



Appeal Decision

Site visit made on 2 December 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 December 2025

Appeal Ref: APP/D1265/W/25/3372669

85 Church Road, Three Legged Cross, Wimborne, 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/2024/07592.
 - The development proposed is sever plot and erect a new dwelling, remove existing caravan.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Martyn Hudson against the decision of Dorset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the address in the banner heading above from the appeal form as this more clearly identifies the appeal site than that given on the application form.
4. The application seeks outline planning permission with matters of Access, Appearance, Layout and Scale for consideration. As a result, Landscaping is a reserved matter.
5. There is no dispute between the main parties that the proposed development comprises limited infilling in villages falling within the exceptions listed in Paragraph 154(e) of the National Planning Policy Framework (the Framework) which do not require any consideration of the effect on openness. This is supported by a recent appeal decision on the site for similar development¹ (the previous appeal decision) and I have no reason to disagree with the main parties or the previous appeal decision that the proposal does not represent inappropriate development in the Green Belt. As a result, I do not need to deal with this matter as a Main Issue.
6. However, the Council's Officer Report and Statement of Case both advise that as the applicant is relying on the self-build exemption for Biodiversity Net Gain (BNG), should the proposal be permitted, the self-build nature of the proposal will need to be secured by a legal agreement. The appellant has responded to this in his final comments. Given this, and given the statutory framework for BNG, I will elevate this matter to a Main Issue.

¹ APP/D1265/W/24/3337684

Main Issues

7. In light of the Preliminary Matters above, the main issues are:

- whether the appeal proposal would be at risk of flooding or increase the risk of flooding elsewhere; and
- whether the proposal appropriately secures BNG.

Reasons

8. Policy ME6 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (April 2014) (LP) states that the local authority will apply the sequential and exception tests as set out in the Framework when assessing new development.
9. Paragraph 170 of the Framework states that development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or in the future). This is known as the Sequential Test and should identify whether such development could be located in an area at lower risk of flooding. Paragraph 173 of the Framework states that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding.
10. The appellant states that the site is within Flood Zone 1 and is not at risk of flooding as demonstrated by the lack of historic flooding and the findings of the submitted Environmental Search, letter from Bellamy Roberts and Flood Risk Technical Note by AEGAEA (FRTN). There is no dispute between the main parties that the site falls within Flood Zone 1.
11. Nonetheless, the Council have identified that the appeal site is susceptible to groundwater flooding due to high ground water levels. This is supported by the appellant's FRTN that clarifies that the Council's mapping shows that the appeal site is located within an 'Area Susceptible to Groundwater flooding', although it states that there is a low/residual risk of groundwater flooding. Given that the Framework seeks to manage flood risk from all sources of flooding, including from groundwater, and having regard to Paragraph 181 of the Framework, and associated footnote 63, the Sequential Test applies to groundwater flooding and therefore applies to this proposal given its location within an area susceptible to groundwater flooding.
12. As with the proposal the subject of the previous appeal decision, I have not been provided with details of extant planning permissions for single dwellings elsewhere in the LP area that are sequentially preferable to the appeal site. However, the appellant has not sought to dispute the Council's evidence in relation to this. Furthermore, I have not been provided with details from the appellant demonstrating that he has applied a sequential approach to site selection that the PPG confirms should not be constrained to land within an applicant's ownership or control. As such, the Sequential Test has not been satisfied.
13. Notwithstanding, I have to consider the recent changes to the Planning Practice Guidance (PPG) with regard to flood risk. In particular, I note PPG Paragraph 027² that states that in applying paragraph 175 of the Framework, a proportionate approach should be taken. Paragraph 175 of the Framework contains an exception

² Paragraph: 027 Reference ID: 7-027-20220825

to the need for a Sequential Test where a site-specific flood risk assessment demonstrates no development within the site boundary would be at risk of flooding from any source, now or in the future. This is reflected in Paragraph 027 of the PPG that states that where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from flood risk without increasing flood risk elsewhere, then the sequential test need not be applied.

14. In this regard, the FRTN states that the site is at low risk of groundwater flooding with the site at low risk of flooding. It comes to this conclusion based upon findings from the nearest borehole approximately 280m south of the site confirming sand and gravel geology to a depth of 3m with no water struck. It also comes to this conclusion due to the lack of historic flooding in the area identified in the Dorset Strategic Flood Risk Assessment (DSFRA), as the site is at low risk of fluvial/tidal flooding as identified in the DSFRA that links potential for groundwater flooding to fluvial/tidal events, and due to the inclusion of mitigation measures to reduce and control surface water flows. However, I note the contents of the Bellamy Roberts letter stating that the nearest boreholes were carried out in August when groundwater levels would be at or close to its lowest and that water was recorded at 2.7m below ground level.
15. Related to this, the appeal is accompanied by a Surface Water Drainage Strategy by AEGAEA detailing the use of various SuDS measures to reduce and control surface water flows and by the letter from Bellamy Roberts stating that infiltration will not be viable, that there is no need to undertake infiltration testing and that the proposal can suitably incorporate bioretention planters and water butts to provide a betterment over the existing situation.
16. It is also relevant to consider the presence of the existing caravan on the site to be replaced, and to its lack of SuDS features with surface water following existing flow paths within the site. Furthermore, the appeal site is already predominately covered by hard surfacing such that there is already uncontrolled surface water run-off.
17. I do however acknowledge the Council's concerns regarding the distance of the boreholes from the site, date and time of year that the boreholes were taken and lack of site-specific testing to demonstrate that the proposal would not impact upon groundwater levels. Although this slightly undermines the appellant's case, the boreholes nonetheless provide evidence of historic groundwater levels with the appellant acknowledging that infiltration does not represent a viable means of disposing of surface water from the site. Furthermore, given that the proposed dwelling is only slightly larger than the existing and to be placed on ground that is already hard surfaced, any additional water run-off from the proposal or impact upon groundwater levels from foundations would be negligible. As a result, the appellant advises that surface water could be controlled through the provision of bioretention planters and water butts that would be a significant betterment compared to the existing situation. In light of the above, and as with the findings of the Inspector on the previous appeal decision, I see no reason why conditions could not be used to secure details of the final surface water drainage scheme to achieve an overall betterment on the site.
18. I also acknowledge the Council's belief that Wessex Water is unlikely to grant a connection to the foul and surface water sewer. However, the appellant states that the existing properties are connected to the foul sewer and the Council has not

