be inappropriate in the Green Belt having regard to the Framework and development plan policy;
- b) Whether the development would preserve or enhance the character or appearance of the Ashington Conservation Area;
- c) The effect of the development on the Scheduled Monument and its setting;
- d) The effect of the development on protected species; and,
- e) The effect of the development on the Dorset Heathlands and Poole Harbour Special Protection Areas (SPAs).

Reasons

Green Belt

- 5. The appeal site lies within the South East Dorset Green Belt. Policy PP2 of the Local Plan states that the Council will carefully manage the Green Belt in accordance with national policy. National Policy is set out in Section 13 of the Framework, which states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 146 of the Framework identifies that the re-use of buildings does not comprise inappropriate development, provided the buildings are of permanent and substantial construction; the development preserves the openness of the Green Belt; and the development does not conflict with the purposes of including the land in the Green Belt.
- 6. According to the appellant's statement the barn was constructed using a steel frame in 2008. I saw that it had brick-faced walls at the lower level, with timber boarding above, and a half-hipped slate roof. The Council has not questioned the condition of the building. Based on the evidence before me, and my own inspection of the building, I conclude that it is of permanent and substantial construction, as required by paragraph 146(d) of the Framework.
- 7. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl, by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The appellant argues that there will be no impact on openness because the building already exists. As the proposals do not involve any enlargement of the building, there would be no spatial impact on the openness of the Green Belt. However, in considering whether the development would preserve openness, it is also necessary to consider the visual aspect.
- 8. The design and materials of the appeal building give it an agricultural character in keeping with its rural setting. It sits in an open field without any visually significant means of enclosure, so it has a functional relationship with the surrounding agricultural land. The proposals would, however, involve a fundamental change to the character of the building. Large areas of glazing,

domestic-scale doors, and rooflights would be installed, resulting in a loss of its utilitarian agricultural character. The appeal site covers a large area of the field, which would become residential curtilage. These changes would have a significant impact on the visual aspect of openness, as the building would be functionally separated from the surrounding agricultural land. Although there are buildings nearby, they are visually separated by the intervening road. The converted building would therefore appear as an isolated dwelling, surrounded by a domestic garden, in an otherwise agricultural setting.

9. Although the appellant states that no domestic paraphernalia is proposed as part of the scheme, the creation of a dwelling would give rise to the need for car-parking. A large area is identified for this purpose on the drawings, and the parked cars would be visible from the road. A robust means of enclosure would be required to keep agricultural stock out of the large residential curtilage. The provision of permanent domestic structures, that could have a spatial impact on the openness of the Green Belt, could be controlled through the imposition of a planning condition. However, more ephemeral items, such as garden furniture, children's play equipment, etc could not be controlled, and would be readily visible around the building. There would therefore be harm to the openness of the Green Belt through the visual impact of the domestication of the building and curtilage, and its separation from the surrounding agricultural land.
10. Paragraph 134 of the Framework identifies the purposes of including land in the Green Belt. One of these is to assist in safeguarding the countryside from encroachment. The domestication of the building, and the change in the agricultural character of the land surrounding it, would be an encroachment into the countryside. The proposals would therefore conflict with one of the purposes of including the land in the Green Belt.
11. The proposals would harm the openness of the Green Belt, and conflict with the purposes of including land within it. Consequently, it would be inappropriate development. Paragraph 143 of the Framework says that inappropriate development should not be approved except in very special circumstances. The appellant claims that a planning condition that prevents livestock being housed in the building has severely limited its use for agricultural purposes. This has been compounded by the refusal of planning permission for a lambing/general purpose building and agricultural dwelling nearby, and the building is now effectively redundant.
12. I saw, however, that this is the only building on a large area of agricultural land. Whilst existing agricultural operations may mean that it is currently under-used, this may not be permanent. Changes in the farming operations, or the make-up of the farm holding, could result in a greater need for the building to serve this land in the future. Even if it had been demonstrated that the building is permanently redundant for agricultural purposes, I have not been provided with evidence to demonstrate that any other, less visually harmful, alternative uses have been explored. As the harm to the openness of the Green Belt is not clearly outweighed by other considerations, there are no very special circumstances to justify the inappropriate development.
13. For the reasons given above, I conclude that the development would be contrary to national advice in the Framework, which aims to prevent inappropriate development in the Green Belt. Consequently, the proposal would

conflict with Policy PP2 of the Local Plan, which seeks to manage the Green Belt in accordance with national policy.

Conservation Area

14. The appeal site, and the wider field, are included within the Ashington Conservation Area (the CA). The boundary has been drawn to reflect the special interest of the CA, which lies in the loose knit and dispersed collection of historic residential and farm buildings, linked by winding lanes in a predominantly open, agricultural, landscape. I saw that views towards open countryside and Wimborne, including Wimborne Minster, could be obtained across the appeal site. This view is considered extremely important in the Ashington Conservation Area Appraisal and Management Plan (2015) (the CAAMP). The appeal site, and surrounding land, therefore make a positive contribution to the significance of the heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
15. The existing building, although relatively recent, has a design and form that is redolent of a historic farm building. It sits on the edge of an open agricultural field, with which it has an obvious functional relationship. So, although it is quite a large building it does not appear out of keeping with the open agricultural character of the CA, and it does not intrude into the distant views of Wimborne Minster. The appellant points out that planning permission for the building was granted relatively recently, and that its form will be retained, so there will be little impact on the appearance of the area.
16. However, whilst the shape of the building would not be altered, its appearance would be significantly different, and the land surrounding it would fundamentally change in character. I have already found that the visual impacts of these changes would affect the openness of the Green Belt. As the significance of the CA is derived, in large part, by its open agricultural setting, it follows that this loss of openness would also result in harm to the appearance and character of the CA.
17. Furthermore, the insertion of large areas of glass, and rooflights, would give the building a much more strident appearance in this rural setting. It would therefore be a more intrusive feature in views through the site to the countryside and Wimborne Minster. These views are obtained across the proposed residential curtilage, which could include parked cars, washing lines and other domestic accoutrements. The proposals would therefore be harmful to views out of the CA, which are specifically referred to in the CAAMP.
18. The harm that arises is localised and therefore the impact on the CA, as a whole, is less than substantial within the meaning of Paragraph 193 of the Framework. The Framework advises that less than substantial harm should be considered in a balanced manner, against any public benefits associated with the development. I have not been provided with any evidence that the conversion of the building to a dwelling would result in any particular public benefit. The addition of one dwelling would make a very modest contribution to the government's aim of boosting the supply of homes, and there would be a small economic benefit in employment during the construction phase. Paragraphs 193 and 194 of the Framework advise that any harm to the significance of the CA requires clear and convincing justification, and great

weight should be given to the conservation of designated heritage assets. Consequently, these minor benefits do not outweigh the harm to the CA.

19. For the reasons given above, I conclude that the proposals would fail to preserve or enhance the character or appearance of the CA. The development would therefore be contrary to Policies PP27 and PP30 of the Local Plan. These policies seek to ensure that, amongst other things, proposals reflect local patterns of development in terms of their visual impact, and conserve and enhance heritage assets. The development would also fail to meet the aims of conserving and enhancing the historic environment, as set out in Section 16 of the Framework.

