



## Appeal Decision

Site visit made on 2 June 2020

**by S Edwards MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 June 2020**

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**Appeal Ref: APP/D1265/W/20/3245075**

**Hill House, Jennys Lane, Lytchett Matravers BH16 6BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Robert Holden against the decision of Dorset Council.
  - The application Ref 6/2019/0269, dated 10 April 2019, was refused by notice dated 19 July 2019.
  - The development proposed is described as 'Demolish existing workshop and stables. Remove other fixed infrastructure. Build new dwelling'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline. The application form indicates that approval is only sought for scale. Access, appearance, landscaping and layout are reserved for subsequent determination. I shall deal with the appeal on this basis, treating all plans as illustrative other than in respect of scale considerations.
3. On 1 April 2019, Purbeck District Council ceased to exist and became part of a new Unitary Authority known as Dorset Council. The development plans for the merged Local Planning Authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced. I shall therefore determine the appeal having regard to the policies set out within the Purbeck Local Plan Part 1<sup>1</sup> (LPP1) and Lytchett Matravers Neighbourhood Plan<sup>2</sup> (NP).

### Main Issues

4. The main issues are:
  - Whether the proposal would constitute inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - Whether the proposal would be suitably located, having regard to the effect of the development on the character of the countryside and the site's access to services and facilities; and

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<sup>1</sup> Adopted November 2012.

<sup>2</sup> Made June 2017.

- 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 proposal.

## Reasons

### *Whether inappropriate development*

5. The appeal site is located within the South East Dorset Green Belt. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In accordance with the Framework, local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt, except in a limited number of circumstances, which are listed within paragraph 145. Relevant to this appeal are exceptions permitting limited infilling in villages and limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
6. As confirmed by the Courts<sup>3</sup>, while a village boundary as defined in a Local Plan would be a relevant consideration, it is not necessarily determinative, particularly in circumstances where the boundary as defined does not accord with the inspector's assessment of the extent of the village on the ground. The appeal site is located outside of the settlement boundary of Lytchett Matravers and forms part of a semi-rural area. From the junction of the High Street and Jennys Lane, there is a distinct change in character, from being within the village to that of adjacent countryside. Although there are a number of residential properties along Jennys Lane, this takes the form of a loose ribbon of development. Therefore, the appeal site clearly lies outside the village of Lytchett Matravers, despite its relative proximity to the settlement.
7. As the terms 'limited' and 'infilling' are not defined in the Framework, there are essentially a matter of fact and planning judgment for the decision-maker, having notably regard to the nature and size of the proposal itself, and its relationship to existing development. Whilst it lies near residential properties, the site is bordered to the west by undeveloped fields, and the proposal would therefore not fill in a gap between existing developments.
8. Additionally, I am mindful that the appeal site is occupied by existing buildings which would be demolished and replaced with the appeal scheme, therefore resulting in the redevelopment of the site. Even if I were to accept the appellant's argument that the site lies within the village and despite the number of dwellings proposed being limited, the proposal would not constitute 'infilling', as this implies the development of a site that is between existing buildings.
9. Annex 2 to the Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). The definition excludes, amongst other things, land in built-up areas such as residential gardens. As noted above, the site forms part of a loose ribbon of development which, I find, cannot be regarded

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<sup>3</sup> Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195.

as a built-up area. The site therefore constitutes previously developed land in terms of the definition contained in Annex 2 to the Framework.

10. Whilst the exception set by paragraph 145g) of the Framework permits the partial or complete redevelopment of previously developed land, this is subject to the proposal not having a greater impact on the openness of the Green Belt than the existing development. As set out in paragraph 133 of the Framework, the essential characteristics of the Green Belt are their openness and their permanence. The appeal site is to some degree screened by existing landscaping along the Jennys Lane frontage, and lies on higher ground than the road.
11. Although the existing structures would be demolished as part of the proposal, they would be replaced with a building of a two-storey scale. The scale of the proposed dwelling would have a greater physical impact, compared with the single storey structures currently on the site. The dwelling would be more visually prominent by reason of its scale, particularly when viewed from Peatons Lane. Consequently, there would be a greater loss of openness in spatial and visual terms, as a result of the proposal. Additionally, it would lead to the encroachment of development into the countryside, contrary to one of the five purposes of Green Belt policy, as set out in paragraph 134 of the Framework.
12. For the foregoing reasons, the proposal would not accord with the exceptions set out in paragraph 145 of the Framework, and would constitute inappropriate development in the Green Belt.

