



Appeal Decision

Site visit made on 12 November 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2020

Appeal Ref: APP/D1265/W/20/3256310

Land West of New Manor Farm, Emley Lane, Hinton Martell BH21 7HE

- 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 G Saunders against the decision of Dorset Council.
 - The application Ref 3/19/2277/FUL, dated 14 November 2019, was refused by notice dated 12 March 2020.
 - The development proposed is the erection of 2no. dwellings with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the adoption of the Dorset Heathlands 2020-2025 Supplementary Planning Document (the 'Dorset Heathlands SPD'), which was adopted after the determination of the planning application, the Council have advised that they no longer wish to defend the fourth reason for refusal, which relates to protected habitats. I return to this matter later in my Decision.
3. Following the submission of an updated biodiversity plan, which sets out mitigation and enhancement measures in relation to protected species, the Council have advised that they no longer wish to defend the fifth reason for refusal. I do not disagree with the views of the Council in respect of this matter and hence it does not fall to be considered as a main issue.

Main Issues

4. The appeal site is located within the Green Belt and so the main issues are:
 - whether the proposal represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and development plan policy;
 - whether the proposed development would preserve or enhance the character or appearance of the Hinton Martell Conservation Area; and
 - the effect of the proposal upon the Cranborne Chase Area of Outstanding Natural Beauty.

Reasons

Site and proposal

5. The appeal site is a parcel of land accessed via an existing unmade track off of Emley Lane. The site is located within the Green Belt, the Hinton Martell Conservation Area (the 'CA') and the Cranborne Chase Area of Outstanding Natural Beauty (the 'AONB'). It is proposed to erect two detached dwellings at the site with associated parking and garages.

Whether the proposal represents inappropriate development in the Green Belt

6. The Government attaches great importance to Green Belts. 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.
7. Paragraph 145 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. However, an exception to this, as set out by criterion (e) of paragraph 145, is "limiting infilling in villages".
8. Policy KS2 of the Christchurch and East Dorset Local Plan: Part 1 – Core Strategy (the 'CS') sets out the Council's settlement hierarchy and identifies the settlement of Hinton Martell as a village. In such settlements, the policy explains that "only very limited development will be allowed that supports the role of the settlement as a provider of services to its home community."
9. The Council's proposals map identifies a 'village infilling area' for Hinton Martell, where the principle of new residential development is acceptable. The appeal site is located outside of the 'village infilling area'. To this regard, the proposed development would conflict with Policy KS2 of the CS.
10. Notwithstanding the above, it is not disputed that the Council cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances, for applications involving the provision of housing, paragraph 11 (d) of the Framework explains that the policies which are most important for determining the application are out-of-date¹. Consequently, for the purposes of determining this appeal, Policy KS2 of the CS is out of date.
11. The Courts² have found that the boundary of a village defined in a local plan, such as the 'village infilling area', as shown on the Council's proposals map, may not be determinative for the purposes of determining whether a site is located within a village for the purposes of applying paragraph 145 (e) of the Framework.
12. Development within Hinton Martell is predominately laid out in a linear pattern along either side of the main road that runs through the village. However, there are several short lanes and tracks off the main road that provide access to residential properties which are located behind the dwellings that face onto the main road. Indeed, Emley Lane serves an existing dwellinghouse, known as New Manor Farm House, which is located immediately adjacent to the appeal site.

¹ See Footnote 7 of the Framework

² Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195

13. The existing lanes, tracks and backland development collectively contribute to the overall pattern of development and the local distinctiveness of the area, whereby the broadly linear pattern of development is disrupted by these features.
14. The appeal site is served by an existing unmade track and the use of the site for residential purposes would respond to the prevailing pattern of development within Hinton Martell. Moreover, immediately to the rear of the site there are agricultural buildings with open land beyond, which acts as a visual boundary to the village when viewed from Emley Lane. Therefore, having regard to the facts on the ground, I am satisfied that the appeal site is located within a village for the purposes of paragraph 145 (e) of the Framework.
15. The terms 'limited' and 'infilling' are not defined in the Framework and these are essentially a question of fact and planning judgement for the planning decision-maker having regard, for example, to the nature and size of the development itself, the location of the application site and its relationship to other, existing development adjoining and adjacent to it³.
16. To the front of the site there is a group of residential properties at Old Manor Farm. To the east, there is New Manor Farm House, which is a two-storey detached dwellinghouse. To the west of the site, the side elevation of the nearby residential dwelling known as 'Martins' faces Emley Lane. Moreover, as set out above, there are agricultural buildings to the rear of the site. Therefore, having regard to the location of the appeal site and its relationship to other, existing development adjoining and adjacent to it, I consider that the proposed development would represent infilling. Given that the appeal relates to two three-bedroom houses of a moderate size and scale, which would be of a comparable size to New Manor Farm House, the infilling would be limited.
17. For the reasons given, notwithstanding the conflict with Policy KS2 of the CS, I conclude that the proposal would constitute limited infilling within a village. Therefore, the proposal would not be inappropriate development within the Green Belt and would accord with paragraph 145 of the Framework.
18. The Council's concerns in respect of the loss of openness are noted. However, where a development is found to be 'not inappropriate' when assessing a proposal against paragraph 145 (e) of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.
19. The parties dispute whether the appeal site should be classified as previously developed land for the purposes of paragraph 145 (g) of the Framework. Given my conclusion on this main issue, this is not a determinative point on which this appeal turns. Therefore, this is not a matter which I need to address.

Conservation area

20. 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.
21. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph

³ R (Tate) v Northumberland County Council [2018] EWCA Civ 1519

- 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and, the more important the asset, the greater the weight should be.
22. Paragraph 194 states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
23. The Council's conservation area appraisal⁴ (the 'CAA') for the CA explains that the boundaries of the CA are tightly drawn around the oldest part of the village and generally follow field boundaries where they meet the village. In terms of built form, the traditional buildings located in the CA feature a variety of materials. Walls are of cob or brick under roofs of thatch, plain clay tiles or occasionally slate.
24. The appellant explains that the proposed dwellings have been designed to appear as converted agricultural buildings, which he states would be similar to a new dwelling constructed at Penny's Cottage pursuant to a grant of planning permission by the Council⁵. The property is located approximately 60 metres to the east of the appeal site.
25. The proposed dwellings would have a cropped gable roof form with a single storey eaves height and the first-floor accommodation would be provided within the roof level. Externally, both dwellings would have a brick and horizontal timber clad exterior. The submitted plans shown that one of the dwellings would have a clay tile roof, whilst the other would have a slate tile roof.
26. In front of the proposed dwellings there would be an area of gravel for vehicle parking. In addition, each of the dwellings would be provided with a detached garage. The garages would be of an identical design and appearance and comprise of an open car port section and an enclosed garage under a cropped gable roof form.
27. Paragraph 124 of the Framework explains that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve.
28. Whilst the form and overall scale of the proposed dwellings would be an appropriate response to the site's rural context, and, despite the use of brick and timber cladding, the external appearance of the proposed dwellings would lack high quality architectural detailing, which is a common feature of the traditional buildings located within the CA. As such, the development would fail to convey the appearance of converted agricultural buildings. Overall, the proposed dwellings would have a suburban appearance, which would be reinforced by the extensive parking area and large garages to the front of the site, all of which would be readily visible from Emley Lane. For these reasons, the proposal would fail to respond to the local character.
29. I am cognisant that the form of the proposed dwellings would be similar to the recently approved development at Penny's Cottage. However, based on the

⁴ East Dorset District Council: Supplementary Planning Guidance No.6 (September 2005)

⁵ Council Ref: 3/18/2048/FUL

evidence before me, which includes my site observations, I consider that the proposal is materially different to the development at Penny's Cottage.

30. The design of the dwelling at Penny's Cottage features high quality architectural detailing such as exposed rafter feet, bonnet hip tiles and projecting brickwork below the eaves on the side facing elevations, all of which contribute to a high quality development, which results in the dwelling appearing as a converted agricultural building. By contrast, the proposal features no such details and would appear as an incongruous suburban development. Moreover, the approved development features a small parking area, when compared to that of the proposed site layout, and does not have detached garaging.
31. The appellant suggests that changes to the parking area and external appearance of the proposed dwellings could be secured by the imposition of planning conditions. However, this would likely result in fundamental changes to the proposed development. To this regard, the Planning Practice Guidance (the 'PPG') explains that "It would not be appropriate to modify the development in a way that makes it substantially different from that set out in the application⁶". Consequently, the imposition of such conditions would not meet the tests as laid out in paragraph 55 of the Framework.
32. The Council have expressed concerns about the impact of the proposal on the existing views of the open countryside from Emley Lane. However, given the separation distance between the proposed dwellings and Emley Lane, in addition to the low density of the proposed development and the moderate size and scale of the buildings, I am satisfied that the proposed development would preserve the existing countryside views from Emley Lane. Consequently, I find this aspect of the proposed development to be acceptable. However, this is a matter of neutral consequence and does not outweigh or overcome the harm that I have identified above.
33. In conclusion, for the reasons given, the proposed development would neither preserve or enhance the character or appearance of the CA, and, thus, it would be harmful to the significance of the designated heritage asset. Nevertheless, I consider that the harm would be less than substantial and in accordance with paragraph 196 of the Framework, that harm should be weighed against any public benefits of the proposal, including securing its optimal viable use.
34. In terms of public benefits, the delivery of two additional dwellings would make a positive contribution to the Council's housing land supply. Moreover, there would be some limited benefits to the construction industry and the vitality and viability of the facilities and services in the local area from the spend of future occupiers, as such the proposal would have social and economic benefits. However, any social or economic benefits would be modest due to the quantum of development. Consequently, I find that these benefits would not outweigh the harm to the significance of the CA.
35. In conclusion, the proposal would, therefore, fail to preserve or enhance the significance of the CA. As such, the proposal would not accord with Policy HE1 of the CS, which requires development proposals to conserve and, where appropriate, enhance the significance of heritage assets. In addition, the proposal would conflict with Chapter 16 of the Framework.

⁶ PPG Paragraph: 012 Reference ID: 21a-012-20140306

AONB

36. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
37. Policy HE3 of the CS explains that the development proposals within and/or affecting the setting of the Area of Outstanding Natural Beauty will need to demonstrate that account has been taken of the relevant Management Plan.
38. The site is located within the 'Southern Downland Belt' landscape character area of the 'Open Chalk Downland' landscape character type as set out within the Statutory Management Plan for the Cranborne Chase Area of Outstanding Natural Beauty 2019-2024 (the 'Management Plan'). Within this area, the Management Plan explains that there are low density scattered settlements of farmsteads and the occasional downland village.
39. Whilst the proposed development would be low density, for the reasons given above, I have found that the proposal would be an incongruous form of development that would fail to respond positively to the character and distinctiveness of the local area. Consequently, the proposal would neither conserve nor enhance the landscape and scenic beauty of the AONB.
40. The Council have expressed concerns about the extent of light spill which would likely be emitted by the proposed rooflights, which would serve bathrooms within the respective dwellings. The Council explain that the light spill would have a negative impact upon the dark skies of the AONB, which gained Dark Sky Reserve status in October 2019. To this regard, the Management Plan explains that poorly directed or excessive lighting can cause sky-glow, which reduces the ability to see and enjoy the night-sky.
41. Whilst I recognise that the bathroom areas are unlikely to be used for prolonged periods, the bathrooms would be used on a frequent basis and such use during night hours would require the use of artificial lighting, which would have a negative impact upon the dark skies of the AONB. It would also increase the cumulative effect of light pollution caused by the existing rooflights within Hinton Martell.
42. The appellant explains that they are willing to remove the rooflights and replace them with dormer windows. He states that such works could be secured by a planning condition. Whilst such changes may preserve the dark skies of the AONB, such works would represent a significant change to the proposal. As set out above, planning conditions should not be used to modify the development in a way that makes it substantially different from that set out in the application.
43. For the reasons given, I conclude that the proposal would neither conserve nor enhance the natural beauty of the AONB. As such, the proposal would not accord with Policy HE3 of the CS and paragraph 172 of the Framework.
44. Moreover, the proposal would be inconsistent with paragraph 180(c) of the Framework, which states that planning decisions should limit the impact of light pollution from artificial light on intrinsically dark landscapes.

Planning Balance

45. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.
46. The Council cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances, paragraph 11(d)(i) of the Framework states that the presumption in favour of sustainable development should be engaged unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
47. Footnote 6 of the Framework provides a complete and exhaustive list of those Framework policies to which paragraph 11(d)(i) refers, which includes policies relating to land designated as an Area of Outstanding Natural Beauty and designated heritage assets.
48. Given my findings in relation to the effect of the proposal upon the CA and the AONB, which provide a clear reason for refusing planning permission, the presumption in favour of sustainable development does not apply.

Other Matters

49. The appeal site is located within five kilometres of the Dorset Heaths Special Protection Area, the Dorset Heaths Special Area of Conservation and the Dorset Heathlands Ramsar. The Council advise that appropriate mitigation would be secured via the Community Infrastructure Levy, as set out within the Dorset Heathlands SPD. Whilst this may be the case, as I have concluded that the proposed development would conflict with other development plan policies, and given my findings on the second and third main issues, this is not a matter I need to address. For this reason, I have not undertaken an appropriate assessment.
50. The proposed development would contribute to the Council's housing land supply needs. Moreover, as set out above, the proposal would have some limited social and economic benefits. These positive benefits need to be weighed in the overall planning balance.

Conclusion

51. I have found that the proposal would constitute limited infilling within a village, and, thus it would not be inappropriate development within the Green Belt. However, the proposal would fail to preserve or enhance the significance of the CA and would neither conserve nor enhance the natural beauty of the AONB. These are matters of overriding concern and outweigh the limited benefits identified above. Therefore, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR