



Appeal Decision

Site visit made on 21 January 2025

by **A J Sutton BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Appeal Ref: APP/V1260/W/24/3346415

9 Oakley Hill, Poole BH21 1RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr M and Mrs C Greenhow against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is APP/23/00849/F.
 - The development proposed is described as ‘Demolition of commercial outbuildings, sever land and the erection of a detached, eco-friendly bungalow with on site car parking and turning area.’
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of outbuildings, sever land and the erection of a detached, eco-friendly bungalow with on site car parking and turning area at 9 Oakley Hill, Poole BH21 1RL, in accordance with the terms of the application, Ref APP/23/00849/F, and subject to the conditions in the attached schedule.

Procedural Matter

2. I have made a minor amendment to the description of development for this formal decision given the uncertainty regarding the ‘commercial’ use of the buildings on the appeal site which is explored below.

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on the integrity of the Dorset Heathland Special Protection Area and Special Area of Conservation and the Poole Harbour Special Protection Area; and
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.

Reasons

Protected Habitats

4. The appeal site is in the zone of influence (Zoi) for the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC) and the Poole Harbour SPA. Natural England has evidence that these protected habitats

- are in unfavourable conditions as a result of human activities, including vehicle emissions, recreational pressure and increased nutrients in water environments.
5. This proposal would result in a net gain in residential units at the site and likely significant adverse impacts cannot be ruled out. Therefore, an appropriate assessment is necessary in this case.
 6. The Dorset Heathland SAC qualifying features include heaths, moors, fens and oak woodland. These habitats support damselfly and Great Crested Newts. The Dorset Heathland SPA habitats support rare bird species, including the ground nesting Nightjars, Woodlark and Dartford Warbler. Poole Harbour SPA also supports a protected, rare birds including Terns, Egrets, Spoonbills and Black-tailed godwit.
 7. The conservation objectives for the Harbour and Heathland SPAs include contributing to achieving the aims of the Wild Birds Directive by restoring and maintaining the habitats of the qualifying features. The Heathland SAC conservation objectives are to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the favourable conservation status of its qualifying features.
 8. Evidence shows that the Dorset Heaths are under significant pressure from urban development. The potential adverse impact on heathland principally arises from human pressures and damage caused by domestic pets. Information indicates that the majority of visitors to the heathland live within 5km of the protected site.
 9. In respect of Poole Harbour, evidence demonstrates that there are two particular pressures: nitrate pollution and recreational issues. Nitrogen causes the growth of algal mats that restrict the food available for protected birds. The majority of nitrogen is generated by agriculture, but a proportion is generated from human sewage. Recreational pressures can also have a harmful effect on the Harbour habitats. Examples of harmful activities include boating in the Harbour and dog walking on the shoreline, which can frighten off protected birds.
 10. In light of this evidence any net gain of residential units in this Zol of the habitats would have a significant adverse effect on the qualifying features and risk undermining the conservation objectives of these habitats. This proposal would result in the net gain of one residential unit within 5 km of the habitats. Future occupants would likely increase recreational pressures, add to air pollution through vehicle emissions and there would be an increase in wastewater and sewage generated at the property. The proposal in these regards would have a significant adverse effect on the integrity of the protected habitats, either alone or in combination with other plans and projects.
 11. Policy PP32 of the Poole Local Plan (Local Plan) requires in respect of the Heathland, that new residential development in 400 metres and 5 km of a site will provide mitigation in accordance with the advice set out in the Dorset Heathlands Planning Framework SPD. Regarding Harbour habitats, Policy PP32 requires proposals for any net increase in homes will provide mitigation in accordance with the advice set out in the Nitrogen Reduction in Poole Harbour SPD.
 12. Natural England has in recent years updated advice to local authorities on how to address the adverse impacts of development in respect of nutrient emissions. There is an agreed approach on applying nutrient neutrality as a mitigation

measure to enable development to proceed without causing harm to the integrity of habitat sites. This includes the measures outlined in the Nitrogen Reduction in Poole Harbour SPD.

