



Appeal Decision

Site visit made on 13 June 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2023

Appeal Ref: APP/D1265/W/21/3289038

Land at Eastmoors Farm, St Leonards and St Ives BH24 2SB

- 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 N Hoare against the decision of Dorset Council.
 - The application Ref 3/21/0769/FUL, dated 13 April 2021, was refused by notice dated 11 October 2021.
 - The development proposed is described as 'Seasonal change of use of the land to allow the erection of up to 6 yurts and 3 temporary eco-compostable loos'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are references in the submissions to Eastmoors Farm and East Moors Farm. The address is given on the planning application form as Eastmoors Farm and as such I have used this in the formal banner heading above.
3. At the time of my site visit, I noted that three yurts had been provided on site, together with two timber toilet sheds.

Main Issues

4. The main issues in this appeal are:
 - Whether or not the proposal is inappropriate development in the Green Belt having regard to any relevant development plan policy and the National Planning Policy Framework (the Framework) including the effect on the openness of the Green Belt;
 - Whether the appeal site is a suitable location for the proposal having regard to policies relating to development in areas at risk of flooding; and
 - If the proposal is inappropriate development 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

Whether or not the proposal is inappropriate development

5. The appeal site is located in the Green Belt and comprises established fishing lakes for recreational fishing.

6. Saved Policy TODEV2 of the East Dorset Local Plan adopted January 2002 (EDLP) does not permit new sites or extensions to sites for static or touring caravans, tents, chalets or cabins for holiday use within the Green Belt. Whilst it does not expressly refer to 'yurts', I find that their canvas construction and seasonal nature is such that they could reasonably be construed to be 'tents'. As such, the appeal proposal for six yurts and associated toilets is contrary to Policy TODEV2 of the EDLP.
7. 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. That said, it does not prevent development that is not inappropriate in the Green Belt, with Paragraphs 149 and 150 setting out certain exceptions. Moreover, there is still an avenue for approval where very special circumstances exist.
8. By contrast, the provision of new or extensions to existing sites for touring caravans and camping are considered to conflict directly with the aims of the Green Belt and will always be inappropriate and refused when considered against Policy TODEV2 of the EDLP. This is inconsistent with the Framework.
9. The Council contend that the Inspector in the appeal at Stoney Down Plantation¹ found Policy TODEV2 to be sound. However, my reading of that Decision is that the Inspector found that the proposal was contrary to the policies contained within the development plan relating to the provision of sites for caravans or tents for holiday use within the Green Belt, and that is consistent with my finding above.
10. Policy TODEV2 of the EDLP is inconsistent with the Framework by virtue of being more restrictive. That does not mean that the policy should be set aside but it tempers the weight that should be attributed to it. However, given that the purpose of the policy is to protect the Green Belt, I have attributed moderate weight to it.
11. Moving on to the Framework, Paragraph 149 sets out that the construction of new buildings in the Green Belt is inappropriate except for a limited number of exceptions. The appeal proposal is described as a change of use of the land. The six yurts and three toilet sheds would be stationed on the land for approximately seven months of the year and then removed during the winter months. This, together with the fabric construction of the yurts means that I am not satisfied that the appeal proposal constitutes the construction of new buildings. Accordingly, I find that Paragraph 149 does not apply to the appeal proposal.
12. Paragraph 150 of the Framework refers to certain other forms of development which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 150 (e) refers to material changes in the use of the land such as changes of use for outdoor sport or recreation. My attention has been drawn to an appeal decision at Leavesden² whereby the Inspector concluded that permanent buildings occupied as holiday accommodation did not represent outdoor recreational activity in their own right. However, the appeal before me

¹ Appeal ref: APP/U1240/C/18/3215649

² Appeal ref: APP/D0121/W/18/3216683

relates to the provision of yurts which by their very nature and construction tend to be aimed at providing accommodation to those guests interested in genuine outdoor activity. Their provision in association with the fishing lakes would cater for tourists wishing to fish overnight. Recreation is an activity done for pleasure or enjoyment and in combination with the use of the fishing lakes at the site, I find that in respect of this appeal, the change of use of the land for the provision of yurts could reasonably constitute recreation.

13. As such, it follows that the development would not be inappropriate provided that the use of the land would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
14. The existing fishing lake facility is well screened by established planting both within the site and around its boundaries. Any visual impact arising from the appeal proposal would be limited to within the site and would not affect the wider character of the area, a position not disputed by either of the main parties. The removal of the yurts and toilets over the winter months when the planting is likely to be more sparse would also assist with limiting its visual impact in the wider area. Parking would appear to occur already in connection with the use of the fishing lake and there is no substantive evidence before me that the appeal proposal would lead to an increase in the number of vehicles parked at the site. As such, the appeal proposal would have a neutral visual impact on the Green Belt.
15. However, openness is not just about visual impact. It has a spatial element too and I therefore turn to this issue.
16. Views out from the fishing lakes and it's environ were extremely limited and as such it had a very enclosed feel. Although the fishing lakes were man-made and had resulted in a bund being made from the excavations, this was not evident as the planting was well established. As a result, the appeal site had a natural appearance where mown paths and small jetties at the edge of the lake were the only visible signs of human intervention.
17. The appeal proposal would clearly be at odds with this, introducing a total of nine new structures, albeit for only seven months of the year, into an area where no such structures existed. The yurts would be well spaced and positioned in a linear form such that they would extend along much of the length of the lake. I also noted at my site visit that one of the yurts had a number of domestic items within it's environ including chairs and a barbeque. This encroachment into a site which is free from built development, together with the introduction of domestic paraphernalia would reduce the openness of the Green Belt.
18. I conclude that the appeal proposal would lead to moderate loss of openness to the Green Belt and as such, when judged against the wording of national policy, the appeal proposal is inappropriate development in the Green Belt. This conflicts with the purpose of safeguarding the countryside from encroachment.

