
Appeal Decision

Site visit made on 20 January 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal Ref: APP/V1260/W/19/3239962

Land adj Lone Pines Close, Matchams Lane, Hurn, Christchurch BH23 6LP

- 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 D Smith, D R Smith Properties Ltd against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 8/19/0867/FUL, dated 8 May 2019, was refused by notice dated 7 October 2019. The development proposed is creation of new vehicular access to highway; new track; re-align fence.
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Decision

1. The appeal is dismissed.

Main Issues

2. The site falls within the South East Dorset Green Belt. Accordingly, the main issues are:
 - Whether or not the proposal is inappropriate development within the Green Belt including its effect upon openness;
 - the effect of the development on highway safety; and
 - the effect on character and appearance of the area including impact upon protected trees.

Reasons

Whether inappropriate development including the effect upon openness

3. The creation of the track would constitute engineering operations. Paragraph 146 of the National Planning Policy Framework (the Framework) states that engineering operations are not inappropriate development in the Green Belt, providing that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
4. The provision of a splayed access of the form proposed would result in a fence of a commensurate height to that existing albeit angled away from the highway to provide required visibility. Given that the proposal involves replacement of an existing fence, that would not be materially larger, I consider the alterations to the fence would not, in itself, be inappropriate development as defined by paragraph 145(d) of the Framework.

5. The site is predominantly grass with a number of Scots Pine trees that are protected by a Tree Preservation Order. The land is currently enclosed by a close boarded timber fence fronting onto Matchams Lane to the west. The land parcel is surrounded by neighbouring development of Lone Pines Close caravan park, commercial units at Bostwick Farm and the dwelling of Aviary Lodge. There is an existing access gate into the land adjacent to the industrial buildings at Bostwick Farm.
6. The proposed access track would result in the provision of a gravelled strip on a hardcore base running centrally through the field approximately 3 metres wide. The site is flat, although, despite its current enclosure and nature of surrounding development, the provision of an access road would alter the characteristic of part of the site from largely undeveloped grassland to hard surfacing and formalise the use of the site by vehicles. However, I consider on balance, that the introduction of the track itself would not diminish the openness of the Green Belt, owing to the nature of the works and degree of enclosure. As such having regard to the aims of Green Belt policy, as set out in paragraph 144 of the Framework, I consider that the track itself would not be inappropriate.
7. I acknowledge reference within the relevant reason for refusal to Policy KS3 of the Christchurch and East Dorset Local Plan Core Strategy 2014 (CS). Although this policy relates to Green Belts, it is not of direct relevance to the reason for refusal and as such I have had due regard to the Green Belt provisions of the Framework.

Highway safety

8. The proposal would introduce a new access onto Matchams Lane with gates setback by 2.4 metres from the edge of the vehicular carriageway. Such a setback would not afford sufficient space for a vehicle to manoeuvre onto the site when the gates are closed. In such an event any vehicle utilising this access would need to wait in the carriageway for the gates to be opened that could restrict vehicular flow and result in potential for increased conflict between vehicles.
9. It is contended that the access would be infrequently utilised, to provide occasional access to the site when it is not possible to access the appeal site through the Bostwick Farm industrial units. Although I acknowledge the appellants suggested condition with regard to the nature of use of the access, I am not satisfied that such a condition would meet the necessary tests detailed within the Framework. There would be inherent difficulties with regard to the practicality of monitoring the use of the access particularly with regard to the type and frequency of use. As such to my mind, such a condition would not be enforceable. Given the proposed position of the gates, increased likelihood of vehicles waiting within the carriageway and without a suitable mechanism to control the use of this access, I am not persuaded that the appeal development would not result in disruption to vehicular flow and potential conflict between vehicles, to the detriment of highway safety.
10. For the reasons given above, I find the proposal would harm highway safety and conflict with Policy KS11 of the CS that seeks, amongst other things, that development should provide safe access onto the existing transport network.

Character and appearance

11. I acknowledge the Council's concern with regard to potential impact upon protected trees. However, from the details before me, any such impact directly attributable to the provision of the access track could be mitigated if undertaken in accordance with approved plans and the specifications detailed within the submitted arboricultural statement. Nor, on the evidence before me, am I persuaded that the introduction of the driveway in the location proposed would place any undue pressures for further works to the trees identified.
12. As aforementioned the fence proposed would be of a commensurate height to that existing albeit angled away from the highway to provide required visibility. This enclosure, in turn, would largely obscure the proposed access track. It would be read in the context of a number of other vehicular accesses fronting onto Matchams Lane, and the appellant indicates that there would be an ongoing requirement for repair of the existing fence for security reasons. In this regard I am not persuaded that the alterations to the fence and access track proposed would in themselves have an unacceptable impact upon the character and appearance of the area.
13. As such I am satisfied that the proposal would comply with the character and appearance aims of Policies HE2 and HE3 of the CS that seek, amongst other things, that visual impact and features such as mature trees are taken into account in development.

Other Matters

14. I note the appellant's comments in respect of the alleged way the Council dealt with the application, however, I must determine this appeal on the plans before me and the behaviour or otherwise of the Council is not relevant to my determination of this appeal.
15. The appellant contends that the proposal would provide out of hours access to waste tanks when the existing access through the adjacent industrial site is closed. However, as above I am not persuaded on the evidence before me, that there is a requirement for such arrangements to be provided or that the existing access arrangements are not adequate. As such, I give this matter limited weight in favour of the proposal.
16. There is debate between the parties with regard to the position of the waste treatment facilities within the site. Whilst this is acknowledged I have considered the proposal on its planning merits and do not find this a determinative factor in consideration of this appeal. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conclusion

17. Whilst the proposal would not represent inappropriate development or cause unacceptable harm to the character and appearance of the area, it would nonetheless result in a significant highway safety risk. The latter is a matter of overriding concern and I therefore conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR