



Appeal Decisions

Site visit made on 11 November 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2020

Appeal A: APP/V1260/C/19/3238798

Appeal B: APP/V1260/C/19/3238799

Land at Plots 1, 2 & 3, Dudmoor Farm Road, Christchurch, Dorset BH23 6AQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mrs K Littlefair (Appeal A) and Mr Mark Littlefair (Appeal B) against an enforcement notice issued by Bournemouth, Christchurch & Poole Council.
 - The enforcement notice was issued on 12 September 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, in the approximate position marked with a black cross on the attached plan to the notice, unauthorised development consisting of: a) The change of use of a building (a former stable block) into a dwelling house (Use Class C3); b) Development consisting of the construction of a lean-to extension to the front elevation of the building (a former stable block).
 - The requirements of the notice are: a) Cease the use of the building hatched green as a dwelling house, identified on the attached plan to the notice entitled 'Enforcement Notice Plan'; b) Following compliance with 5. a) above, permanently brick-up with breeze blocks the interconnecting doorways which have been created within the original building (shown as blue lines on the plan entitled Appendix A attached to the notice) and unblock the three (3) stable doors to the front of the building to allow entry back into the stable bays (shown as green lines on the plan entitled Appendix A attached to this Notice); c) Demolish the lean-to structure added to the front of the former stable block and hatched blue identified on the plan entitled 'Enforcement Notice Plan'; d) Remove all the resulting materials following compliance with 5. c) above off the land affected as edged red on the attached plan to the notice.
 - The period for compliance with the requirements is four months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary of Decisions

Appeals A and B

1. The appeals are dismissed and the enforcement notice upheld.

The ground (c) appeal

2. For an appeal to succeed on ground (c) the onus is on an appellant to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. This could be because the matters alleged do not constitute development, planning permission has already been granted for the matters alleged in the enforcement notice or these matters are permitted development.

3. This ground of appeal has been brought solely against the requirement of the notice to brick up the internal doorways as shown in blue on the Appendix A plan.
4. However, the internal doorways do not relate to the matters alleged by the notice to constitute development. It therefore does not form part of the alleged breach of planning control. Rather, it forms part of the remedial works that the Council considers to be necessary. Such matters are therefore not for a ground (c) appeal, and I note this is correctly raised by the appellants on ground (f), where I shall accordingly consider it.
5. The appeal on ground (c) therefore must fail.

The ground (a) appeal

6. The enforcement notice concerns two breaches of planning control. The first relates to a change of use of a stable building to a dwelling and the second operational development consisting of the construction of a lean-to extension. This ground (a) appeal is brought solely in relation to the construction of the lean-to extension and therefore I have not considered the change of use, or other consequent matters such as protected heathland or flood risk, further.

Main Issues

7. The main issues are:
 - Whether the extension is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the extension on the openness of the Green Belt;
 - The effect of the extension on the character and appearance of the area;
 - If the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

8. The site is located within the South-East Dorset Green Belt. It is situated in an area of countryside and accessed via a narrow road, which serves other plots of land and properties. There are various small ad-hoc structures both on and in the immediate vicinity of the site, and it is therefore semi-rural in character.
9. The extension the subject of this appeal is attached to the front of the building and forms a veranda. It is of timber construction with a plastic roof and a number of large white UPVC windows and doors. It is said to provide for additional security, storage and a sitting out area in the manner of a conservatory.

Whether the extension is inappropriate development in the Green Belt

10. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states 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 makes it clear that the

construction of new buildings is inappropriate in the Green Belt. One of the few exceptions is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The assessment of whether or not an extension results in a disproportionate addition is made on a case-by-case basis, taking account of the specific circumstances of the development and site.

11. Policy KS3 of the Christchurch and East Dorset Local Plan, Part 1 – Core Strategy, adopted April 2014 (the LP) is consistent with the Framework’s approach, in order to maintain an area of open land around the conurbation; in this case Christchurch.
12. The lean-to extension spans the entire length of the building. I could also see during my site visit that it is of considerable depth in relation to the original modest building. The Council asserts that the lean-to has almost doubled the footprint of the original building. This is not directly disputed by the appellants, although no figures are before me. Notwithstanding the absence of any such figures, the extension clearly and significantly increases the overall scale of the building.
13. This is particularly apparent in terms of the footprint and resultant volume of the building when considered against the original. It is now markedly different in respect of the amount of built form associated with the original modest building, and to some extent the site itself, although I do recognise the presence of other structures.
14. The lean-to extension therefore significantly increases the scale of the building. Accordingly, it amounts to a disproportionate addition over and above the size of the original modest building.
15. I conclude the proposal is inappropriate development that is, by definition, harmful and therefore contrary to national and local policy to protect the Green Belt. This is a matter to which I attach substantial weight.

The effect of the extension on the openness of the Green Belt

16. Paragraph 133 of the Framework states that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development.
17. The extension, with consequent increase in footprint, scale and volume, does have an effect on reducing openness, notwithstanding the location of the building towards the rear of the site and intervening fencing.
18. The visual perception of the structure within its immediate surroundings is nevertheless increased as a result of the disproportionate scale of the extension, and, the introduction of this development has had an inevitable effect on reducing both the spatial and visual openness of this part of the site, albeit to only limited degree. This reduction in openness is however still not mitigated by existing vegetation or the presence of other structures at the site or within the immediate area.
19. I conclude that this loss of openness is harmful to the Green Belt, contrary to national and local policy to protect it. This is however a matter to which I only attach moderate weight.

Character and appearance

20. The extension appears as a makeshift addition to the building owing to its use of materials, fenestration and consequent appearance. It is therefore visually unattractive and not compatible with the original building which was of equestrian appearance.
21. Whilst it is read against the backdrop of the original stable building, and is not unduly visible from Dudmoor Farm Road, it still has a deleterious impact on the character and appearance of the area, for the aforementioned reasons. I recognise the presence of various other structures in the immediate area, and that some of these are makeshift, however, it does not lead me to a different finding in this semi-rural area, given the poor design of the development before me does not enhance the landscape character of the area.
22. The extension is therefore harmful to the character and appearance of the area in contravention of Policies HE2 and HE3 of the LP, which seek, amongst other things, for development to be compatible with or improve its surroundings, and, protect and seek to enhance the landscape character of the area. This is however a matter to which I only attach moderate weight.

Other considerations

23. Whether or not the extension facilitates, in part or in full, the unauthorised use of the building, which has also been enforced against, is not relevant to my consideration under this ground of appeal. The use and operational development are two identified breaches of planning control, and the appellants have also separated them by only pursuing the extension under this ground of appeal.
24. I appreciate there might be some desire to provide for additional security, storage and a sitting out area in the manner of a conservatory. However, there is only very limited evidence before me about these considerations in respect of such requirements in relation to the lawful use of the building, and so I afford these only very limited weight.

The Green Belt balance

25. I have concluded the extension is inappropriate development that would conflict with national and local policy to protect the Green Belt. I have also found that it is harmful to the openness of the Green Belt and the character and appearance of the area. These are matters which cause substantial and moderate harms respectively.
26. There are no other considerations in favour of the development that clearly outweigh the presumption against inappropriate development in the Green Belt and the substantial weight that the Framework requires to be attached to such harm. The very special circumstances necessary to justify the retention of the extension do not, therefore, exist.

Conclusion

27. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) fails.

The ground (f) appeal

28. The purpose of the enforcement notice is clearly to remedy the breaches of planning control. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breaches of planning control and propose lesser alternatives steps.
29. The building was granted planning permission as a stable block in 1997. The Council considers that its use, prior to that currently as a dwelling, was for equestrian and ancillary day-room purposes. It therefore contained some fixtures and fittings to facilitate the latter.
30. The evidence before me demonstrates on the balance of probabilities that the works relating to the provision of interconnecting doorways within the original building as well as the blocking of the original stable doors, were undertaken at a time/s and in connection with the unauthorised use of the building as a dwelling. It therefore follows that, even if only in part, they facilitated the unauthorised use.
31. Whether or not these works amounted to development, or the need for planning permission, is not relevant in this regard. The Council is entitled to ensure, by virtue of steps required by a notice, that the building revert to its previous condition in order to remedy the breaches. That is the reason for such a requirement, even if no planning harm is specifically identified by the retention of a singular element, such as doorways.
32. Whilst the unauthorised use is cured by requiring the cessation of the use, it is in my view only partly cured, and so the reversion is necessary. Accordingly, to omit these other requirements would not adequately remedy this breach of planning control.
33. Even if I am wrong, the appellants have only provided limited evidence as to why these steps are excessive, other than they are then seen as the undertaking of unnecessary internal works from their perspective and that to retain them would assist with future internal access. I am however not persuaded, based on the evidence before me, that the remedial steps are excessive in order to remedy the usage breach. For the same reasons, the requirement to remove all resulting materials is necessary and a routine requirement to remedy breaches of planning control. There is also no adequate alternative step or scheme brought before me to ensure what otherwise might happen with the resulting materials.
34. The appeal on ground (f) accordingly fails.

Overall Conclusion

35. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decisions

Appeals A and B

36. The appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul T Hocking

INSPECTOR