#### *Location in the countryside*

13. Policy LD of the LPP1 sets out the spatial strategy and settlement hierarchy for the Purbeck area, which seeks to direct development proposals to the most sustainable locations. As noted above, the appeal site is located outside the settlement boundary for Lytchett Matravers and therefore lies, for planning policy purposes, within the countryside. The spatial strategy and existing settlement boundaries are, insofar as is relevant to this appeal, broadly consistent with the Framework, by seeking to primarily focus development in settlements.
14. Policy LD of the LPP1 states that land outside of settlement boundaries will be classed as 'countryside' where development is only permitted in exceptional circumstances. Having regard to the evidence before me, I find that the proposal would not fulfil any of the exceptions listed by Policy CO of the LPP1. Furthermore, as set out in Policy CO, development proposals in the countryside are only supported where they do not have a significant adverse impact either individually, or cumulatively on the environment, visually, ecologically, or from traffic movements.
15. The low density of development and spacious nature of the plots, together with the mature landscaping and hedges, and verges along Jennys Lane contribute to the pleasant semi-rural character, which defines this area. Although there is a picket and post fence on its western edge, the site appears contiguous with the countryside immediately beyond this boundary which, as described above, comprises an open field with few buildings apparent. Despite the presence of single storey structures, the site provides a transition between the residential properties along Jennys Lane, and the open countryside. The scale of the

proposed dwelling would, however, combined with the likely forms of enclosures and domestic paraphernalia that would be associated with it, introduce a form of development which would reduce the openness of the site and cause harm to the semi-rural character of the area.

16. The Lytchett Matravers NP seeks to concentrate development within a 5 to 10 minute / 400 to 800 m walk from the village centre, which implies that other proposals may be considered acceptable outside this radius. This area is illustrated in one of the appendices to the NP, which do not form part of the statutory plan. The appellant's submissions show that the site lies within 700 m of the village hall. It is also within proximity to a public house. However, to reach these, future occupiers of the development would have to walk along a typical rural lane, which is unlit and has no separate footway, thus constituting a disincentive to journeys on foot. Additionally, other facilities and services are generally found further from the site.
17. Although the site lies near a bus stop, I have not been provided with substantive evidence to demonstrate that it is served by frequent services, and this is therefore a consideration to which I can only attach limited weight. Accordingly, I consider that, for convenience purposes, there is a greater likelihood that for the large majority of trips, residents would rely on private motor vehicles, which is the least sustainable mode of transport.
18. By reason of its location, the proposal would cause unacceptable harm to the intrinsic character and beauty of the countryside and represent an unsustainable form of development, which would conflict with the Council's spatial strategy. It would therefore be contrary to Policies CO, LD and SD of the LPP1 and the Framework.

#### *Other considerations*

19. 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 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, several other considerations have been referred by the appellant.
20. In particular, my attention has been drawn to the established housing need locally, and the nature of the development, which would be particularly suitable for a self-builder or small housebuilder. However, the contribution made by a single dwelling to housing supply and choice would remain modest. Additionally, no mechanism, such as a planning obligation, has been brought to my attention to ensure that the proposed dwelling would be self-build, thus limiting the weight which can be afforded to this consideration.
21. The existing structures are to some extent screened by existing landscaping, and the effect of the proposed development on the character and appearance of the area resulting from their removal would therefore be of limited benefit. The proposed development would incorporate measures to support biodiversity, which should be afforded some weight. I also note that the oak and beech trees would not be adversely affected by the development, but this would have a neutral impact in the overall balance. Although the appellant has referred to additional planting, limited information has been provided in that respect, and

as landscaping falls within the reserved matters, this would need to be assessed as part of a separate application. This is therefore ascribed limited weight.

### **Other Matters**

22. The appeal site lies within proximity to Upton Heath Site of Special Scientific Interest (SSSI), by reason of the special interest of its heathland habitats and associated plant and animal species. Upton Heath SSSI forms also part of the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and Ramsar. Natural England is concerned that the proposal would have, in combination with other plans and projects, a likely significant effect on these internationally designated sites, as a result of the increased recreational pressure which residential development places on these sensitive areas, and has therefore requested an appropriate level of mitigations.
23. As I am dismissing this appeal on other substantive grounds, this is not a matter which needs to be considered further here. However, it should be noted that had the development been considered acceptable in all other respects, I would have sought to explore the necessity for undertaking an Appropriate Assessment to ensure that the proposal would not adversely affect the integrity of these protected areas, in accordance with the Habitats Regulations.

### **Planning Balance**

24. The appeal proposal would constitute inappropriate development in the Green Belt and reduce openness. Additionally, the proposal would conflict with the Green Belt purpose of safeguarding the countryside from encroachment. Substantial weight is afforded to the detrimental effect which the development would have on the Green Belt. I also give great weight to the unacceptable harm which the development would cause to the intrinsic character and beauty of the countryside. These considerations weigh heavily against the proposal.
25. The lack of harm to existing trees is a neutral factor which, in the overall planning balance, would weigh neither for nor against the proposal and as explained above, only limited weight can be afforded to the considerations cited in support of the proposal. Overall, the harm caused by the proposal 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. The proposal would conflict with Policies SD, LD and CO of the LPP1, and would therefore fail to comply with the development plan as a whole, but also with national planning policy.

### **Conclusion**

27. I have had regard to the policies contained within the emerging Purbeck Local Plan, which has reached an advanced stage of preparation. In March 2020, the Inspector confirmed that subject to Main Modifications, the Plan is 'likely to be capable of being found legally compliant and sound'. However, I have been provided with no indication as to the timetable for modification and the emerging local plan would not carry full development plan status until it is adopted. I have nevertheless given consideration to the emerging policies

which have been brought to my attention, but find nothing which would persuade me to reach a different conclusion in respect of the proposal before me, particularly by reason of the site's location within the Green Belt.

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

*S Edwards*

INSPECTOR