13. Other SPDs cited in Local Policy and Council strategies identifying mitigation measures have also been agreed in consultation with Natural England. Local Policy goes on to clarify that that adequate mitigation will be secured through Community Infrastructure Levy (CIL) or S106 Legal agreements.
14. Regarding nutrients, the SPD states that the burden of removing most of the nitrogen from wastewater will fall on water companies. The remaining 25% reduction will be achieved by indirect schemes to convert high nitrogen input land uses to low input. Contributions for this mitigation will be sought at the planning permissions stage of residential development. Relevant to this proposal, it is anticipated that the majority of infill/windfall development requiring mitigation will pay CIL, and the Council will use CIL to deliver the mitigation for those developments.
15. Addressing recreational harms at Poole Harbour, the SPD sets out a 5 year implementation period from 2019-2024 and a two part mitigation strategy. This comprises funds for Strategic Access Management and Monitoring (SAMM) and Poole Harbour Infrastructure Projects (PHIPs).
16. This strategy seeks to raise awareness of the issues and to fund wardens to manage visitor pressures on the Harbour SPA. It also pays for ongoing monitoring of the effects of new development and whether the strategy is effective. To enable permission for proposals for a net increase in dwellings within this Zol, the Harbour SAMMs charge rate of £140 per house shall be secured by legal agreement. PHIPs costs will be funded from CIL.
17. The mitigation strategy for the Heathland comprises two mutually dependent mechanisms: restrict development within 400 metres of the heathland; and mitigation associated with some types of development within the wider 400 metres to 5 kilometres area.
18. The strategy for avoidance and mitigation in the wider area comprises funds for SAMM and Heathland Infrastructure Projects (HIPs). Heathland SAMMs contributions will secure the day to day costs of helping local people to alter harmful behaviour through raising awareness of the issues and value of the protected sites and pay for the ongoing monitoring of a sample of heathlands and the effects of new development and whether this strategy is effective. The SAMMs contribution rate of £394 per house is applicable and will be secured by legal agreement.
19. With regards this proposal, the officer's report shows a higher figure in respect of the SAMMs contributions than that outlined above; £510 for the Heathland and £181 towards Poole Harbour SAMM. However, the SPDs clarify that charges will be adjusted annually to reflect inflation, to ensure that the appropriate level of SAMM can be delivered over the plan period.
20. A legal agreement, in the form of a unilateral undertaking (UU) has been submitted with this appeal. This agreement obligates those with title to the appeal site to make contributions in respect of the Heathland and Harbour SAMMs if planning permission is granted. This includes £510 for Heathland SAMMs contribution, plus

an administrative fee of £75, and £181 Harbour SAMMs contribution, plus an administrative fee of £25.

21. These contributions directly relate to the development and fairly and reasonably relate in kind to the proposal in this case. Moreover, for the reasons outlined previously this obligation is necessary to make the development acceptable with regards to this planning matter. Consequently, this UU satisfies Regulations and national guidance relevant to planning obligations.
22. The signed and dated UU is a legal deed made under the Town and Country Planning Act and has specific reference to the appeal site and the application reference. Evidence of title to the land has been submitted and the UU binds those with title and their successors to the above obligations. The obligation is triggered in the event planning permission is granted and prior to the commencement of development thereby permitted. This agreement is therefore complete and legally sound.
23. Also, Natural England has been consulted through this appeal process and has raised no concerns in respect of the mitigation offered in this case. Accordingly, I am satisfied that the measures necessary to mitigate and avoid significant adverse effects on the integrity of protected habitats resulting from this new dwelling are secured in this case.
24. With this mitigation in place, I find that the proposal would not have a significant adverse effect on the integrity of the Dorset Heathland Special Protection Area and Special Area of Conservation and the Poole Harbour Special Protection Area. In this regard the proposal would accord with Policies PP32 and PP39 of the Local Plan.

Whether Appropriate Development

25. A revised National Planning Policy Framework – December 2024 (the Framework 2024) has been published during this appeal process. I have sought comments from the main parties on the matters, and their responses are considered below.
26. Similar to its predecessor, the Framework 2024 states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. When considering any planning application, substantial weight is given to any harm to the Green Belt. Policy PP2 of the Local Plan states, amongst other matters, that the Council will carefully manage the Green Belt in accordance with national policy. In this regard local policy relevant to this proposal is largely consistent with the latest Framework.
27. Some of the Green Belt provisions in the previous version have been changed in this latest iteration of the Framework. However, similar to the previous version, the Framework 2024 states that the construction of new buildings should be regarded as inappropriate in the Green Belt.
28. Paragraph 154 and 155 of the Framework 2024 identifies exceptions to this. This includes, at Paragraph 154 g) limited infilling or the partial or complete redevelopment of previously developed land (PDL) (including a material change of use to residential or mixed use including residential), which would not cause substantial harm to the openness of the Green Belt.

