The Planning Inspectorate

Appeal Decision

Site visit made on 27 February 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2020

Appeal Ref: APP/Q1255/W/19/3240423
Derwent, Waggy Tails Rescue, 143 Magna Road, Poole BH21 3AW

- 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 Waggy Tails Rescue against the decision of Bournemouth, Christchurch and Poole Council.
- The application Ref APP/18/01670/P, dated 20 December 2018, was refused by notice dated 3 May 2019.
- The development proposed is demolition of existing buildings; erection of 9no. dwellings (outline with all matters reserved).

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline with all matters reserved. I assessed the appeal on that basis, treating the layout and floor plans shown on drawing Ref PL02 as illustrative.

Main Issues

3. I consider the main issues to be:

   - whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
   - the effect of the proposal on protected trees; and,
   - if there is harm by reason of inappropriateness, and any other harm, would it be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

4. The appeal site comprises the dwelling Derwent and the animal rescue centre Waggy Tails Rescue, which occupy a countryside location within the South East Dorset Green Belt, near to the urban environment at Bearwood, a short distance to the south east. There is access from Magna Road, which passes the site along its north boundary, at which point it is lined by a row of beech trees (T1-T5), two of which (T1 and T2) are protected by Tree Preservation Orders.

5. The main building, its ancillary structures and areas of hardstanding largely occupy the west side of the site, which is otherwise set out as a car parking area in front of a larger square of grassland used for exercising the resident

canines. Boundary treatments are a mixture of close boarded and post and rail fencing, in addition to elements of screen planting.

6. It is proposed to demolish the existing buildings and erect 9 dwellings. The illustrative layout shows houses arranged in two rows fronting an access road running through the middle of the site, with principal garden spaces behind.

7. The Framework establishes that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions, which are contained within the closed lists of Paragraphs 145 and 146. Policy PP2 of the Poole Local Plan (adopted 2018) (PLP) seeks to carefully manage development within the Green Belt in accordance with, and consistent with, the Framework.

8. The exception that I consider applicable to this scheme is that within Paragraph 145(g), which relates to the redevelopment of previously developed land (PDL). The Council considers the exercise and parking areas to fall beyond the Framework's definition of PDL. However, these areas are a direct and practical part of the site's use as an animal welfare centre and are within its defined boundaries. As such, I find the site as a whole to constitute PDL.

9. Paragraph 145(g) sets proposals for the redevelopment of PDL two alternative tests in order to not be inappropriate. Firstly, a proposal must not have a greater impact on the openness of the Green Belt than the existing development. Alternatively, a scheme would not be inappropriate if it would not cause substantial harm to the openness of the Green Belt and would contribute to meeting an identified affordable housing need. Either way, an assessment of the proposal's impact upon openness is required.

10. Openness has a spatial aspect and a visual aspect. Whilst the buildings on site impinge clearly upon openness, the exercise and parking areas are contrastingly flat and open, interrupted only by transient vehicle parking and dog exercise. This leads these spaces to exhibit significant spatial openness. Moreover, as the site boundaries are somewhat permeable in places, public views into the site are possible, which leads the parking and exercise areas to also contribute to the visual openness of the Green Belt, albeit modestly[1].

11. The proposed dwellings would be arranged across the site, occupying much of the exercise and parking areas. They would likely be surrounded by boundary treatments, domestic infrastructure and vehicular and pedestrian activity, which would compound their presence. As such, unlike the more peripheral existing buildings, the proposal would dominate the length and breadth of the site. Consequently, there would be a greater impact on the openness of the Green Belt. The proposal would therefore fail the first test within Paragraph 145(g).

12. That said, I accept that the harm to the openness of the Green Belt would not be substantial. However, whilst the appellant has indicated a willingness to offer affordable housing (AH), there is no evidence of such, nor has a robust mechanism been put forward to deliver it in any event. A condition has been suggested, but it seems to me that the nature of AH delivery would necessitate a legal agreement at this stage. I also note that, under Policies PP11 and PP40 of the PLP, an AH contribution may be found to be unviable. For these reasons, I cannot be at all certain that the scheme would provide any AH. It follows that the scheme would also fail the second test set out within Paragraph 145(g).

