



Appeal Decision

Site visit made on 2 July 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/V1260/W/23/3332920

22C Dudmoor Farm Road, Christchurch BH23 6AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Kefford against Bournemouth Christchurch and Poole Council.
 - The application Ref is 8/23/0186/FUL.
 - The development proposed is the removal of existing shed/outbuildings and erection of new dayroom/utility room on approved site under 8/20/0708/CLE
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Decision

1. The appeal is dismissed and planning permission refused.

Application for costs

2. An application for costs has been made by Mr Kefford against Bournemouth Christchurch and Poole Council. This application is subject of a separate decision.

Preliminary Matters

3. Both main parties have had the opportunity to comment on the revised National Planning Policy Framework (Framework), and updated paragraph numbers are referred to in this decision letter.
4. The Council did not have the authority to determine the application following the submission of the appeal. Therefore, and while a decision notice was subsequently issued, this appeal proceeds on the basis that the Council failed to give notice of its decision within the appropriate period on an application for permission. Nevertheless, the main issues in this appeal have been identified having regard to the putative reasons for refusal cited by the Council.
5. A lawful development certificate¹ (CLEUD) has previously been granted which relates to the part of the appeal site marked as area 1 on the submitted plans (area 1). This confirmed the lawfulness of the permanent residential occupation of the land as a caravan site, consisting of a mobile home with porch/steps and a touring caravan (occupied by family members), together with ancillary outbuilding, storage sheds, a garden, and associated parking of vehicles.

Background and Main Issues

6. The appeal site is within the Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph

¹ Application ref: 8/20/0708/CLE

152 of the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

7. Therefore, the main issues are;
- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the appeal site is a suitable location for housing, with particular regard to the local development strategy and access to services and facilities, and, whether the implementation of the proposed development would create a new dwelling; and,
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

8. The appeal site is outside of the defined settlement boundary of Christchurch, as set out within the Christchurch and East Dorset Local Plan Part 1² (the Core Strategy) Therefore, for planning policy purposes, it is within the open countryside. During my site visit, I observed; a mobile home; a smaller caravan, a large expanse of hardstanding, and several low single-storey structures, all within area 1.
9. Paragraph 143 of the Framework specifies the five purposes served by the Green Belt. One of these is to assist in safeguarding the countryside from encroachment.
10. Framework paragraph 154 then says that the construction of new buildings in the Green Belt should be regarded as inappropriate unless the development meets a stated exception. An exception at paragraph 154. d), is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Another exception at 154. g), is the limited infilling or the partial or complete redevelopment of previously developed land. However, the exception at 154. g) also requires that the development would not have a greater impact on the openness of the Green Belt than the existing development, or, if it would contribute to an identified affordable housing need, then it would not cause substantial harm to the openness of the Green Belt.
11. Policy KS3 of the Core Strategy specifies the most important purposes of the Green Belt in the area. These are to maintain an area of open land around the conurbation, and, to protect the separate physical identities of individual settlements in the area by maintaining wedges and corridors of open land between them.
12. In specifying what would constitute inappropriate development in the Green Belt, the Framework goes further than Core Strategy policy KS3. Nevertheless, both the Framework and KS3 seek to protect the Green Belt and to maintain

² Christchurch and East Dorset Councils - Christchurch and East Dorset Local Plan Part 1 – Core Strategy – Adopted 2014

- open land between and around settlements. As such, policy KS3 is in general conformity with the provisions of the Framework related to the Green Belt.
13. As a whole, the buildings and structures I observed within area 1 did not correlate with those indicated on the submitted plan titled 'existing site layout'. The building marked E3 on this plan was no longer evident, and a caravan and 2 modest single-storey structures, each with low mono-pitched roofs, were found in the general area where the buildings marked as E1 and E2 have been shown. However, even if all the buildings that have been proposed to be removed were still present and lawful, the footprint of the proposed building would be significantly greater than the cumulative area of these other buildings. Moreover, and based on my observations on site, it would also be significantly greater than the cumulative area of those buildings that would need to be removed to facilitate its construction.
 14. The Council has indicated that the height of the proposed building would be substantially greater than the existing structures on the site. This has not been contested by the appellant. Even if the height of the proposed building has been reduced from that which the appellant originally intended, I am therefore satisfied that it would be substantially taller than the buildings that have been proposed to be removed as part of the appeal scheme. Furthermore, it would also be substantially taller than those remaining buildings on the site which would need to be removed to enable space for the building to be constructed.
 15. In common with the buildings it would replace, the proposed building would be residential. However, for the reasons given, it would be materially larger. As such, the exception at paragraph 154. d) of the Framework would not apply.
 16. If the appeal site were deemed to constitute previously developed land, whether the development would have a greater impact on the openness of the Green Belt would determine whether the exception at Framework paragraph 154. g) would apply.
 17. Openness can be considered both spatially and visually. Although mainly restricted to glimpses, parts of the existing development within area 1 can be seen from outside of the appeal site. The proposed building would be taller and have a significantly larger footprint and bulk than the buildings it would replace. In both spatial and visual terms, it would therefore have a greater impact on the openness of the Green Belt than the existing development on the site. That being the case, the exception at paragraph 154. g) would not apply.
 18. For the reasons given the proposal would be inappropriate development in the Green Belt, having regard to both the Framework and policy KS3 of the Core Strategy. Consequently, and in respect of this main issue, the proposed development would conflict with policy KS3 of the Core Strategy and chapter 13 of the Framework.