29. The Glossary of the Framework defines PDL as land which has been lawfully developed and is occupied by a permanent structure. There is debate between the main parties as to the number of buildings on the site. However, as a minimum, the appeal site is a parcel of land which hosts at least three structures. These buildings are located along a track positioned centrally in the site, with one small shelter at the far edge of the plot. The remaining land appears rough grazing.
30. The Framework's definition of PDL goes on to clarify that it excludes land that is occupied by agricultural buildings. The appellant states that the site is in commercial use, asserting that the buildings on site support businesses that have expanded and operated for many years, including industrial pressure washing. However, limited information has been submitted to confirm that this commercial use has planning permission or is lawful on the site.
31. This aside, the planning history shows permission for a storage and animal shelter, and separately for a stable and fodder store. Also, the Council granted permission for development describe as 'retrospective erection of a storage barn used in connection with the existing agricultural holding'. In light of any compelling evidence to the contrary, the lawful use of the buildings on the appeal site appears to be agricultural. The appeal site is not PDL in the terms of the Framework and therefore this proposal would fail to satisfy this requirement of Paragraph 154 g).
32. The revised Framework at Paragraph 155 states that development of homes in the Green Belt should also not be regarded as inappropriate where amongst other matters the development would utilise grey belt land. The Framework defines grey belt as land in the Green Belt comprises PDL and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b) or (d) of Paragraph 143.
33. In respect of '*...any other land*' and addressing the Green Belt purposes identified, a Green Belt Review was carried out by the Council in 2017, in support of the preparation of the Local Plan. This Review identified parcels of land and went on to assess the parcels' contribution to the purposes of the Green Belt. The appeal site is included in Parcel 8 of the 2017 Review. That Parcel of land extends along the easterly boundary of the settlement of Merley and the appeal site comprises just a small section at its most north eastly corner.
34. Parcel 8 was assessed as making a low contribution with regards checking unrestricted sprawl and preventing neighbouring towns merging, given its distance from the large built up area of Poole and the neighbouring open land. Also, as the nearest historic town, Wimborne Minister, is some distance to the north, it was assessed as making no contribution to preserving the setting and special character of historic towns.
35. The Council has drawn my attention to a more recent Green Belt Review conducted in 2020. The appeal site forms part of ME1 for this latest review, which is a much smaller section of land than Parcel 8 of the 2017 Review. In the 2020 Review, ME1 has been assessed as making a 'weak/no' contribution in respect of unrestricted sprawl and 'relatively weak' with regards preventing towns merging. Addressing the setting of historic towns, this was found to be 'weak/no contribution'.

36. Unlike the 2017 Review, the latest Green Belt Review is yet to be tested through the Local Plan examination process. This aside, the conclusions regarding the appeal site's contribution to these three purposes of the Green Belt is not dissimilar to those drawn in 2017.
37. Moreover, while that 2017 Review was carried out some time ago, I observed that the circumstances described above in respect of the appeal site, its proximity to large built up areas, other settlements and the open features to the south and west, do not appear to have changed significantly in the intervening period since that earlier Review was conducted. In light of these factors, I find compelling evidence that the appeal site does not strongly contribute to purposes (a), (b) and (d) of Paragraph 143.
38. Grey belt excludes land relating to areas and assets in footnote 7 of the Framework. Matters regarding protected habitats have been addressed above. In respect of other footnote 7 matters relevant in this case, the appeal site is near the Oakley Lane Conservation Area (CA). The boundary of this CA is small and tightly drawn around a low density, informal layout of a village made distinct by cottage style dwellings with gothic detailing. These historic features along with soft ununiformed boundaries contribute to the historic interest and significance of this designated heritage asset.
39. The Framework requires great weight should be given to the asset's conservation. The appeal site while close to the boundary of the CA is divided from it by a road and significant vegetation beyond this. Therefore, there is a distinct sense of separation between the asset and the appeal site such that development at the latter would not impact harmfully on the historic interest of the CA. The significance of the asset would therefore be conserved, and the character or appearance of the CA and its setting would be preserved under this scheme.
40. As outlined previously, I conclude that the proposal would not have a significant adverse effect on habitat sites. Furthermore, the development would not affect any other assets in footnote 7 of the Framework (other than Green Belt). Accordingly, I find that the appeal site is grey belt in the terms defined in the Framework's Glossary.
41. Turning to the other requirements of Paragraph 155 a. of the Framework, in the 2017 Green Belt Review, concluded that in respect of purpose c) of the Green Belt, Parcel 8 made a medium contribution. However, the difference in character between the north (which includes the appeal site) and the south of this large parcel of land was noted. The most recent Green Belt Review states that 'the parcel [ME1] is mostly open countryside' and classes this area as having a 'moderate' contribution towards the safeguarding of the countryside from encroachment.
42. I observed while part of the appeal site is a paddock, this is a very small plot of agricultural land, and the proposed built form would cover just a modest part of the site, with most of the paddock retained relatively undeveloped. Encroachment of development in this existing small pocket of agricultural land would be limited.
43. Also, this plot is closely bounded by the road network such that it appears to be a small island of land that is somewhat disconnected from open countryside to the west and south. Given the above features, I largely agree with the conclusions of the two Green Belt Reviews in respect of this Green Belt purpose. Moreover, due

