



Appeal Decision

Site visit made on 22 October 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2024

Appeal Ref: APP/D1265/W/24/3337684

Mobile Home 85 Church Road, Three Legged Cross, Dorset BH21 6RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Martyn Hudson against the decision of Dorset Council.
 - The application Ref is P/OUT/2023/04977.
 - The development proposed is described on the planning application form as 'Sever plot and erect a new dwelling, remove of existing caravan'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with only landscaping reserved for future consideration. Therefore, matters of access, appearance, layout and scale are to be considered as part of this appeal. I have assessed the proposal on this basis.

Main Issue

3. The main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - whether the appeal proposal would be at risk of flooding or increase the risk of flooding elsewhere.

Reasons

Inappropriateness

4. The appeal scheme seeks to erect a dwelling on the site of an existing mobile home. The appeal site is in the Green Belt. Policy KS3 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (LP) sets out that development will be contained by the South East Dorset Green Belt. It goes on to say that the most important purposes of the Green Belt in the area are to protect the separate and physical identity of individual settlements by maintaining wedges and corridors of open land between them and to maintain an area of open land around the conurbation.
5. Paragraph 142 of the National Planning Policy Framework (the Framework) states 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.

6. Paragraph 154 of the Framework sets out that the erection of new buildings in the Green Belt should be regarded as inappropriate development and includes a closed list of exceptions including 'limited infilling in villages'. Accordingly, I have had regard to the immediate context of the appeal site and the circumstances of this case when considering whether or not the appeal site is within a village and whether the proposal before me constitutes limited infilling.
7. Three legged Cross is a recognisable settlement. Church Road is characterised by buildings on both sides of the road. It becomes more verdant in character and the density of existing development is reduced when travelling in a north easterly direction. However, in the vicinity of the appeal site, dwellings continue to line both sides of the road such that there is no distinctive or sudden change in settlement pattern in relation to the appeal site. I conclude that for the purposes of this appeal, the site lies within the village.
8. The removal of the existing mobile home on the site would result in a gap between numbers 83 and 87 Church Road. A single dwelling is proposed in its place, continuing the linear development of housing which characterises Church Road. This would constitute limited infilling.
9. Development which comprises limited infilling in villages falls within the exceptions listed in Paragraph 154 (e) of the Framework which do not require any consideration of the effect on openness. I therefore find that the proposal would not be inappropriate development in the Green Belt.

Flooding

10. Policy ME6 of the LP states that the Council will apply the sequential and exception tests in respect of flood risk, when assessing new development.
11. This reflects the advice in Paragraph 165 of the Framework which states that development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is known as the Sequential Test and it should identify whether such development could be carried out in an area at lower risk of flooding. Only when other sites are not available, is the proposal subject to a further Exception Test to demonstrate that the sustainability benefits of the development would outweigh flood risk and that the site is safe from flooding for its lifetime.
12. The appellant's case is that the appeal site is not at risk from flooding. The submitted 'Environmental Search' indicates that the appeal site is in an area of low risk for groundwater flooding but there is nothing before me to indicate where this information has been obtained from. In addition, the Environment Agency Flood Risk Map does not identify that the property as being in an area susceptible to ground water flooding although the Council point out that this is because the relevant check box relating to ground water was not selected in the search. The appellant also points out that mobile homes have occupied the site for many years and no known flooding has occurred at the property. Whilst this may be the case, it does not take into account the future impacts of climate change on flood risk, which the Framework says must be taken into account.

13. Conversely, the Council's Strategic Flood Risk Assessment Level 1 (SFRA), carried out in consultation with the Environment Agency, indicates that the appeal site lies within an area susceptible to groundwater flooding from ground water emergence. The Framework seeks to manage flood risk from all sources of flooding, including from groundwater and having regard to Paragraph 174 and footnote 60 of the Framework, I must carry out the Sequential Test.
14. The Council have provided details of extant planning permissions granted elsewhere in the LP area for single dwellings, which they say are sequentially preferable to the appeal site. Whilst I have very limited details about each site, the appellant has not sought to dispute the Council's findings. The appellant has referred me to other properties which have been built close to the appeal site but I do not have sufficient detail before me to draw any comparisons with the appeal site. In addition, I have not been provided with details from the appellant that they have applied a sequential approach to site selection. The Sequential Test has not in this instance been satisfied.
15. The appellant has provided details of measures to mitigate the impact of surface water flooding including additional planting, porous surface materials and measures to be implemented in the construction of the dwelling. Nevertheless, even if it can be demonstrated that the site can be made safe for its lifetime, the Framework is clear that the Sequential Test still needs to be carried out and satisfied.
16. Whilst conditions could be used to secure further details in respect of a surface water drainage scheme, it has not been demonstrated that proposal is not at risk of flooding. As such the proposal is contrary to Policy ME6 of the LP which seeks to ensure that flood risk does not increase as a result of the development proposed and requires the application of the Sequential Test. The proposal is also contrary to the Framework in respect of flood risk and the sequential approach to site selection.

Other Matters

17. The application form clearly indicates that landscaping is the only reserved matter. The appeal must be determined on that basis and therefore layout is a matter to be considered as part of the appeal. Had I been minded to allow the appeal, I would have needed details of exactly what was being proposed, not least because I would be seeking to impose a condition requiring it to be carried out in accordance with the approved drawings. In the absence of submitted floor plans, I would not have been able to do this.
18. The appeal site lies within 5km of the internationally designated Dorset Heathland. However, given my overall conclusion, the proposal would have no effect on the integrity of the designated site and therefore I have not considered this matter further.
19. The Council updated their housing land supply position during the course of the appeal. This indicated that the Council have a 5.02 years supply of housing land. The appellant has had an opportunity to comment and does not dispute the figure. In any event, the application of policies in the Framework with regards to flood risk provide a clear reason for refusing the development and accordingly Paragraph 11d) of the Framework is not engaged.

Planning Balance and Conclusion

20. There would be some limited benefits arising from the replacement of the existing mobile home and providing a family home close to the school. I have given great weight to the benefits of using suitable sites within existing settlements for homes as required by Paragraph 70 of the Framework.
21. I have also concluded that the appeal proposal would amount to limited infilling in a village and consequently would not be inappropriate development in the Green Belt.
22. However, I have found that the appeal site is susceptible to groundwater flooding and the Sequential Test has not been satisfied. Accordingly, the proposed development is contrary to the development plan as a whole and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

Alison Fish

INSPECTOR