[1] Taking into account Appeal Ref: APP/C/17/3182333

13. The appellant has drawn my attention to an extant permission for extensions to buildings within the site[2]. However, the extensions would be amongst the built form at its west side, and their potential construction does not justify the loss of openness within the parking and exercise areas. I have also had regard to an appeal decision at the adjacent field, and the distinction it draws between that land and the appeal site now before me[3]. However, it does not alter my assessment of the contribution that the appeal site makes to openness in its own terms, nor consequently the effect of the scheme on the Green Belt.

14. I therefore conclude on this issue that the proposal would be inappropriate development as described by the Framework. The proposal would conflict with Policy PP2 of the PLP and the relevant aims of the Framework.

Trees

15. Protected trees T1 and T2 make significant contributions to the amenity of the area, individually and as part of the linear group also comprising T3-T5. The proposed layout suggests that the scheme would reuse the existing site access without any modification or widening. Whilst T1 would have its canopy lifted to allow for adequate vehicle clearance within the site access, it is logical that this work will be required in any case, given the existing operations at the site.

16. However, the indicative layout also suggests that access to the dwellings would be via a service road which would run along the site's north boundary, under the canopy of the line of beech trees. To my mind, the extent of canopy lift to T1 and T2, in order to maintain adequate clearance for this service road, would harm the integrity of the protected trees to an unacceptable degree.

17. I therefore conclude on this issue that the proposal would have a harmful effect on protected trees. It would conflict with the landscaping and visual aims of Policy PP27 of the PLP and the Framework in this regard.

Other Considerations

18. The scheme would reuse PDL to provide housing in a location with direct access to Magna Road and its transport links. This would take place within a context of housing under delivery[4]. However, the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. The social and economic benefits of housing delivery which would run counter to this aim amount to considerations of very limited weight in favour of the proposal.

19. The scheme would remove the potential for canine related noise nuisance, which could become more of a problem given the construction of additional housing nearby[5]. However, to what extent noise pollution emanates from the site, and how this may affect the living conditions of neighbouring occupants, has not been substantiated. This is therefore a benefit of very limited weight.

20. The appellant considers the site to be visually in need of remedy and identifies that the layout could be designed to offer enhanced public views. However, whilst this may well be so, it seems to me that the site's appearance could be improved in ways other than granting planning permission for the housing. This is therefore a matter of very limited weight.

[2] Ref APP/18/00721/F
[3] Appeal Ref: APP/Q1255/W/18/3215255
[4] October 2019 Housing Delivery Test Action Plan
[5] Particularly that under construction pursuant to Ref APP/17/00008/F

Green Belt Balance

21. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm by reason of inappropriateness is clearly outweighed by other considerations.

22. The other considerations that would arise from the proposal are cumulatively of very limited weight. They do not clearly outweigh the substantial weight that the Framework requires me to attach to the harm to the Green Belt through inappropriateness and loss of openness, and the harm to protected trees. Consequently, the very special circumstances necessary to justify the development do not exist.

Other Matters

23. The site is within influence of the Poole Harbour Special Protection Area and the Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation (the Protected Sites). There is also the potential for the scheme to interfere with the nightjar population, which are reliant on the protected heathland habitat. The potential for impact upon the nightjar is a matter of dispute and I also note that financial contributions have been supplied to seek to secure mitigation of the impacts upon the Protected Sites[6]. Had I been minded to allow the appeal, it would have been necessary for me to consider these matters within an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, I have not taken them further.

Conclusion

24. I therefore conclude that the proposal would conflict with the development plan and the Framework when taken as a whole. For this reason, the appeal should be dismissed.

Matthew Jones

INSPECTOR

[6] Pursuant to S111 of the 1972 Local Government Act