



Appeal Decision

Site Visit made on 27 July 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/V1260/W/21/3270730

Merley Court Touring Park, Merley House Lane, Poole, BH21 3AA

- 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 Shorefield Holidays Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/19/01586/C, dated 20 December 2019, was refused by notice dated 14 September 2020.
 - The development proposed is the Change of Use of Land for the Stationing of 99 Static Lodge Caravans for Permanent Residential Occupation.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs is made by Shorefield Holidays Ltd against the decision of Bournemouth Christchurch and Poole Council. This costs application is set out with a separate decision.

Main Issues

3. The main issues are the following:
 - whether the proposal would be inappropriate development in the Green Belt (GB) having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect of the proposals on highway safety.
 - The effect of the development on the tourism provision within the Poole area.
 - The effect of the development on international ecological sites.
 - If the development is inappropriate within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development

4. Paragraph 147 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. Furthermore, policy PP2 (6) states that in the South East Dorset Green Belt the Council will carefully manage the Green Belt in accordance with national policy.
5. In this case the proposal is for a change of use of the land to provide 99 static caravans for residential use. Some of these static caravans are already on site but for tourism use, implementing previous planning consents. However, in fully implementing the proposals under this appeal then many more caravans would be brought and kept at the site.
6. Paragraph 150 of the Framework sets out the forms of development which are not inappropriate within the Green Belt. This includes a material change in the use of land, such as in this proposal. However, paragraph 150 also states that this only applies where the change of use would preserve the openness of the site and does not conflict with the purposes of including land within it.
7. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to keep land permanently open. Openness is generally accepted to mean absence of structures or activity. In this case, as I have established, the change of use would result in more structures and associated paraphernalia on this large site. As such, the development would erode the sense of openness of this site, both spatially and visually.
8. I therefore conclude that the proposal would constitute inappropriate development in the Green Belt. However, as mentioned there is already consent for 99 static caravans on the site, albeit for tourism use, which could be a fallback position. Whether this along with other matters amounts to very special circumstances will be considered in detail later in this Decision.

Tourism Provision

9. The Council state that the proposal for the change of use of the site to residential, thereby resulting in effectively 99 dwellings rather than 99 units of tourism accommodation, would have a detrimental effect on Poole's tourism sector. The Council describe the site as being within a Holiday Park which is established and active.
10. The appellant has provided evidence that suggests that the existing static caravan provision already oversupplies for the area, with other holiday parks such as the one at Rockley Park being established and active. The appellant has also claimed that the overall static caravan holiday market is declining, although it already just a small part of the holiday accommodation market. This evidence is not contested in any detail by the Council and I have no reason to doubt that there is already sufficient tourism accommodation of this type to meet demand in the long term, even if there was no such provision at Merley Court Park.
11. Section (b)(i) of Poole Local Plan policy PP23 requires that where there is to be a loss of tourism accommodation it needs to be demonstrated that the continued use is no longer financially viable and attractive to future occupiers.

The site was previously based mainly on touring caravans and so no such viability information can be reasonably expected in these circumstances based on static caravan use. I note the appellant's statement that the money generated from the appeal proposal can be reinvested into other tourism accommodation sites, but there is no guarantee of this, and it may not be in the Poole area, as policy PP23 requires. As such, the proposal does have some conflict with the requirements of this policy as this is a tourism site (touring caravans previously but with permission for static caravans) which would change to residential, thereby effectively reducing tourism accommodation in the Poole area.

12. However, whilst the proposal may not fully accord with all aspects of this policy it is apparent from the evidence that static caravans at Merley Court Park are not needed to ensure the ongoing strength of Poole's tourism offer. Indeed, with regard to tourism accommodation under policy PP23 supporting text (paragraph 7.63) it sets the aim of maintaining an adequate supply of tourist accommodation. Whilst the Council would usually seek to resist the loss of touring or static caravan sites, in this case it has been demonstrated that the loss of this tourism site would have negligible impacts to Poole's tourism provision due to the existing other established sites that currently supplies sufficient accommodation of the caravan type. Therefore, whilst the conflict with some of the policy requirements are acknowledged (such as the lack of a viability assessment) there is sufficient evidence before me to suggest that one of the fundamental aims of PP23, being the maintaining of an adequate supply of tourism accommodation, would not be harmed by the proposal.
13. As such, the proposal would not conflict with the wider aims and objectives of policy PP23.

Highway Safety

14. The Merley Court Park site is connected to the A31/A349 junction by Merley House Lane. This is a road of two lane width, thereby meaning there is no issue with passing vehicles coming from different directions. The visibility onto the junction/roundabout on the A31 appears sufficient. It is also important to note that this has been the established access route for the holiday site for many years, where cars and touring caravans would use this route most months of the year. There is no substantive evidence that there were issues with this level of traffic along Merley Park Lane or at the access with the A31/A349 in terms of congestion or traffic flow. On this basis the traffic generated by the 99 static caravans for residential use should not result in any highway issues for vehicles. The wider highway network, from the evidence provided and my observations on site, should have the capacity for any additional traffic that the development would result in.
15. The particular issue raised by the Council is that of pedestrian safety. Merley Park Lane does not generally have any footpath down to the A31/A349 junction. At this point, there is a footpath which can be followed into the village of Merley. The distances to Merley would mean a lengthy walk to the services near the site, though cycling would not take so much time. However, given the lack of footpaths I would consider that this would put off many future residents from walking if this was their intention.
16. Further to the lack of footpaths there is not much width to the verge to walk along, with it probable in my view that people would likely walk on the road

(especially if the verges are muddy after periods of rain). Whilst most traffic may travel slowly along Merley House Lane, this may not apply to all traffic. The bends in the road may also mean that pedestrians are not sighted by drivers until they are close by.

17. Whilst there has been no Highway Authority objection, this may have been due to the fact that there is already planning permission for 99 static caravans for tourism use. However, this is a different proposal and it should be considered as a scheme for 99 permanent dwellings, rather than for tourism. There may have been specific justification for the previous consent, such as it being more reasonable for tourists to depend on private vehicles for day trips or to get to shops and facilities, for example. However, if people are to be living all year at these static caravans as effectively their residential dwelling they would likely need frequent day-to-day access to shops, services and facilities, typical of domestic living. Furthermore, these static caravans would be used all year, rather than for a limited period.
18. Therefore, I would regard the residential use now proposed as a different circumstance or character of usage to tourism accommodation. I would regard permanent residential use to have a necessity for appropriate accessibility for a range of modes of transport, including sustainable modes such as walking.
19. The Framework requires that applications for development should give priority first to pedestrian and cycle movements, and create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles (paragraph 112). I would regard there as being a necessity for people to be able to walk to some services. Cycling is more of a possibility, but I would regard Merley House Lane to not provide a suitably conducive walking environment, given the lack of footways. There is also limited lighting. It is my view that Merley House Lane would not be satisfactorily safe to walk, especially in times of inclement weather or low levels of natural light. From the evidence this route would be the main link between the proposed homes and the nearest settlements. As such, this is not a development that adequately promotes sustainable transport, as required by the Framework in Chapter 9.
20. I recognise that Merley House Lane would have been used for cars pulling touring caravans in the past. Without the touring caravans then safety on this road could be improved, but nonetheless this proposal would still result in 99 permanent new homes without a satisfactory pedestrian link to neighbouring areas.
21. Overall, whilst I acknowledge that there has been approval for 99 static caravans for tourism accommodation, this appeal is for permanent residential accommodation to which there is a necessity for reasonable and safe access, including for those walking. Without the pedestrian footpaths along Merley House Lane, I do not regard there to be reasonable and safe access for those walking to and from the site.
22. Policy PP2 requires development to demonstrate suitable sustainable transport measures have been incorporated into the proposal to connect the development with town, district and local centres, as an alternative to reliance upon the car. The lack of pedestrian footways, resulting in highway safety concerns for pedestrians, means that there would be a lack of suitable sustainable transport options and a likely over-reliance on car use. Policy PP35

requires safe and accessible places and for (where appropriate) walking and cycling infrastructure that enables active travel for commuting or leisure purposes which is linked to established path networks, amongst other things. I conclude that the proposal is contrary to these policy requirements.

23. Furthermore, the proposal does not comply with the Framework with regards to sustainable transport (Chapter 9) which includes a requirement for safe and suitable access to the site to be achieved for all users (paragraph 110).

International Ecology Sites

24. As set out by Natural England (NE) the proposal is on a site which falls within the 400m-5km area from a number of component heathland SSSIs, which comprise part of the Dorset Heathlands Special Protection Area (SPA) and Ramsar and Dorset Heaths Special Area of Conservation (SAC).
25. It is anticipated that the change in occupancy type for the proposed static caravans, with no restriction on the length of time of occupancy within each year, would be the equivalent to 45 additional flats, based on the Council figures. Additional recreational pressures in this regard will arise as a result of the new homes proposed. Accordingly, I consider that occupation of the proposed development would be likely to increase recreational pressures on the SPA, SAC and SSSI, and, either alone or in combination with other development in the area, would have a significant effect on them.
26. Furthermore, the proposal also has the potential to effect Poole Harbour, which is another SPA. These issues relate to water quality and the pressures arising from recreational activities.
27. Mitigation has been set out within the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (SPD) and the Poole Harbour Recreation 2019-2024 SPD. This would be a financial contribution through Heathland Infrastructure Projects and Strategic Access Management and Monitoring which the appellant has committed to with a submitted 'Unilateral Planning Obligation'.
28. Had I been minded to allow the appeal, it would have been necessary for me to consider this matter in further detail, such as consult Natural England and consult the Council on the legal agreement received. However, as I am dismissing the appeal for other reasons, further consideration is not required on these issues.

Other Considerations

29. As explained above, whilst this is a change of use application there would be a material loss of openness as a result, with the provision of the 99 static caravans on the site. However, there is already consent for these caravans, though with a restrictive condition allowing their occupancy for less than a full year. These are, from the evidence before me, extant consents. As such, there is a fallback position for the appellant, in that they could develop the site to contain the 99 static caravans for a tourism use rather than the residential use under consideration with this appeal. On this basis, there would be no material difference with regards loss of openness between the extant consents and the appeal scheme.

30. The Council has highlighted possible domestic paraphernalia associated more with residential uses, but there is no substantive evidence that this would have more of a material effect to openness than that associated with the caravans if used for tourism. There is also no detailed evidence that the proposal would lead to future development to improve the static caravans due to their longer term residential use.
31. Overall, with regards to the loss of openness within the Green Belt, there would not be any material difference in terms of impact to the openness of the Green Belt from the situation if the fallback was to be fully implemented (which I regard as having a reasonable likelihood of occurring if this appeal is dismissed). I give this matter substantial weight.
32. In terms of benefits, the proposal would provide 99 homes, which would make a significant contribution to housing provision in the area, which the appellant has highlighted as having a shortfall evidenced with the Housing Delivery Test result for the Poole District. I give this matter also substantial weight.

Do very special circumstances exist?

33. For the reasons set out in the 'other considerations' section above, the proposal does not conflict with the purposes of the Green Belt as set out in the Framework, given the fallback position for example.
34. I have also concluded that there would be no harm to the tourism provision for Poole, and that sufficient mitigation has been provided to address any potential harm to the international ecology sites. However, such lack of harm would be neutral in its weight towards a consideration as to whether very special circumstances exist.
35. There is also the substantial benefit of the housing provision, where there is an identified need for new dwellings with a shortfall demonstrated in the Housing Delivery Test.
36. However, there remains the harm I have identified because of the lack of suitable pedestrian access to and from the site. This I would give significant weight due primarily to the highway safety issues, as explained above.
37. Overall, for very special circumstances to exist, the benefits and all other positive considerations need to clearly outweigh the totality of the harm identified. It is my opinion that whilst the development would provide substantial benefits in terms of other considerations, with the potential supply of 99 homes in particular, this does not clearly outweigh the harm I have identified in respect to highway safety.
38. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Planning Balance

39. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any

adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

40. The proposal would provide new homes towards the local housing supply. There would be economic benefits from the construction of the static caravans, and from future occupants supporting the local economy, amongst other potential benefits.
41. However, the harm in respect to highway safety with the associated lack of sustainable transport connections identified would be significant. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

42. For the reasons given I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR