



Appeal Decision

Site visit made on 23 January 2025

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/B1740/W/24/3340659

77 Burley Road, Bockhampton, Hampshire BH23 7AJ

- 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 Andrew Boulton against the decision of New Forest District Council.
 - The application Ref is 23/10987.
 - The development proposed is described on the application form as, "application for single-storey building originally as outbuilding to 77 Burley Road, Bockhampton".
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. The right of appeal is given only to the original applicant, which is the person / company name on the application form submitted to the Local Planning Authority. This has been reflected in the banner heading above.
4. The proposed development is already in place and I shall deal with the appeal on this basis.

Background and Main Issues

5. This appeal concerns an outbuilding situated within the grounds of 77 Burley Road (No 77), in the South West Hampshire Green Belt. This appeal follows appeal decision Refs APP/B1740/C/23/3331915, APP/B1740/C/23/3331916, and APP/B1740/X/24/3340260 (the previous appeals) where the Inspector concluded that the site is sui generis mixed use. The Inspector dismissed the appeal against the Council's refusal to grant a certificate of lawful use or development¹ and directed that the enforcement notice should require that the outbuilding should be demolished. The question as to whether the outbuilding is sited within the curtilage of No 77 was not considered. This is a matter to which I return to below.
6. Therefore, the main issues are:
 - whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant

¹ For dismantling the outbuilding and relocating it into a different part of the appeal site.

development plan policies, including its effect on the openness and purposes of the Green Belt;

- the effect of the development on the character and appearance of the area; and
- the effect of the development on the living conditions of the occupiers of 79 Burley Road (No 79).

Reasons

Whether Inappropriate Development

7. The appeal site is located amongst a small number of dwellings on the western edge of Bransgore. The site consists of a dwelling (77 Burley Road (No 77)), a building known as 'the Annex' (which lies next to a graveled parking area which is adjacent to the tarmac driveway stemming from the site entrance), a garage building positioned slightly beyond the 'the Annex', and the outbuilding the subject of this appeal, which is set a little way apart from the garage.
8. The site is within the Green Belt, where Policy ENV2 of the New Forest District Local Plan 2016-2036 Part One: Planning Strategy (adopted 2020) (Local Plan) provides that, amongst other things, development proposals will be determined in accordance with national planning policy.
9. Paragraph 154 of the Framework establishes that development in the Green Belt is inappropriate unless certain exceptions apply. Paragraph 154 g) of the Framework relates to limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
10. The definition of previously developed land given in the Glossary to the Framework refers to, amongst other things, land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). Curtilage is not the same as a planning unit, and it is not a use of land. Rather, for land to fall within the curtilage of a building, it must be intimately associated with the building to the extent that it forms part-and-parcel of the building.
11. The Inspector in the previous appeals found that the business use and the residential use co-exist across the whole site, and considering the presence of the garage and the shed on the same gravelled area as the outbuilding, the area comprising the outbuilding has likely been used for functions incidental to the use of No 77 for a number of years. The outbuilding also lies adjacent to an area of manicured lawn which forms part of the same grassed area which comprises the rear garden of No 77, albeit trees and a line of fencing provide some visual separation between the 2 areas of lawn. The site has been in the same ownership for a long period. Therefore, the land occupied by the outbuilding is previously developed land as defined in the Framework, due to it falling within the curtilage of No 77.

12. The PPG advises that openness is capable of having both spatial and visual aspects². The outbuilding has reduced the openness of the Green Belt in both spatial and visual terms by its presence on land which was previously predominantly vacant. Nevertheless, as a single-storey structure with a footprint which is modest in the context of the site as a whole, the reduction in these respects has been evident, but not extensive. Accordingly, it does not cause substantial harm to the openness of the Green Belt with reference to paragraph 154 g), nor to the purposes of the Green Belt (including the Green Belt's assistance in safeguarding the countryside from encroachment).
13. I therefore find that the development is not inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies (including Policy ENV2 of the Local Plan), including its effect on the openness and purposes of the Green Belt. It follows that it is not necessary to consider any of the other exceptions to inappropriate development in the Green Belt, including those found at paragraphs 154 c) and e) and paragraph 155 of the Framework (which refers to the utilisation of grey belt land).

Character and appearance

14. The site is part of a large triangle of land on the edge of Bransgore where detached dwellings in spacious plots predominate, in keeping with the site's location outside of the settlement boundary and near to broad stretches of open fields to the west. Apart from the outbuilding the subject of this appeal, a number of other buildings / structures are present within the site to the east of No 77, including 'the Annex', a garage, a greenhouse, and 2 sheds.
15. The outbuilding has a large footprint, with approximately 59 square metres of floorspace and 3 separate rooms. Its large scale is accentuated by its L-shape, and the fact that it is approximately 4 metres in height. Whilst it is not intended to be used as such, in visual terms it appears more akin to a small house than an outbuilding. It thereby appears overly dominant within the site and in combination with the other buildings / structures mentioned above it considerably adds to visual clutter within the site, despite its materials being congruent with nearby buildings and its surroundings. Although it is shielded from view from Burley Road, it is visible from the upper-floor windows of nearby dwellings, including No 79, where its harmful effect on the otherwise mostly spacious rural character and appearance of the area is evident.
16. I therefore find that the development has an unacceptable and harmful effect on the character and appearance of the area. It conflicts with part i. of Policy ENV3 of the Local Plan which provides that, amongst other things, new development will be required to create buildings and spaces which are sympathetic to the environment and their context in terms of scale and height, and with part ii. of Policy STR1 of the Local Plan which provides that, amongst other things, all new development will be expected to take a context-led approach to the siting and design of development to deliver high quality design that maintains local distinctiveness.
17. The development conflicts with Policy DM20 of the New Forest District (outside the National Park) Local Plan Part 2: Sites and Development Management (adopted 2014) which provides that, amongst other things, residential development in the

² Paragraph 64-013-20250225

countryside should be of an appropriate design, scale and appearance in keeping with the rural character of the area.

Living conditions

18. The outbuilding is positioned approximately 7 metres to the north of No 79. I observed that, due to its height and scale, and its siting directly ahead of No 79, it has a very prominent appearance in views from the upper-floor rear windows at No 79. Whilst views of the fields and trees beyond the site are also visible, the outbuilding in combination with the other buildings / structures on site adds to the sense of enclosure experienced by the occupiers of No 79.
19. I observed that the outbuilding protrudes above the mature hedge which is positioned at the edge of the patio to the rear of No 79. Due to its height and scale it has a looming appearance from the kitchen windows at No 79. Even with the hedge in situ, it appears as an intrusive and dominating building when approaching the sitting out area to the rear of the patio. It accordingly undermines the pleasantness of the use of the kitchen and the patio, to the detriment of the living conditions of the occupiers of No 79, even taking account of the presence of the hedge. Should the hedge ever be required to be removed, either by preference or following a severe weather event, the adverse impacts in these respects would be even more pronounced.
20. I have had regard to appeal decision Ref APP/X0415/D/12/2171662 where the Inspector took account of an established hedge which had a substantial screening effect. The Inspector's finding in this regard is not binding on all future decision-makers, and in my view it would not be reasonable to expect the occupiers of No 79 to have to effectively keep the hedge in situ in perpetuity to mitigate unacceptable adverse impacts upon their living conditions. Therefore, the existing presence of the hedge has been given limited weight in my consideration of this issue. In any event, as explained above, the living conditions of the occupiers of No 79 have been harmed by the presence of the outbuilding, even with the hedge in place.
21. The Inspector in appeal decision Ref APP/X0415/D/12/2171662 stated that the appeal scheme would result in a full 2-storey side extension within about 1.4 metres of the common boundary. However, as no plans have been provided relating to that scheme, the detailed design of the proposed development and the full circumstances of that case are not before me. As it has not been demonstrated that this example is directly comparable with the current appeal, it does not change my findings on this main issue.
22. I therefore find that the development has an unacceptable and harmful effect on the living conditions of the occupiers of No 79. It conflicts with part ii. of Policy ENV3 of the Local Plan which provides that, amongst other things, new development will be required to avoid unacceptable effects by reason of visual intrusion or overbearing impact.

Other Matters

23. The finding on the first main issue, that the development is not inappropriate development in the Green Belt, is a neutral matter, which does not weigh in favour of the development.

24. The Inspector in the previous appeals explained that for permitted development rights under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to apply the use of the host development must be regarded to be in residential use. As the Inspector found that the site is a sui generis mixed use, this permitted development right cannot be exercised. No fallback position exists.
25. The outbuilding is intended to be used as an ancillary / incidental to No 77, which could be controlled via a planning condition. As the benefits in this regard would be mainly private in nature, they merit little weight in favour of the development. A planning condition could be imposed to secure an uplift in biodiversity net gain, but the evidence does not indicate that any uplift would be significant. As a matter of planning judgement, I find that the benefits of the development do not outweigh the totality of the harm identified on the 2nd and 3rd main issues above.

Conclusion

26. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR