



Appeal Decision

Site visit made on 8 September 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Appeal Ref: APP/V1260/D/21/3270314

Amberwood Cottage, St Catherine's Hill Lane, Christchurch BH23 2NL

- 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 Mrs Wiltshire against the decision of Bournemouth Christchurch Poole Council .
 - The application Ref 8/19/1495/HOU, dated 23 November 2019, was refused by notice dated 10 December 2020.
 - The development proposed is described as '*The applicant was led to believe the proposed works fell under permitted development and has built the outbuilding around these constraints, however the LPA have advised that it doesn't and the application shouldn't have been granted in the first instance, therefore this is a retrospective application following the approval of the certificate of lawfulness REF - 8/16/2948/CLP*'.
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Decision

1. The appeal is allowed and planning permission is granted for annexe at Amberwood Cottage, St Catherine's Hill Lane, Christchurch BH23 2NL in accordance with the terms of the application Ref: 8/19/1495/HOU, dated 23 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 100, 101, 102, 103.
 - 2) The annexe shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Amberwood Cottage.

Procedural Matters

2. The proposed development as shown on the drawings which accompany the appeal is already in existence and I made my assessment on that basis.
3. I have taken the description of development from the decision notice as it is the most concise and accurate before me. In doing so I have referred only to the development proposed, not the retrospective nature of the application.
4. Since the appeal was lodged a new National Planning Policy Framework has been published (the Framework). The main parties have had the opportunity to provide comments on the revisions therein during the appeal and I have therefore had regard to the new Framework without prejudice to them.
5. On 1 April 2019 Christchurch Borough Council merged with Bournemouth Borough Council and Borough of Poole Council to become Bournemouth, Christchurch and Poole Council. However, the development plan for Christchurch Borough Council remains in force within its former jurisdiction. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the former Christchurch Borough Council.

Main Issues

6. The main issues are:

- whether or not the annexe is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect of the annexe on the character and appearance of the area, with reference to Amberwood Cottage and the settings of the Grade II listed buildings The Rest and The White House; and,
- if there is harm by reason of inappropriateness, and any other harm, is it clearly outweighed by other considerations. If so, does this amount to the very special circumstances required to justify the annexe.

Reasons

Whether the annexe is inappropriate development in the Green Belt

7. Amberwood Cottage is attached to the west to the dwelling The Rest. Its tree and vegetation bound grounds wrap around the cottage to the north and east and include the annexe subject to this appeal. The site is part of a loose group of dwellings at the edge of Christchurch which fall within the Green Belt.
8. The Framework establishes that the construction of new buildings in Green Belts is inappropriate subject to several exceptions. I have been referred to those now contained within Paragraph 149 c) and g). They respectively relate to the extension or alteration of a building, and, in the absence of affordable housing, the limited infilling or the partial or complete redevelopment of previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development.
9. Policy KS3 of the Christchurch and East Dorset Local Plan Part 1 - Core Strategy (adopted 2014) (CS) makes no references to inappropriate development nor the exceptions. However, it does recognise the importance of maintaining the openness of the Green Belt. Its approach is broadly consistent with the Framework in this regard.
10. Given its scale and distance from the cottage, the annexe cannot be held to constitute an extension to the dwelling. As such, Paragraph 149 c) of the Framework is not relevant to my assessment. With regard to Paragraph 149 g), in my view, the site is just within the built-up area of Christchurch. Having regard to the definition of PDL within the Framework, it follows that the site does not comprise PDL. Even if it did, the annexe clearly occupies a portion of what was previously open garden. It has therefore had a greater impact upon the visual and spatial openness of the Green Belt, albeit to a modest extent.
11. As such, I conclude that the annexe is inappropriate development in the Green Belt. Its development is contrary to Policy KS3 of the CS. Saved Policy H14 of the Borough of Christchurch Local Plan (CLP) (adopted 2001) has also been referenced. It deals with extensions to existing dwellings and is not relevant.

Character and appearance

12. Amberwood Cottage is locally listed and is a non-designated heritage asset. The Rest is a Grade II listed building and, beyond it to the west, The White

House is also Grade II listed. I have a duty to have special regard to the impact of the annexe on the settings of the listed buildings.

13. Amberwood Cottage is modest but its wrap around garden frames its setting which, together with its prominent thatched roof, provides it with provenance and a degree of primacy within its grounds. It also has a slate roofed wing and an attached conservatory which indicate phases of development. Its garden is intimate and beset with domestic structures and paraphernalia, including a little brick outbuilding with a modest chimney. These attributes provide the cottage and its grounds with a somewhat cluttered and motely character.
14. The annexe is large and atop a raised area in the site. However, it is clearly set within the grounds of Amberwood Cottage, not the other way around. Its design and finishes contrast with the cottage but tie in with the smaller outbuilding. Within the context of this populated garden space, this draws the annexe into subservience with Amberwood Cottage despite its relative scale and elevation. Whilst the tile roof covering is quite bright, it is logical that it will weather over time and adopt a more muted tone, similar to the roof of its little compatriot. As such, the heritage interest of Amberwood Cottage is intact as it remains the foremost building and focal point of this space.
15. The significance that The Rest and The White House derive from their settings is drawn principally from their picturesque appearance and environs. They have group value together with Amberwood Cottage. However, Amberwood Cottage stands between the annexe and The Rest and The White House which means that there is very little intervisibility between them, despite their proximity. Given such, and as the annexe maintains an acceptable relationship to Amberwood Cottage, it follows that the significance that the listed buildings draw from their respective settings is unharmed in each case.
16. In general landscape terms, the annexe is very well concealed from the public realm. If glimpsed, it reads as a further, suitably scaled, domestic addition to what is an established suburban residential area, characterised by modest detached buildings in a fairly dispersed and informal pattern.
17. I therefore conclude on this issue that the annexe has an acceptable effect on the character and appearance of the area, with particular regard to Amberwood Cottage and the settings of the Grade II listed buildings The Rest and The White House. It accords with the heritage and design aims of Policies HE1 and HE2 of the CS, saved Policy H12 of the CLP and the Framework.

Other matters

18. The site is within 400m of the Town Common SSSI which forms part of the Dorset Heathlands Special Protection Area (the SPA). I understand from the Council's evidence that the Dorset Heathlands Planning Framework 2020-2025 states that annexes within 400m of the SPA are acceptable. I have no reason to disagree, and this leads to the conclusion that likely significant effects can be ruled out in the first instance. There is also no clear evidence that the annexe has had a detrimental effect on biodiversity, including protected species, at the site.
19. Interested parties have questioned the lawfulness of the smaller outbuilding within the grounds of Amberwood Cottage. Photographic evidence shows that it has been altered from a previous, lower profile structure. However, these photographs date from 2012 and there is no other evidence before me to

indicate that the alterations to it are not lawful at this stage. On site I observed that it is functioning in a capacity clearly incidental to the enjoyment of the cottage. As such, this issue has not been determinative in my assessment.

20. Comments about the erection of a fence are beyond the scope of the proposal. Similarly, any previous removal of boundary vegetation is not an act of development. As each case is assessed on its own merits, the scheme should not be seen to set a precedent for development elsewhere. Given its modest impact and the intervening boundary treatments, the annexe has a negligible effect on the living conditions of the users of adjacent properties. There is no substantive evidence that the annexe has caused any drainage issues on or offsite, nor that the annexe is unsafe for its occupants.

Other considerations

21. I have concluded that the annexe is inappropriate development that has reduced the openness of the Green Belt in conflict with national and local policy. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
22. The annexe allows the elderly, dependent relatives of the appellant to live and be cared for on site. These personal circumstances are a consideration which weighs moderately in favour of the annexe. Amberwood Cottage is modestly proportioned with internal steps and narrow spaces ill-suited to the needs of people with limited mobility. As such, I am not persuaded that these circumstances could alternatively be met inside the dwelling. It follows, therefore, that the potential homelessness of the appellant's parents as a consequence of my decision is a further consideration of moderate weight.
23. The site history is also a consideration. In particular, the Council has accepted that the former local planning authority erred in certifying the lawfulness of the erection of a similarly sized and sited building clearly designed as accommodation in 2017 under Ref 8/16/2948/CLP. Some of the advice of the previous authority up until that point also suggested that a form of ancillary outbuilding could be permitted development. In my opinion, these misleading events were a decisive catalyst for the series of decisions which have ultimately precipitated the current situation. Consequently, I consider this site history to be a consideration which weighs significantly in favour of the annexe.

Green Belt Balance

24. Drawing my findings together, the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Planning Balance

25. Planning law requires that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The conflict with Policy K53 of the CS draws the scheme into conflict with the development plan when read as a whole.

26. I have also found that very special circumstances exist that justify the development in the Green Belt, despite its inappropriateness and loss of openness. These circumstances are a material consideration that indicates that permission should be granted despite the conflict with the development plan.

Conditions and Overall Conclusion

27. It is necessary for a condition to identify the plans in the interest of certainty. It is also necessary in the interests of certainty for a condition to maintain the ancillary status of the annexe. Given the intimate, shared relationship between the annexe and Amberwood Cottage, I am satisfied that such a condition would be reasonable and enforceable.
28. For the above reasons, and taking all other matters raised into account, I conclude that the appeal should be allowed.

Matthew Jones

INSPECTOR