Flood risk

19. The Framework seeks to protect people and property from flooding by directing development away from areas at the highest risk of flooding. The Planning Practice Guidance (PPG) requires that flood risk should be assessed through the preparation of a Flood Risk Assessment (FRA) and that inappropriate

development should be avoided through the application of the Sequential Test (ST) to steer new development to areas with the lowest risk of flooding. The Planning Practice Guidance sets out what should be considered within the scope of a site-specific FRA and in particular that this should include evidence to enable the Council to apply the ST.

20. There is no dispute between the main parties that the Environment Agency flood mapping indicates that the appeal site is located within Flood Zone 2 with a medium probability of flooding. However, the submitted FRA also indicates that the raised area on which the yurts are proposed is above the 1 in 1,000 year flood level and as such, is located within Flood Zone 1. However, this is not supported by any evidence. In the absence of unequivocal evidence to the contrary, I conclude that the appeal site lies within Flood Zone 2 and as such, an ST is required.
21. Paragraph 168 of the Framework states that some minor development and changes of use are not subject to the ST. However, footnote 56 is clear that this does not extend to changes of use to a caravan or camping site. When read together with the PPG, it is clear that the ST should be applied to the appeal proposal.
22. The ST should consider whether there are potential alternative sites for the proposed development which are at a lower risk of flooding. The submitted FRA does not contain any evidence that alternative sites have been considered. Consequently, the scheme has failed to demonstrate that there are no other sequentially preferable alternative sites for the proposed development. On the basis of the information before me, the proposal does not pass the ST.
23. I note the conclusions of the FRA and the Emergency Evacuation Plan but given that the ST has not been passed, there is no need to consider flood risk in this regard any further.
24. The appellant refers to a decision at Sopely Farm and states that the ST was not required in that instance. However, paragraph 6.30 of the committee report³ is clear that information was submitted to enable the Council to carry out the ST in that instance.
25. In the absence of an ST, I am not satisfied that the appeal site is in an acceptable location for the development proposed with regards to its vulnerability to flooding. As such, I find the proposal is contrary to Policy ME6 of the Christchurch and East Dorset Local Plan Part 1 adopted April 2014 which seeks to avoid or minimise the risk of flooding, together with the Framework which seeks to protect people and property from all sources of flooding.

Other considerations

26. Paragraph 145 of the Framework encourages the enhancement of Green Belts through improving damaged land. The consent issued by Natural England for the clearance of Sallow within the appeal site advises that the site has been neglected and that clearance of Sallow will allow regeneration. In addition, there are proposals to manage the land surrounding the appeal site to improve biodiversity. This would result in some biodiversity benefits but in the absence of specific detail, I afford this modest weight.

³ Contained within Appendix B of the Appellant's Appeal Statement

27. The appellant contends that the proposal is a unique tourism offer not currently provided for in the local area and that there is a high demand for this type of accommodation. However, there is nothing of substance before me to demonstrate that this is the case, such as the results of market research. There is support at Paragraph 84 of the Framework for all types of businesses in rural areas but given the limited scale of the proposal and in the absence of evidence to the contrary, I find that the economic benefits to the local rural economy would be limited. Taken together, I give these benefits moderate weight.
28. I note that there is no dispute between the main parties that the proposal accords with other policies in the LP relating to the provision of tourism accommodation outside settlements and that there are no objections on issues such as highway safety and residential amenity. However, rather than being benefits of the proposal, these are neutral in my consideration of the appeal.

Green Belt Balance

29. Paragraph 147 of the Framework sets out the presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
30. I have concluded that the proposal would result in moderate harm to the openness of the Green Belt and as such, is inappropriate development that, by definition, harms the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt. I have also concluded that the proposal is not in an acceptable location having regard to its vulnerability to flooding and I have given this substantial weight.
31. On the other hand, the other considerations referred to by the appellant only carry moderate weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by other considerations. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal is contrary to local and national planning policies.

Other Matters

32. Various concerns have been raised by interested parties in respect of parking, living conditions and traffic congestion, which I have noted. However, given my findings above it has not been necessary for me to address these matters further as the appeal has failed on the main issue.
33. The site lies within the Zone of Influence of the Dorset Heathlands Special Protection Area (SPA) and Ramsar, Dorset Heaths Special Area of Conservation (SAC) and the associated Lions Hill Site of Special Scientific Interest (SSSI). As I am dismissing the appeal, an appropriate assessment under Regulation 63 of the Habitats Regulations 2017 in terms of the impact of the proposal on the SAC and SPA is not required.

Conclusion

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

Alison Fish

INSPECTOR