Scheduled Monument

20. The appeal site is within a scheduled monument, which is generally known as the Lake Farm Fort site. It comprises an important Roman archaeological site centred on a legionary fortress and associated Roman roads. Historic England's consultation reply refers to the site being known to be of considerable regional, national and international significance, due to the evidence it contains, and the role the site played in the conquest of Britain and the expansion of the Roman Empire. It is therefore of very high heritage significance. Historic England describe the main heritage conservation priorities for the site as being the preservation of its archaeological remains in open undeveloped land, and the preservation of the open character and setting of the archaeological site and its surroundings, with clear views to, from and across the monument in its landscape context.
21. I have already found that the conversion of the building to a dwelling, and the change in character of the surrounding land from agriculture to residential curtilage, would be harmful to the openness of the Green Belt and the appearance and character of the CA. For similar reasons, the alterations to the character of the building and surrounding land would also be intrusive in views of, and from, the scheduled monument and would therefore harm its open agricultural setting.
22. The development would also pose a threat, through direct physical ground impact, on buried archaeological remains. The land was excavated when the existing building and hardstanding was constructed. However, the archaeological investigation only comprised linear trenches within the footprint of the building, leaving most of the building footprint and all the wider curtilage undisturbed. The archaeological findings were of high significance and were used to inform the design of the groundworks for the building, with the foundations being limited in depth, so that they were about 200mm above the buried remains. The existing building and the surrounding agricultural use of the land has not therefore resulted in significant harm to the archaeological deposits.
23. The conversion of the building and surrounding land to residential use would result in unpredictable impacts on ground disturbance. Additional service trenching may be necessary to meet the domestic requirements of residents for foul drainage, internet, electricity, etc. Whilst the construction of outbuildings could be restricted by planning condition, other gardening activities, such as landscaping and tree planting, could not be controlled and could result in damage to below ground deposits.

24. The appellant argues that conversion of the building would not prevent future excavation of the monument outside the building footprint. However, the proposed residential use of the building and curtilage would have a very long lifespan. Within that lifespan, investigations of the below-ground archaeology would be effectively prevented by the private residential occupation of the site. The proposal would therefore be harmful to the prospects of future archaeological investigation and interpretation of the ancient monument.
25. I therefore find that the proposals would result in harm to the archaeological interest of the ancient monument and its setting. I concur with Historic England's advice that, within the meaning of Paragraph 193 of the Framework, this harm would be less than substantial, but significant. I have already concluded that the development does not give rise to public benefits that outweigh the harm to the CA. For the same reasons, I conclude that there is no clear and convincing justification for the harm to the significance of the ancient monument. The proposal would therefore be contrary to Policy PP30 of the Local Plan, which seeks to conserve and enhance heritage assets. The development would also fail to meet the aims of conserving and enhancing the historic environment, as set out in Section 16 of the Framework.

Protected species

26. The proposals do not include provision for net gains for biodiversity, as encouraged by paragraph 175 of the Framework. The Council's Biodiversity Officer suggested that the provision of a bat brick, tube or tile, and native boundary hedge planting would be necessary to fulfil this requirement. These measures could have been secured through a planning condition, if I had been minded to allow the appeal. I am therefore satisfied that the development could provide net gains for biodiversity, if it was demonstrated that the building does not provide a habitat for protected species.
27. The application was not accompanied by a Phase 1 Habitat Survey to demonstrate the presence or absence of protected species. The Council's Biodiversity Officer advised that several species of bats are known to be present in this part of Poole, many of which would use such a building as a roost. The appellant suggests that, as the building was built in 2008 using treated timber, it is unlikely to support protected species. However, in the absence of evidence to demonstrate their absence, I cannot safely conclude that this is the case.
28. In these circumstances, if I had been minded to allow the appeal, I would have had to consider whether it was reasonable to impose a pre-commencement condition requiring the approval of an ecological survey, together with a mitigation plan for any protected species that were found to be present. Paragraph 99 of ODPM Circular 06/2005 states that the need to ensure ecological surveys are carried out should only be left to planning conditions in exceptional circumstances. As I am not aware that any such circumstances exist, a pre-commencement condition would not accord with government advice.
29. I therefore conclude that there is insufficient evidence before me to conclude that there would be no harm to protected species. I cannot therefore conclude that the development would comply with Policy PP33 of the Local Plan, which seeks to ensure that proposals demonstrate how any biodiversity interest is to be protected and managed, to prevent any adverse impact. Similarly, I cannot

safely conclude that the development would accord with the Framework's aims to protect habitats and biodiversity as set out in Section 15.

Special Protection Areas

30. The appeal site lies within 5km of the Dorset Heathlands SPA and Ramsar site and the Dorset Heaths Special Area of Conservation (SAC). Evidence shows that these protected sites are under significant pressure from an increase in the level of recreation, and disturbance of bird species, as a result of urban development. The proposal would result in an additional dwelling within 5km of the SPA. Whilst the impact of a single dwelling would be small, in cumulation with the 14,200 new homes identified in the Local Plan up to 2033, it has the potential to impact on the integrity of the SPA, through increased recreational disturbance. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment (AA) is carried out, and that permission may only be granted after having ascertained that development will not affect the integrity of the SPA.
31. The Council, and other authorities in Dorset, have been operating a strategy for the protection of the heathland, which is set out in the Dorset Heathlands Planning Framework Strategy 2015 – 20, which was adopted in 2016. The strategy involves the provision of mitigation for the impacts of development through a combination of infrastructure projects, such as Suitable Alternative Natural Greenspace, and Strategic Access Management and Monitoring (SAMM). The infrastructure projects are funded either by local authorities using Community Infrastructure Levy (CIL) receipts, or directly by developers. SAMM is funded through contributions from all developments that involve an increase in dwellings. The mitigation is delivered strategically across the Council areas through a joint approach administered by the Urban Heaths Partnership.
32. The evidence before me shows that public access to lowland heathland, from nearby development, can lead to an increase in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion. Disturbance by humans and their pets, amongst other factors, have an adverse effect on the heathland ecology. As most visitors to the heathland live within 5km, Natural England have advised that development within this distance would, cumulatively, have such a significant effect that mitigation is required.
33. The appellant has acknowledged that the site lies within 5km of the SPA, and has indicated a willingness to make a SAMM contribution. However, there is no Section 106 Agreement associated with the appeal proposal, or any other mechanism whereby I can be sure that the contribution would be paid. There is therefore no appropriate means of securing the mitigation that would be necessary to avoid harm to the SPA as a result of the development. In the absence of any mitigating measures, I conclude that the proposal would be likely to adversely affect the integrity of the Dorset Heathlands SPA.
34. Since the Council determined the application, the Habitats Regulations Assessment supporting the Local Plan has identified that planned new development will also have a likely significant effect on Poole Harbour SPA. The proposal would result in an additional dwelling which, in cumulation with the 14,200 new homes identified in the Local Plan, has the potential to impact on the integrity of the SPA, through increased recreational disturbance.

35. The evidence before me shows that residential development in Poole can have a harmful impact on the SPA, through an associated increase in recreational pressures. Visitor surveys indicate that people from across Poole visit the Harbour, leading to a rise in boat use on the water, or increased activities on the shoreline, such as dog-walking and bait digging. This increased activity results in disturbance of protected birds and therefore harms the integrity of the SPA.
36. The Council considers that effective mitigation for the recreational impact will require infrastructure projects and SAMM. Infrastructure mitigation projects will be funded through CIL and will comprise physical improvements or facilities relating to reducing recreational impact. With the support of Natural England, the Council has introduced an interim SAMM payment scheme, to allow mitigation for recreational impacts on the SPA to be provided, in advance of a proposed Supplementary Planning Document. Again, however, there is no Section 106 Agreement associated with the appeal proposal, or any other mechanism whereby I can be sure that the contribution would be paid. In the absence of mitigating measures, I conclude that the proposal would be likely to adversely affect the integrity of Poole Harbour SPA.
37. The Habitats Regulations require me to consider whether there are any alternative solutions. However, no such solutions have been put forward for my consideration. I must also consider whether there are any imperative reasons of overriding public interest. The provision of a single dwelling is not sufficient to amount to such overriding public interest, given the modest scale of development proposed relative to the importance of protecting such significant natural habitat. Consequently, having regard to the Habitat Regulations, permission must not be granted.
38. I therefore conclude that the proposal would have a harmful impact on the Dorset Heathlands and Poole Harbour SPAs. The development would therefore be contrary to Policies PP32 and PP39 of the Local Plan which seek, amongst other matters, to avoid harm to heathland sites and Poole Harbour, and to prioritise the spending of development contributions on the delivery of infrastructure to mitigate any impacts on SPAs. It would also conflict with the Framework's aims to protect habitats and biodiversity as set out in Section 15.

Conclusion

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

Nick Davies

INSPECTOR