to these particular features, development of the site would not harmfully encroach into the existing open countryside to the south and west of the appeals site. Accordingly, Green Belt purpose c) of the Framework would not be significantly undermined by this scheme.

44. The 2017 Review appears silent on the contribution of Parcel 8 to Green Belt purpose e) of Paragraph 143 of the Framework, and the 2020 Review suggests ME1 has an 'equal' contribution in respect of this matter. Disconnected from settlements by the road network and open space, the site has limited scope to assist urban regeneration in the district. Indeed, with the site features described I find it would make a relatively neutral contribution in respect of this purpose such that development of the site as proposed would have a neutral impact with regards this matter.
45. In light of the evidence relating to the purposes of the Green Belt outlined and taking account of the particular site features and the small scale of this proposal, I find that this development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.
46. Moving on to the requirements of Paragraph 155 b. of the Framework, the evidence shows that the Council is unable to demonstrate a five year housing land supply (HLS). At around 2 years only, the district's HLS is critically lower. The proposal would result in just one dwelling and its contribution to the supply of new homes in the area would be limited. Nonetheless, there is a demonstrable unmet need for the type of development proposed in this case in this district.
47. Paragraph 155 c. requires development would be in a sustainable location, with reference to Paragraphs 110 and 115 of the Framework. Addressing this, while the site is not near the large built up area, it is close to the local centres of Oakley and Merley and the services those settlements offer. Also, with two bus routes close by there is a choice of transport modes. While this may be limited choice, the Framework highlights that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making.
48. Furthermore, the appeal site already provides access to an existing dwelling. While this existing access is on to a busy carriageway, I saw that it is wide and provides reasonable intervisibility between those using the access and other road users on the carriageway.
49. The proposal makes provision for off-street parking in line with the Council's parking standards, and there would be space in the site for vehicles to turn so they may exit in forward gear. Moreover, with just one additional residential unit at the site, there would not be a significant increase in the number of vehicles using the site under this scheme. Therefore, for the scale of development proposed in this case, the access would be safe and suitable. Also, as the likely increase of vehicles arising from this development would be minimal, the proposal would not unacceptably change the existing levels of highway safety in this area.
50. The Council contends that this proposal would result in a building that would be significantly larger than the structures it replaces and consequently there would be a loss of openness at the site. Even if I accept this, Paragraph 155 of the Framework does not require an assessment of impact on openness. Therefore, in conclusion on this issue, the proposal would satisfy all applicable requirements of

Paragraph 155 of the Framework 2024 and should not be regarded as inappropriate development in the Green Belt.

Conditions

51. In addition to the statutory time limit, accordance with approved plans is necessary for certainty and to protect the character of the area. Ensuring the external surface materials accord with approved plans is also necessary for the same reasons.
52. It appears that limited information regarding drainage was submitted. A scheme is necessary to prevent flooding and to protect the environment. Given the nature of this issue, there is clear justification to approve this prior to development. It is also reasonable to assess land contamination given historic uses and to protect the local environment. There is clear justification to resolve these matters prior to development given the nature of the issues. The appellant has given written agreement for these pre-commencement conditions.
53. It is understood that a number of trees at the site are protected by Order. Protection and mitigation for trees is necessary to protect existing valued green features. Some details of landscaping were submitted with the application but the impact of the scheme on existing trees has been raised. The site is a reasonable size such that this matter can be resolved. Approval of a final scheme is necessary in the interest of character and the environment. Securing biodiversity enhancements is reasonable and necessary to protect the environment and support the aims of local and national policy in respect of this matter.
54. Incorporating energy efficiency measures in the development is reasonable and necessary to ensure the aims of low carbon policies are achieved.
55. Requiring the access, parking and bike arrangements are in place is necessary to protect residents' living conditions and in the interest of highway safety. Ensuring bin storage is in place is necessary to protect living conditions and the appearances. Approval of an external lighting scheme is necessary in the interest of pedestrian safety.
56. Charging points for electrical vehicles is a matter which is generally addressed by a regime outside of the planning system. Therefore, it is unnecessary to impose this condition.

Conclusion

57. For the reasons outlined the proposal would not have a significant adverse impact on the integrity of protected habitats. Also, I find that the proposal would not comprise inappropriate development in the Green Belt and in this regard would not conflict with Policy PP2 of the Local Plan and the Green Belt provisions of the Framework. Therefore, having regard to the development plan, and material considerations, including the Framework, the appeal should be allowed.

A J Sutton

INSPECTOR

Appendix

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - Location and Block Plan Drawing No. 001;
 - Proposed Site Plan Drawing No. 003 Rev A;
 - Proposed Elevations Drawing No. 005;
 - Proposed Floor Plan and Site Sections Drawing No.006 ; and
 - Proposed Bin and Bike store Drawing No. 007.

- 3) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 4) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management, has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and

- iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 5) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
 - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
 - 6) The tree protection fences detailed on the Tree Protection Plan Ref RNapc/482/TPP/2 shall be in place prior to any development commences. The fences shall remain in place during the construction phase and the development shall be carried out in accordance with the mitigation measures outlined in Appendix B of the Arboricultural Impact Assessment (August 2023).
 - 7) No trenches or pipe runs for services or drains shall be sited within the tree protection zones and root protection areas shown on the Tree Protection Plan Ref RNapc/482/TPP/2 and, in accordance with BS5837:2012, of any existing tree or group of trees to be retained on the site or on adjoining land, and no ground levels shall be altered within the zones and areas referenced above.
 - 8) The development hereby permitted shall be completed in accordance with the external surface materials and green roof details specified on the approved Proposed Elevations Drawing No 005 and Proposed Site Plan Drawing No 003 Rev A.
 - 9) No development shall progress above foundation level until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the position, species and size of all new trees, shrubs and ground covers proposed for the development and specification for maintenance and aftercare.

Once approved:

- a) The landscape scheme shall be completed and maintained in accordance with the details and timetable of the approved scheme.
 - b) All planting shall be carried out in accordance with British Standards including regard for plant storage and ground conditions at the time of planting.
 - c) If within a period of 5 years following the completion of the approved scheme any plant (including those retained as part of the scheme) dies, are damaged or become diseased within this period, they shall be replaced in the next planting season with others of similar size and the same species.
- 10) No development shall progress above foundation level until details of measures to provide 10% of the predicted future energy use of each dwelling from on-site renewable sources, have been submitted to and approved in writing by the local planning authority.

The approved details shall be implemented prior to the first occupation of the dwelling hereby permitted and maintained thereafter.

- 11) Prior to the first occupation of the dwelling hereby permitted, biodiversity mitigation and enhancement measures, in the form of a bat box or swift box shall be installed on site in full. The installed biodiversity mitigation measures shall thereafter be retained on site.
- 12) Prior to the first occupation of the dwelling hereby permitted, the access, vehicle parking and bike store shall be completed in accordance with the details shown on approved Proposed Site Plan Drawing No. 003 Rev. A and Bins and Bike Store Drawing No. 007.

These areas and structures shall thereafter be retained and kept available for the purposes intended at all times.

- 13) Prior to the first occupation of the dwelling hereby approved, a scheme of external lighting along the access driveway, to include details and specification of the type of lighting proposed, shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented prior to first occupation of the new dwelling and thereafter retained and maintained according to the approved scheme.

- 14) Prior to the first occupation of the dwelling hereby permitted, the bin store area shown on approved Proposed Site Plan Drawing No. 003 Rev. A shall be completed and thereafter, all refuse and recyclable materials associated with the development shall either be stored within this store/area, or internally within the buildings on this site. No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.

End Schedule.