provided substantive evidence to counter this. Although I note that the Wessex Water Network Map accompanying the Bellamy Roberts letter identifies the surface water sewer finishing short of the appeal site just before No.80 Church Road, I have not been provided with substantive evidence demonstrating that Wessex Water would not grant a connection. In light of this and given that there is greater than no prospect of a connection being agreed, I am satisfied that a Grampian condition could secure suitable details with regard to surface water drainage.

19. Considering the above, and taking a proportionate approach as required by the PPG, I find that the evidence combined with the existing situation on site, leads me to conclude that the site-specific flood risk assessment and other information before me clearly demonstrates that the proposal, subject to conditions securing surface water details and mitigation measures to create a betterment on site, would ensure occupiers remain safe from flood risk and not increase flood risk elsewhere. In such circumstances the Sequential Test need not be applied.
20. It follows from the above that subject to conditions, the proposal would not be at risk of flooding or increase the risk of flooding elsewhere. As such, the proposal complies with LP Policy ME6 which seeks to ensure that flood risk does not increase as a result of the development proposed, and that options have been taken to reduce overall flood risk. For the same reasons, the proposal complies with the Framework in respect of flood risk.

Biodiversity Net Gain

21. The appellant advises that the proposal would be exempt from BNG as a self-build project. While the appellant has suggested a condition to secure the self-build status, the Council advise that a legal agreement is needed to secure this and the self-build exemption to BNG.
22. Under the Community Infrastructure Levy regulations (CIL), it is possible to apply for a CIL exemption if the dwelling is custom / self-build. The regulations require evidence to be submitted and if personal circumstances of the applicant change at any time within 3 years of initial occupation, they must notify the Council and pay the appropriate CIL amount. The Council, as the CIL charging authority, are responsible for enforcing this. However, there is nothing in the Self Build and Custom Housebuilding Act or the Self Build and Custom Housebuilding Regulations that requires an occupation period.
23. It is therefore incumbent upon me when allowing an appeal to incorporate some means of ensuring that custom / self-build proposals are constructed in this manner. Specifying it in the description of development alone is unlikely to be sufficient and, in any case, this is not included in the description of development for this proposal. Furthermore, a condition requiring occupation of the dwelling by the person who built it would be unlikely to pass the tests of reasonableness and enforceability within paragraph 57 of the Framework. As such, a s106 legal obligation is the most appropriate method of ensuring that the development is self or custom build housing rather than market housing.
24. In the absence of an appropriate legal agreement to secure the self-build status of the proposal and exemption from BNG, the proposal is deficient in that it fails to accord with BNG requirements nor provides a mechanism to secure compliance through self-build. In light of this the proposal is contrary to the Framework that seeks to secure measurable net gains.

Other Considerations

25. While the provision of a new-build family dwelling on the site close to the school carries some weight in favour of the proposal, I give this limited weight in light of the presence of an existing dwelling on the site. I also give limited weight to improvements to the street-scene and character and appearance of the area given that the existing caravan is set back from the road and partly screened by planting.
26. The Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, and as there are no relevant LP policies dealing with BNG, because of the provisions of footnote 7, paragraph 11 d) ii. of the Framework should be applied. The appeal proposal would provide a number of benefits, including providing a well-located new dwelling, benefit the local economy from construction works and use of a local builder and some small improvements to the street scene. However, given the presence of the existing dwelling and small scale and nature of the proposal, the benefits would be limited. In contrast, I have found that the appeal proposal fails to accord with BNG requirements nor provides a mechanism to secure compliance through self-build contrary to the Framework. I therefore find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
27. The appellant raises a number of grievances regarding the conduct of the Council during its consideration of the current and previous planning applications. However, these are not matters which are for consideration in relation to this decision.
28. The appeal site lies within the catchment of the internationally designated Dorset Heathlands. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.

Planning Balance and Conclusion

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise.
30. Although I have found that the proposal is in accordance with the development plan and would provide some limited benefits, I have found that the proposal would result in harm due to the lack of an appropriate mechanism to ensure exemption from Biodiversity Net Gain contrary to the Framework.
31. As a result, in this instance I find that the material consideration in the form of the Framework in relation to BNG indicates that planning permission should not be determined in accordance with the development plan with no other material considerations indicating otherwise. Therefore, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR