



Appeal Decision

Site visit made on 10 June 2025

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal Ref: APP/B1740/W/25/3363504

192 Gore Road, New Milton, Hampshire BH25 5NQ

- 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 Mrs Sally Kelson against the decision of New Forest District Council.
 - The application Ref is 24/10803.
 - The development proposed is development of 2 dwellings with associated parking and bin stores. Drop kerb to be extended.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - the effect of the proposed development on protected sites, namely the New Forest Special Protection Area (SPA) and Ramsar, the Solent and Southampton Water SPA and Ramsar, the Solent Maritime Special Area of Conservation (SAC), and the Solent and Dorset Coast SPA;
 - whether the proposal would be inappropriate development in the Green Belt, having regard to local and national policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposed development would effect the living conditions of future residents; 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

Protected Sites

3. The UK Government has national and international obligations for the protection of a range of natural habitats and associated flora and fauna. These include SPAs for wild birds and their habitats, and SACs for specified habitats and species and Ramsar's.

4. The appeal site is located in proximity to a number of these protected sites, namely the New Forest SPA and Ramsar, the Solent and Southampton Water SPA and Ramsar, the Solent Maritime SAC, and the Solent and Dorset Coast SPA.
5. The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) provide that for all planning applications which are not directly connected with the conservation management of a habitat site, consideration needs to be given as to whether the proposed development is likely to have a significant effect on that site. Where the potential for likely significant effects cannot be excluded, an Appropriate Assessment of the implications of the proposal for that site must be undertaken. Where an adverse effect cannot be ruled out, and where there are no alternative solutions, the proposal can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.
6. The New Forest protected sites are primarily designated for the vegetation they contain and the species they support. They are vulnerable to damage from visitors through disturbance of nesting birds, trampling, contamination and fire. An increase in population is likely to have a significant effect on the integrity of the protected sites due to increased visitor numbers and the consequent implications for disturbance.
7. The Solent and Southampton Water sites are primarily designated due to the bird species the habitat supports. There is evidence of high levels of nitrogen and phosphorus in the water environment across the Solent, with evidence of eutrophication at some designated sites. The erection of two dwellings would result in an increase in wastewater entering the system which would likely have a significant effect on the integrity of the suite of designated sites.
8. Due to increased recreational use arising in combination with other development and increased foul water flows the Council have produced two Appropriate Assessment (AA). The AA regarding nutrient neutrality concluded that, subject to a condition requiring mitigation, likely in the form of the purchase of credits for nutrient neutrality, the development would not have adverse effects on the integrity of protected sites as a result of nutrient impacts. Based on the evidence before me, I have no reason to come to a different conclusion.
9. The AA in relation to recreation pressures concluded that the proposed development would, in combination with other development, have an adverse effect on the integrity of protected sites. This could be mitigated were a contribution be secured through an appropriate planning obligation in line with adopted mitigation measures.
10. The Council's strategy for achieving mitigation of increased recreational pressure on European sites is currently set out within the Mitigation for Recreational Impacts on New Forest European Sites Supplementary Planning Document 2021 (the SPD), and the Solent Recreation Mitigation Strategy 2017 (SRMS). In each regard mitigation comprises funding for provision of sites of alternative natural green space (SANGS), and provision of site access management and monitoring measures (SAMM). The SPD indicates that funding will be through a mix of CIL and financial contributions, and the SRMS, through financial contributions.

11. Natural England have provided general advice to the Council confirming that it will not object to schemes provided mitigation is secured in line with local strategy.
12. The appellant acknowledges that the financial contribution would need to be secured via a planning obligation, however one has not been submitted. The Planning Practice Guidance¹ advises that a negatively worded condition limiting development that can take place until a planning obligation has been entered into is unlikely to be appropriate in the majority of cases. Consequently, there is no effective mechanism before me to secure the proposed mitigation.
13. In the absence of full mitigation for the increased recreational pressure to which the scheme would give rise, adverse effects on the integrity of the recreation-sensitive sites cannot be excluded. As considered above, this matter could not be properly addressed through the imposition of a Grampian condition.
14. The scheme would therefore fail to mitigate the likely adverse effect it would have in relation to the recreation-sensitive sites. As such and given the failure of the scheme in this regard, allowing the appeal would be contrary to the Habitats Regulations. It would therefore conflict with Policy ENV1 of the New Forest District Council Local Plan 2016-2036 Part One: Planning Strategy (2020) (LP1) which requires that development is only permitted where any necessary mitigation, management or monitoring measures are secured in perpetuity. It would also run contrary to paragraphs 193 and 194 of the National Planning Policy Framework (Framework) that seek to ensure that developments do not result in the loss or deterioration of irreplaceable habitats.

Whether Inappropriate and Openness

15. The appeal site comprises an existing detached, two storey, dwelling at 192 Gore Road, and the associated garden which extends to the side and behind the dwelling, towards the railway line that bounds the rear of the site. The site is located within the Green Belt.
16. Paragraph 154 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in villages or limited infilling or partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt. LP1 Policy ENV2 reflects Paragraph 154 of the Framework.
17. The existing housing along Gore Road fronts on to the highway, set back along a fairly well-defined building line with long gardens behind. The appeal site is enclosed by timber fencing and mature hedgerows and is bound on two sides by existing dwellings and their associated gardens, a railway line to the rear and Gore Road to the front. Although there were large greenhouse buildings on the opposite side of the road, these have recently been demolished.
18. Infilling within the Green Belt does not have to be within defined development boundaries. However, in order to comply with Paragraph 154 e) of the Framework, the appeal site needs to be located within a village.

¹ Paragraph 21a-010-20190723

19. Whilst a settlement boundary is not necessarily definitive in determining whether a location forms part of a village or not, from my observations on the ground, the properties along Gore Road distinctly define the developed edge of the town of New Milton. Whilst the appeal site is located outside the development boundary of New Milton, it is located in close proximity and is a continuation of built development extending from the town. As a result, for the purposes of paragraph 154, the appeal site forms part of the town of New Milton and not a village and the proposed development is not therefore considered to be limited infilling in a village.
20. Framework Paragraph 154 g) relates to the limited infilling or the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt. The site appears to have the remnants of a driveway and hardstanding and could be considered as previously developed land.
21. Green Belt openness has both a spatial and visual dimension. Notwithstanding the hardstanding and minor domestic outbuildings, the appeal site is largely free from development. The construction of two dwellings would introduce new built form into the Green Belt which would result in a spatial loss of openness. The proposal would also be seen from surrounding residential properties and from the highway and pavement along Gore Road. Introducing new built form would therefore also result in a visual loss of openness.
22. Compared to the existing situation openness would therefore, both spatially and visually, be reduced by the introduction of two dwellings at the appeal site. Whilst the loss would be relatively localised, it would, nonetheless, impact on the openness of the Green Belt and would therefore conflict with the objectives of the Framework in keeping Green Belt land permanently open.
23. I have considered whether Paragraph 155 of the Framework is relevant in this case in so far that the proposal might constitute the development of homes on grey belt land. Annex 2 of the Framework defines grey belt as land in the Green Belt comprising previously developed and/or any other land that does not contribute strongly to any of purposes (a), (b) or (d) in paragraph 143. However, it goes on to state that grey belt excludes land where the application of policies relating to areas or assets in footnote 7 would provide a strong reason for refusing or restricting development. Protected sites such as SAC's and SPAs are listed in Footnote 7. Due to my conclusion on the first main issue, the appeal site would not therefore meet the definition of grey belt.
24. Consequently, the proposal would comprise inappropriate development in the Green Belt.

Character and Appearance

25. The area has a pleasant consistency which is found in the strength of its urban grain, itself made up of single and two storey dwellings facing the highway. Plots are generally narrow with long gardens and smaller outbuildings to the rear of frontage development.
26. The proposed development would introduce a dwelling to its side, between the host and adjoining dwelling. A further dwelling would be located to the rear, in the back land area between the dwellings fronting on to Gore Road and the railway line, which, with the exception of smaller, ancillary buildings, is currently free from

built form. This would be in marked contrast with the existing pattern of development and introduce an uncharacteristic second tier of residential development. The incongruousness of the proposals would be exacerbated by the building's lack of a street frontage and having most of its garden area to its front and side.

27. The spacing of the dwelling located to the front of the site would be similar to other dwellings along Gore Road. It would be set back to accord with the existing building line and would be of a similar design and scale to the host dwelling. Whilst the garden would not be as deep as some plots along Gore Road, it would have a similar depth to No's 190, 188 and 186. Sufficient space would remain for parking and outdoors space, and gaps between dwellings would be maintained. As a result, it would not have a cramped appearance. Whilst parking would be provided to the front this is a characteristic feature of the wider street scene and would not detract from the wider character.
28. Whilst I have not found harm in relation to the frontage dwelling, the construction of a dwelling to the rear of the site would have a harmful impact on the character and appearance of the area. Consequently, the proposal would not comply with LP1 Policy ENV3, the New Milton Neighbourhood Plan (NP) or the guidance contained within the New Milton Local Distinctiveness Supplementary Planning Guide. Together these seek, amongst other things, for development to contribute positively to local distinctiveness and enhance the character and identity of the locality, and that development is sympathetic to its environment and context.

Living Conditions

29. One proposed dwelling would be located to the side of the host dwelling, between it and No 190 Gore Road, with a second dwelling proposed to the rear, close to the boundary of the site with the railway line.
30. The driveway for the dwelling to the rear would pass directly along the flank elevation of the proposed frontage dwelling. Driveways located next to dwellings are not uncommon in the area. I also noted that there is a fair level of background noise due to the location close to other development and the railway line.
31. Taking into account the existing situation, I am of the view that the construction of the rear dwelling with its associated vehicle movements would not result in significant noise or light pollution that would be unduly detrimental to the living conditions of future residents.
32. I therefore conclude that the proposed development would not be harmful to the living conditions of future residents. It would therefore accord LP1 Policy ENV3 of the Local Plan, which seeks to ensure that new development avoids adverse impacts on residential amenity.

Other Considerations

33. The Council has confirmed that it cannot demonstrate a five-year supply of deliverable housing land. The provision of two dwellings would contribute to the overall housing land supply, and there would be socio-economic benefits associated with the construction and occupation of the dwellings. These benefits would however be limited due to the small scale of the development.

34. The appellant has stated that the proposed development would enhance the character and appearance of the area. I have however found that the proposed development would harm the character and appearance of the area.

Green Belt and Planning Balance

35. The proposal as a whole would constitute inappropriate development in the Green Belt which would also be harmful to openness. As such, the Framework requires me to give these collective harms substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
36. Due to the small-scale of the proposed development I attach limited positive weight to the contribution the appeal site would make to boosting the supply of housing and providing housing where a 5-year housing land supply cannot be demonstrated. I also attach limited positive weight to the economic and social benefits of providing additional homes in an accessible location.
37. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by the Framework.
38. Balanced against that are the other considerations discussed above. However, for the reasons given, those other considerations in this case, taken cumulatively, do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
39. Overall, the application of policies in the Framework that protect the Green Belt provide a clear reason for refusing the proposed development.
40. Whilst the Council cannot demonstrate a sufficient housing and supply, Framework paragraph 11, d), i, footnote 7, paragraph 194 is a specific policy in the Framework that indicates that development should be restricted. Therefore, whether or not a five-year housing land supply can be demonstrated is not determinative in this appeal, and the presumption in favour of sustainable development is not available to the proposed development.

Conclusion

41. For the reasons given above, the proposed development would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

Tamsin Law

INSPECTOR