



Appeal Decision

Site visit made on 11 April 2025

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2025

Appeal Ref: APP/D1265/W/24/3355877

**Land to the rear of 9 Coach Road Cottages, Post Green Road, Lytchett Minster
BH16 6AP**

- 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 James Short of Adventure Pirate against the decision of Dorset Council.
- The application Ref is P/FUL/2024/00553.
- The development proposed is two shepherd huts, replacement building and associated facilities for tourist accommodation purposes.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development has been taken from the application form. As was evident from my site visit, the development has already commenced and is therefore retrospective in nature.
3. Since the submission of the appeal, the planning policy context has materially changed. The Council adopted the Purbeck Local Plan 2018 – 2034 (Local Plan) in July 2024 and a new National Planning Policy Framework (the Framework) was published in December 2024. The main parties have commented on the relevance of the changes so as to avoid any prejudice.
4. Following the exchange of information between the main parties, it has been confirmed that the fourth and sixth reasons for refusal (RfRs) which respectively relate to the Poole Harbour Special Protection Area (SPA) and highways implications of the proposal would no longer be defended. I find no reason to reach alternative conclusions.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies;
 - the effect of the proposal on the openness and purposes of the Green Belt
 - whether the location and nature of the development accords with the development plan;
 - whether the development would be at risk of flooding from groundwater sources; 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 proposal.

Reasons

Context

6. The site lies to the north of 9 Coach Road Cottages; a semi-detached dwelling in the countryside. A public right of way (PROW) runs along the eastern boundary and provides access to the site. Extending further north of the site is a former plantation, now operated as a campsite and adventure centre by the appellant.

Green Belt

7. The appeal site lies within the designated Green Belt. The Framework indicates, in paragraph 153, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. There are a number of exceptions to the definition of inappropriate development listed in paragraph 154 which includes (b), the provision of appropriate facilities, including buildings, for outdoor sport, outdoor recreation, and, (g) the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not cause substantial harm to the openness of the Green Belt.
8. The occupation of buildings for residential purposes restricted by holiday condition does not qualify as a form of outdoor recreation under paragraph 154 b) as a not inappropriate form of development. What is offered by the appeal site is clearly distinct from the outdoor recreational pursuits that occur on land within the appellant's ownership near to the appeal site.
9. In respect of Framework paragraph 154 g), the appellant opines that the site comprises previously developed land as it falls within the curtilage of No 9 Coach Road Cottages and was previously occupied by a building. In the absence of clear evidence that the residential use of land was lawful or any evidence pertaining to the specific use, length of existence or scale of any building which is alleged to have previously occupied the site, I cannot conclude that the site constitutes previously developed land.
10. Whilst it is alleged that the shepherd huts and decking could be moved if dismantled more readily than anything more substantially built, the nature of their affixation within the site and enclosure by fencing suggests that they are unlikely to move or be 'temporary' in nature. In any event, the permission sought is not for a temporary duration. The proposal is for structures to be permanently retained within the Green Belt for residential purposes, albeit restricted by condition to holiday occupation.
11. Under Framework paragraph 154 d) provision is made for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Even if the proposal here were not disproportionately

larger than anything that may have existed before, it is not claimed that the use between the former and current buildings would remain consistent.

12. Thus, for the reasons outlined above, the proposal constitutes definitionally inappropriate development within the Green Belt in conflict with the Framework and Policy V1 of the Local Plan.

Green Belt Openness

13. The appeal site is now occupied by a collection of timber structures and platforms which are enclosed by high timber fencing. The nearby parking spaces serving the buildings remain open, but the other aspects of the development are urban features that cannot be said to represent the essential characteristics of Green Belt openness or permanence. Whilst it is suggested that they are designed to appear rustic and of the style typically found in the countryside, there is urbanisation and harm to the openness of the Green Belt, exacerbated by the adjoining collection of residential outbuildings serving No 9 Coach Road Cottages and the enclosed maintenance compound to the north. The overall cluttered, rather than open, appearance of the site and immediate surroundings is highly visible from the adjacent PROW.
14. Relative to the scale of the site in the context of the wider Green Belt designation, the degree of harm to openness would not be of a substantial magnitude. However, the proposal would result in harm to the openness of the Green Belt which is very apparent at the site level and from adjoining public land. The understanding of the openness of the Green Belt, including its spatial and visual dimensions set out in caselaw such as Turner¹ and Samuel Smith² do not lead me to an alternative conclusion. Thus, the harm to Green Belt openness brings the scheme into conflict with the Framework.

Location and nature of the development

15. Local Plan Policy V1 sets out that among other categories of development, high quality small scale development on unallocated sites within the boundaries of settlements listed in the hierarchy or on small sites, outside the Green Belt, adjoining existing settlement boundaries of towns, key service villages, local service villages and other villages with a settlement boundary will be supported, subject to criteria. The exclusion of sites outside of the Green Belt is patently intended to ensure development is appropriately located in relation to service villages or existing built settlements.
16. Even if a significant amount of development in open countryside and within the Green Belt is precluded by the Policy, it does not follow that it would be to the detriment of the wider plan area. The exclusion of Green Belt serves to ensure its openness and permanence in line with the Framework. Where development within the Green Belt has been considered necessary to meet the needs of the plan area over the relevant period, the Green Belt boundaries have been amended. They have not been amended in relation to the appeal site and therefore, the proposal conflicts with Local Plan Policy V1.
17. Policy EE4 of the Local Plan seeks to support tourism facilities in a number of circumstances. In relation to the Green Belt, the Policy seeks to ensure that

¹ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466.

² R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] UKSC 3

proposals meet with the requirements of National Policy and either constitute a conversion of an existing building (i); limited new development that is closely related to existing buildings (ii); a campsite (iii); or caravan site (iv).

18. The appeal proposal is not a conversion of an existing building as the structures are new. It is not a campsite or caravan site. It is however argued that it is a limited new development closely related to existing buildings and should be seen as complementary to the existing tourism and leisure facility operated on adjoining land. I do not disagree that the scheme would be closely related to Nos 9 and 10 Coach Road Cottages. However, under Policy EE4 e), where proposals are located within the Dorset National Landscape or Green Belt, it must meet the requirements of national policy as well as clauses a) to d) of the Policy.
19. It does not appear that the scheme would specifically conflict with clauses a), b), c) or d) of the Policy. In respect of whether it accords with the Framework, I have found the development to be definitionally inappropriate and harmful to openness. Though it has been put to me that the site was previously developed, there is insufficient evidence of such. Therefore, I cannot concur that the site should be considered to be 'Grey Belt' land. Furthermore, there is similarly absent information to suggest that under the terms of Framework paragraph 155 that there is demonstrable unmet need for the type of development proposed. Accepting that some provision of tourist accommodation would be beneficial to the area in view of the size of the tourism economy is distinct from there being a *demonstrable* unmet need for such.
20. The remaining means by which the proposal could theoretically comply with the Framework is if very special circumstances were capable of being demonstrated. I return to this in the planning balance below.

Groundwater flooding

21. In response to the relevant RfR, the appeal has been submitted with a Flood Risk Assessment (FRA)³. The FRA details that the Environment Agency's long-term flood risk map indicates that the site is in an area unlikely to encounter groundwater flooding and that no groundwater flooding has been recorded. The evidence also details that the appellant's and neighbours' experiences of the site and surroundings over at least the last 8 years has not included any groundwater flooding incidents. These findings contradict the Council's own Strategic Flood Risk Assessment⁴ (SFRA) which suggest that the site is at risk of groundwater flooding. The submitted FRA suggests a period of groundwater monitoring over the winter to ensure that groundwater levels are not too high over the winter months.
22. The appellant suggests that a borehole could be required by way of planning condition to present conclusive findings in respect of groundwater levels and that in any event, the accommodation within the shepherd's huts is raised around 0.3mm above the ground level. It is further suggested that even if a Sequential Test should be required, to find alternative sites within the Purbeck Local Plan area at lower risk of flooding, it is highly unlikely that a more suitable site would be found given the extent of ground water flood risk and flood risk from other sources of flooding as shown in the SFRA. I do not have sufficient detail on which to reach such a conclusion.

³ Paul Basham Associates Ltd, dated 15/11/24

⁴ Level 1 SFRA, 2023

23. I accept that the SFRA is a high level document and is in conflict with another relatively high level mapping database. Nonetheless, the more site-specific detail, in the form of the recommended groundwater level monitoring results, have not been presented to support the conclusion that the development is suitable from a flood risk perspective with no increase to flood risk on or off the site. The FRA indicated that such detail would be necessary to understand the residual risk of groundwater flooding and given that the development has commenced in all other respects, reaching a conclusive finding would minimise risks to occupiers rather than leaving such to a condition.
24. Accordingly, in the absence of conclusive evidence to the contrary, the development appears to be at risk of flooding and therefore, the proposal conflicts with Policy E4 of the Local Plan. Amongst other things, Policy E4 seeks to ensure that adequate measures are taken to mitigate the risk and ensure that potential occupants will be safe, including measures to ensure the development is appropriately flood resilient, flood resistant and future proofed.

Whether Very Special Circumstances

25. In consideration of whether very special circumstances exist to justify the development, my attention has been drawn to the Wychavon case⁵ which established that the circumstances do not have to be individually or cumulatively rare or unique but must be sufficient to override any harm.
26. The considerations advanced by the appellant as to why very special circumstances exist such as to justify the proposal include the need to provide tourist accommodation in the area, the sustainable location of the site, its proximity to an adjoining outdoor recreational facility, the redundant previous use of the site and that the development is a low key form of development.
27. Whilst the site is adjacent the PROW network and offers recreational walking opportunities, the convenience of the location for the facilities within the village are overstated. Journeys made on bicycle as part of a leisure excursion may replace a minimal number of car trips but it would be more likely that the location of the site would result in reliance on the private vehicle in any event.
28. The provision of tourism accommodation in the area is recognised as being beneficial and the Local Plan sets out a positive framework for consideration of such proposals whilst appropriately managing the growth and development of such to protect the built and natural environment. The delivery of two family-sized units of tourism accommodation would be a benefit of the development to which I attribute modest weight.
29. The adjacency to the campsite would be of limited relevance given that guests at either venue would not share any facilities of note. The adjacency of the site to the appellant's outdoor recreational facility would result in guests having easy access to a visitor destination which is a positive attribute that attracts modest weight in favour of the scheme.
30. I have noted that through the use of conditions, the development could avoid adverse effects on highway safety and on the Poole Harbour Special Protection Area. However, the absence of harms does not weigh in favour of the proposal

⁵ Wychavon DC v SSCLG & Ors [2008] EWCA Civ 692

and is of neutral consequence overall. The harm from the risk of flooding does, however, weigh against the proposal.

31. Overall, my view is that even taken collectively, the other considerations in this case do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.
32. Given the absence of very special circumstances to justify the development, the proposal does not comply with national policy in respect of Green Belts and, owing to its location and nature, the proposal conflicts with Local Plan Policy EE4.

Conclusion

33. The proposal conflicts with the development plan when taken as a whole. There are no considerations of such materiality that indicate that a decision should be taken other than in accordance therewith. As a result, the appeal should be dismissed.

H Nicholls

INSPECTOR