Openness

19. Openness is an essential characteristic of the Green Belt. I have previously found that the implementation of the appeal scheme would have a greater impact on the openness of the Green Belt than the existing development on the site. That being the case, the proposed development would not preserve openness, and it would conflict with that purpose of the Green Belt which is to assist in safeguarding the countryside from encroachment.

Location of development

20. Collectively, policies KS1, KS2, and KS3 of the Core Strategy, form part of a local development strategy that seeks to promote sustainable development within the area. Furthermore, policy KS2 provides a settlement hierarchy, whereby most development is directed to those locations that are best served by a range of local services and facilities.
21. The appeal site is some distance from those services and facilities ordinarily required to meet the day-to-day needs of residential occupiers. For this reason, and in the absence of close and convenient public transport connections, future occupiers of new housing development on the appeal site would be likely to be heavily reliant on the use of private vehicles to access a range of services and facilities.
22. However, in this case, the development proposed includes the construction of a dayroom/utility room building rather than a separate dwelling. Although the building would look like a dwelling and comprise most of the facilities to enable it to be used for independent living, it would not include a bedroom or sleeping area. Furthermore, while the proposed building would have a similar area to that of the nearby mobile home which is also within area 1, no independent vehicular access to the building is proposed. Nor, are separate car parking or garden areas indicated on the proposed plans. The building would be constructed close to the mobile home, and no intervening fences or other barriers are proposed. The appellant also contends that the building would be used by the current occupiers of the site, and I have no reason to conclude otherwise. I am therefore satisfied that the implementation of the proposed development would not authorise or result in the creation of a separate residential unit.
23. Nevertheless, had this appeal been allowed and planning permission granted, it would have been appropriate to impose a condition preventing the day room/utility room from being slept in. Moreover, if the building were subsequently constructed, a separate planning permission would be required for it to be used as an independent dwelling.
24. For the reasons given above, the appeal site is not a suitable location for housing, with particular regard to the local development strategy and access to services and facilities. However, the implementation of the proposed development would not result in the creation of a new dwelling. That being the case, in respect of this main issue, the proposed development would not conflict with policies KS1, KS2, or KS3 of the Core Strategy.

Other considerations

25. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three objectives of the equality duty, as set out in Section 149(1) of the Equalities Act 2010.
26. If the occupiers of the site are gypsies or travellers, then I acknowledge the role that day rooms can play in their cultural lifestyle. The negative impact of dismissing the appeal would be that the occupiers would not have the day room they are proposing. However, it does not follow from the PSED that the appeal should succeed. In this case, the need for the building to be as large as is proposed has not been justified, and based on the information before me, I

am unable to conclude that the appeal scheme would be the only solution to meeting the cultural requirements of the occupiers of the site.

27. Nevertheless, I do not doubt that the buildings which have been proposed to be removed were/are in poor condition. Their replacement with a better-quality building which would be more suitable for the intended uses, and which would improve the living conditions of those residing on the site, is therefore accorded moderate weight.
28. Due to the proximity of other structures and caravans, and area 1's high degree of enclosure, the building would not be prominent. Furthermore, the exterior materials that are proposed to be used would not cause harm to the appearance of the area. However, these are neutral considerations. Nevertheless, the removal of buildings that are in poor condition, would help to improve the appearance of the site. However, given the small scale of these buildings and the degree of enclosure of the site, any such benefit would be small and attracts limited weight.
29. Even if the building would be permitted development within the curtilage of a dwellinghouse, this does not weigh in favour of the scheme. This is because, on the evidence before me, I cannot establish that such permitted development rights exist in this case.

Other matters

30. The appeal site is within the zone of influence of the River Avon Special Area of Conservation (SAC) and Ramsar site, and, the Dorset Heathlands Special Protection Area (SPA), SAC, and Ramsar site. However, there is no need to consider the implications of the proposed development on these protected sites because the scheme is unacceptable for other reasons.

Conclusion

31. Although the scheme would not conflict with the development strategy in respect of housing, this is a neutral consideration.
32. Albeit the small scale of the proposals would mean that no more than limited harm would be caused to the Green Belt, in accordance with paragraph 153 of the Framework, substantial weight is accorded to that harm.
33. The other considerations in this case do not clearly outweigh the harm by reason of inappropriateness, and any other harm. Consequently, the very special circumstances necessary to justify the development do not exist.
34. Overall, and for the reasons given above, the proposal conflicts with the development plan when taken as a whole. There are no material considerations either individually or in combination that outweigh the identified harm and associated development plan conflict. It is therefore proportionate and rational to dismiss the appeal and refuse planning permission.
35. For the reasons given above, this appeal should be dismissed and planning permission refused.

V Simpson

INSPECTOR