
Appeal Decision

Hearing Held on 19 July 2022

Site visit made on 19 July 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/D1265/W/22/3296577

Land adjacent to 112 Wimborne Road, Corfe Mullen, Dorset BH21 3EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Amirez Developments Ltd against the decision of Dorset Council.
 - The application Ref 3/20/2298/FUL, dated 21 December 2020, was refused by notice dated 14 October 2021.
 - The development proposed is erection of 9 dwelling houses with associated access, parking and turning areas.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The site comprises part of a former railway cutting. This was infilled and granted permission for change of use to a domestic garden during the 1980s. Notwithstanding the site address, it remains directly connected to the plot on which 112 Wimborne Road stands and provides access to the latter. No further change of use has since been permitted. The appellant however claims that the lawful use of the site should now be considered sui generis given the storage of various vehicles within it over a period of 30 years.
3. It is not within the scope of this appeal to conduct an exercise as to lawful use or operation. The correct avenue would be for the landowner or appellant to apply for a Certificate of Lawfulness of Existing Use or Development (CLEUD) under Section 191 of the Act, in relation to which a separate right of appeal exists. I have however taken account of the evidence submitted insofar as it is material to this appeal. Whilst this includes statutory declarations, the supporting information is otherwise of very limited and somewhat indeterminate nature, consisting of a few photos of varied age showing 1–4 vehicles parked in different positions. I additionally observed a number of trucks parked on the site during my visit. How representative this was of activity over the past 30 years is however unclear, and was furthermore strongly contested by interested parties at the Hearing. Given the above I can attach little weight to the appellant's claim. Thus, for the purposes of this appeal I have considered the site as forming part of the garden of No 112.
4. Regardless of the outcome of this appeal, it remains open to the landowner or appellant to apply for a CLEUD.

Main Issues

5. The main issues are:

- whether the development would be inappropriate in the Green Belt;
- the effect of the development on the openness of the Green Belt;
- if the proposal would be inappropriate development, whether 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 it.

Reasons

Whether the development would be inappropriate

6. The site is located within the South East Dorset Green Belt. Paragraph 149 of the National Planning Policy Framework (the Framework) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions listed include limited infilling in villages, as set out in bullet (e) of paragraph 149, in relation to which the appeal has been lodged.
7. As outlined above, the site is a section of infilled railway cutting. It has a correspondingly linear shape and generally stands at a much lower level than both No 112 and neighbouring dwellings. These attributes continue to emphasise the role that the cutting historically played in containing housing development along its southern side. Relative to its setting the site thus has a somewhat ambiguous character, and appears to fall beyond the settlement edge. This, and the site's history, helps to explain both its current position outside the defined settlement boundary and inside the Green Belt. For the purposes of Paragraph 149, it is nonetheless reasonable to consider that as No 112 falls within the built up area of Corfe Mullen, so too does its garden.
8. Corfe Mullen forms a component of the same largely contiguous built up area as Poole, Bournemouth and Christchurch. Despite its current presence within a separate local authority area, it is indeed part of the conurbation around which the Green Belt was originally designated. Its population is reasonably large, standing at around 10,000, and at a size therefore comparable to some smaller towns within Dorset. Though it contains a relatively modest range of services, direct access exists to other services in adjoining parts of the conurbation. In this regard Corfe Mullen has a strong physical and functional relationship with the latter, relative to which it has a similar suburban character.
9. As a settlement Corfe Mullen is and has been variously described both by and within different sources. This includes the Christchurch and East Dorset Core Strategy 2014 (the CS) produced by the Council's predecessor local planning authority. This classifies Corfe Mullen as a 'main settlement' within its hierarchy, as differentiated from 'villages', despite also naming Corfe Mullen as a village elsewhere. The settlement itself has a Town Council. The emerging settlement hierarchy meanwhile considers Corfe Mullen to form part of the conurbation, broadly reflecting my findings above. Though some inconsistency is therefore apparent, having regard to the situation on the ground, I find that Corfe Mullen cannot reasonably be considered to constitute a village for the purposes of paragraph 149(e).

10. The development would not otherwise represent a clear case of infilling. Though the site is bordered by housing on its south and west sides, fields lie to the north, and a surviving section of the former railway cutting lies to the east. Now heavily wooded, the latter has blended into the landscape. Whilst a former railway bridge lies between, this would not provide a sense of containment comparable with that of housing to west and south. Indeed, for this reason and in view of my findings above, even in the presence of the bridge, when viewed from the east, the development would be perceived as jutting out into the open setting of the settlement rather than filling a pre-existing gap.
11. Though the parties agree that a development of 9 dwellings would be 'limited', my findings above indicate that the exception set out within paragraph 149(e) of the Framework does not apply.
12. I therefore conclude that the development would be inappropriate in the Green Belt. Inappropriate development is by definition harmful.

Openness

13. Paragraph 137 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
14. The site is an open space which is mostly covered by grass, together with some hardstanding and limited ornamental planting. Its openness is freely appreciable both from the former railway bridge and from Wimborne Road. Views are also available from these locations across the site and thence over falling open ground north towards the historic town of Wimborne Minster. These views highlight both the openness of the site itself, and the fact that it forms a small part of a reasonably modest gap between settlements. The absence of built form within the site is additionally apparent from lower ground at Lambs Green towards the north, insofar as this allows reasonably clear views of existing dwellings, including No 112, along the horizon.
15. As the development would entail the introduction of built form within an open space, it would, as a matter of fact, physically erode the openness of the Green Belt. This would be visually obvious from each of the public vantage points identified above, from which the loss of openness would be further accentuated viewed relative to adjacent open space, and to other space within long views towards Wimborne Minster. Notwithstanding my finding that the site forms part of the built up area of Corfe Mullen, this would give rise to a perceptible sense of encroachment and sprawl of built form, both beyond the edge historically defined by the cutting, and out into an open gap between settlements. Insofar as the adverse spatial effects would be clearly apparent visually, I find that the development would thus result in a significant erosion of the openness of the Green Belt.
16. Some erosion of the site's openness currently occurs at times when vehicles park within it. Such effects are however transitory, and thus not comparable to that of the collective massing of 9 2-storey dwellings. Furthermore, the latter would themselves support more frequent parking of vehicles within the site, which, together with other paraphernalia, would further erode its openness.

17. For the reasons outlined above I conclude that the development would cause significant harm to the openness of the Green Belt, which, together with the harm already identified due to inappropriateness, attracts substantial weight. It would also conflict with Policy KS3 of the CS which seeks to maintain wedges and corridors of open land between settlements, and to maintain open land around the conurbation, broadly consistent with the first 4 purposes of the Green Belt set out within paragraph 138 of the Framework.

Other considerations

(a) Purposes of including land

18. The Green Belt boundary was established prior to both the infilling of the railway cutting within the site, and its change of use. The appellant consequently states that the designation is out of date. However, as set out within the Framework, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. It is not therefore within the scope of this appeal to determine whether site's inclusion within the Green Belt is valid.
19. The role of the site in fulfilling the purposes of the Green Belt as set out within paragraph 138 of the Framework has been further challenged. There is however no necessity for every part of the Green Belt to serve every one of these purposes, or to do so equally. Nor is it reasonable to consider that they should. In this regard, and in view of my findings above, I am satisfied that the site makes an important contribution to the openness and function of the broader Green Belt which would be undermined by the development.
20. Though it is additionally suggested that development of the site would help safeguard other more valuable parts of the Green Belt, I have been presented with no evidence to substantiate this claim. These arguments thus fail to attract any weight in favour of the scheme.

(b) Previously developed land

21. The appellant claims that the development would assist in urban regeneration by recycling urban land. This fifth purpose of the Green Belt more clearly applies to urban land outside it. For sites inside, the exception set out in paragraph 149(g) of the Framework, which specifically relates to previously developed land (PDL), is applicable. Whilst the development clearly cannot benefit from this exception given its effects in relation to openness, I have already established that the site is a domestic, or residential garden within a built up area. It thus falls outside the definition of PDL set out in the Glossary of the Framework.
22. The parties otherwise agree that the site is PDL on the basis of its past use in relation to the railway. But even if I too was to place greater weight on past rather than current use, that part of the cutting within the site has been filled and purposefully blended into the landscape. Again therefore, it would fall outside the definition of PDL set out in the Framework. That and the above being so, the claimed benefits in relation to use of PDL do not attract weight in favour of the scheme.

(c) Character and appearance

23. The parties are agreed that the scheme would not harm the character and appearance of the area or landscape. This is notwithstanding the Council's views in relation to openness. These matters are however assessed separately, and a lack of identified harm ultimately carries no more than neutral weight in the balance.

(d) Biodiversity enhancement

24. A number of biodiversity 'enhancements' could be delivered as part of the development. This is however something that the Framework this seeks in relation to all development. The nature of the enhancements proposed in this case is otherwise wholly unremarkable, and/or no more than policy compliant. Much the same enhancements could be delivered through management of the site in its current use. As such the proposed biodiversity enhancements attract negligible to no weight in favour of the scheme.

(e) Efficient use of land

25. The Framework supports the effective use of land. However, it does so in the context of safeguarding and improving the environment, and thus in the context of its own policies relating to Green Belt protection. The scheme has been further promoted as making efficient use of the site in terms of development density. But whilst the proposed density might reflect that of adjacent developed areas, it clearly would not reflect that of open land within the setting of the site. Indeed, in this regard use of development density as an argument in favour of the loss of openness appears illogical. Again therefore, it is not a consideration which attracts weight in favour of the scheme.

(f) Provision of new housing

26. At the time the application was determined the Council stated that it had a demonstrable 5.36 year supply of deliverable housing sites (5YHLS). The most recently published statement dated March 2022 indicates that the 5YHLS totals 5.2 years. The Council accepts that minor adjustments should be made, but maintains its position that a 5YHLS can be demonstrated. This is contested by the appellant who claims that the 5YHLS instead stands at 4.1 years, equivalent to a shortfall of around 400 dwellings. The parties therefore occupy widely separated positions on this matter.
27. In this context the appellant has drawn attention to the tilted balance set out in paragraph 11 of the Framework. However, given the operation of footnote 7, this is not applicable when balancing harm to the Green Belt.
28. The Framework otherwise sets out the broad objective of significantly boosting the supply of homes and highlights the important contribution that the development of small sites makes to housing supply. The 9 dwellings proposed would inevitably make a positive contribution towards the supply of new homes. These would furthermore be well located in relation to services and transport. The development would nonetheless be limited in scale. So too therefore would be the scale of any associated social and economic benefits. The overall weight that housing provision would thus attract in favour of the scheme when considered within this context would be limited.

29. If I was to additionally accept that there was both a shortfall in the Council's 5YHLS, and that the shortfall stood at the level claimed by the appellant, benefit would also derive from helping to address the unmet need implied. Indeed, the benefits of housing provision in this context would be capable of attracting significant weight in favour of the scheme. Even so, the overall scale of such benefits would remain limited. Consequently, and taking account of my findings in relation to matters (a)–(e) above, the benefits of housing provision would not clearly outweigh the substantial harm that the development would cause to the Green Belt.

Other matters

30. The site lies within 5km of the Dorset Heathlands Special Protection Area, and the Dorset Heaths Special Area of Conservation and Ramsar sites (the habitats sites). Considered alone and in combination with other plans or projects the development would have a likely significant effect on the integrity of these sites due to the increased population that the additional dwellings would support, and the associated generation of recreational activity. An Appropriate Assessment was therefore carried out by the Council. Referring to the Dorset Heathlands Planning Framework 2020-2025, this concluded that funding of infrastructure projects and strategic access management and monitoring measures through the Community Infrastructure Levy would provide mitigation. Natural England agreed. Whilst this would thus allow me to conclude that the development would have no adverse effect on the integrity of habitats sites, this finding would have no more than neutral bearing on the outcome of the appeal.

Planning Balance and Conclusion

31. I have found that the scheme would constitute inappropriate development within the Green Belt, which would cause significant harm to its openness. I have attached substantial weight to the harm that would be caused.
32. As outlined above, the harm caused would not be clearly outweighed by the other considerations advanced in favour of the scheme. These other considerations are therefore insufficient to demonstrate the existence of the very special circumstances necessary to justify approval of the scheme.
33. The scheme would conflict with the development plan, and there are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

Neil McKeon	Planning Consultant, Pure Town Planning
Chris Miell	Planning Consultant, Pure Town Planning
Dominic Oxley	Landowner
Siobahn Oxley	Landowner
Paul Wyatt	Amirez Developments Ltd

For the Council

James Brightman	Senior Planning Officer
Chris Lee	Planning Officer
Debbie Turner	Senior Planning Officer

Interested Parties

Paul Leon	Neighbour
Mr Payne	Neighbour

Documents presented at the Hearing

Corrected event notification letter