

## **EASTERN PLANNING COMMITTEE**

### **Appeal Decisions**

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#### **1. PURPOSE AND RECOMMENDATIONS**

**Purpose of Report:** To inform Members of notified appeals and appeal decisions and to take them into account as a material consideration in the Planning Committee's future decisions.

**Recommendations:** **It is RECOMMENDED that:**  
**(This report is for Information)**

**Wards:** Council-wide

#### **3.0 APPEAL DECISIONS**

##### **3.1 Appeal Reference: APP/U1240/C/18/3204771 & 3207038**

**Planning Reference: 3/17/1982/FUL**

**Enforcement Reference: ENF/16/0335**

**Proposal: Unauthorised construction of a timber constructed building used for residential purposes and retrospective permission for residential curtilage**

**Address: Trotters Plot,**

**Decision: Appeals allowed, Costs dismissed**

The appeal was against an Enforcement Notice requiring the removal of the unauthorised residential structure which Officers had judged did not fall within the definition of a caravan and against refusal of an application for a residential curtilage.

The site, which lies in the Green Belt, already benefitted from a Certificate of Lawfulness for the siting of a caravan for residential purposes.

The Caravan Sites Act 1968 defines twin unit caravans under section 13 as

*“A structure designed or adapted for human habitation which — (a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)”.*

The Act also includes maximum dimensions and the maximum width is 6.8m.”

The Inspector, having considered the available evidence decided that although the construction process was ‘somewhat artificial’, the design and construction of the two halves of the caravan did meet the requirements of section 13(a). He dismissed the Council’s concerns that the beams supporting the structure formed an essential third part which would affect compliance with the definition in relation to (a) and (b) mobility, judging instead that the structure was internally structurally sound without the props so they did not form part of the structure which could therefore be moved in accordance with section 13(b). In relation to the dimensions of the structure, the Inspector noted that the eaves were wider than the dimensions allowed by the Act but followed a previous court decision that it was normal to take the wall-to-wall rather than roof measurements as his guide.

Turning to the proposed curtilage, the Inspector judged that as the limited residential curtilage and modest shed were required for a use that was already lawful, and as the turning and parking area were already in existence and the caravan could not benefit from permitted development rights the development would not harm the openness of the Green Belt and was not inappropriate development.

An application for costs against the Council was refused. The Inspector considered that the Council had an arguable case even though he didn’t agree with it, and that Officers had properly engaged with the appellant so there had been no unreasonable behaviour.

- 3.2 Appeal Reference: APP/U1240/D/19/3227898**  
**Planning Reference: 3/18/3048/HOU**  
**Proposal: Removal Of Roof; Increase In Height Of The Ridge And Eaves For First Floor Habitable Accommodation**  
**Address: Ronoake, Lower Rowe, Holt, Wimborne BH21 7DZ**
- Decision: Appeal dismissed**

The proposal involved raising the ridge of the roof by 1.5 metres, the incorporation of dormers and an end gable addition to a single storey dwelling. The site lies within the South East Dorset Green Belt.

The Inspector considered that the main issues in this case were: (i) whether the proposal would be ‘inappropriate development’ in the Green Belt and (ii) whether the harm by reason of inappropriateness and loss of openness would be clearly outweighed by ‘other considerations’, and if so whether this would amount to the ‘very special circumstances’ required to justify the proposal.

With regard to the planning history of the site, the Inspector noted that the original building had previously been substantially extended. He came to the view that ‘the existing cumulative increase in its size would be noticeably increased by the addition of a first floor. The raising of the ridge by about 1.5m

and the incorporation of dormers and an end gable would further change the form and character of the original building and increase its bulk.'

The Inspector came to the view that :

*'the individual and cumulative effect of the appeal scheme would be one of the building being disproportionately extended in conflict with the Framework. Moreover, the raising of the roof and the construction of the dormers would by definition dominate the existing building and result in a material loss of openness, especially bearing in mind that the building is set some distance apart from neighbouring buildings on slightly elevated land in a rural landscape with a predominantly open character.'*

The Inspector therefore concluded that the addition of the first floor would be inappropriate development in the Green Belt contrary to the Framework and Local Plan Policy GB3, which is harmful by definition. He was also of the view that there were no very special circumstances in this instance to justify the development and the appeal was dismissed on that basis.

**3.3 Appeal Reference: APP/U1240/W/19/3222451**  
**Planning Reference: 3/18/2220/HOU**  
**Proposal: Loft Conversion with front dormers**  
**Address: 19 Little Dewlands, Verwood, Dorset, BH31 6QA**

**Decision: Appeal Allowed**

The proposal was granted permission by the Council for a loft conversion with dormer windows to the front (north), window to the side (east), and roof lights to the rear (south).

Condition 5 of the planning permission granted by the Council for 3/18/2220/HOU imposed that the rear facing roof lights should be glazed with obscure glass and be hung in such a way as to prevent the effect of obscure glazing being negated. The Inspector considered whether condition 5 was necessary to protect the living conditions and privacy of neighbouring occupants. It was noted that the appellant's property sits on higher ground than 6 Stagswood to the rear, with the neighbouring property located over 30 metres from the rear elevation of the dwelling on the application site.

Despite the changes in level, the separation distance, the existing mature trees, boundary fence and hedge to the rear boundary of 6 Stagswood, the Inspector considered that the harm from the proposed roof lights would not amount to significant harm to the living conditions of the rear neighbour.

The Inspector concluded that the disputed condition (condition 5), as well as the alternative suggested by the Council was not necessary to protect neighbouring amenity, with particular regards to privacy. Therefore the Inspector decided that the appeal should be allowed, by varying the planning permission by deleting the disputed condition (condition 5).

**3.4 Appeal References (linked appeal):**

- A) APP/B1225/W/19/3220927 and**
- B) APP/B1225/W/19/3220929**

**Planning References:**

- A) 6/2018/0296 & B) 6/2018/0459**

- Proposal:**
- A) Erect four new dwellings**
  - B) Erect two new dwellings**

**Address:** Land adjoining 11 Bell Street, Swanage, BH19 2RY

**Decision:** **Appeal A) dismissed**  
**Appeal B) allowed with a separate application for costs awarded**

This linked appeal involved two proposals, the first to erect four new dwellings on an infill plot to the rear of properties fronting Bell Street and Steer Road in Swanage (A). The second (B) was to erect two new dwellings on the site.

The site is within the Herston Conservation Area and there is a Grade II listed building immediately to the south west of the site (17 Bell Street). On the site is a pair of semi-detached houses. The first application (A), for four houses, was refused under the Purbeck District Council's scheme of delegation. Two of the four houses (labelled as Units A&B) would be situated adjacent to an existing pair of houses.

The Inspector considered that the main issues were whether the proposal would preserve or enhance the character or appearance of the Herston Conservation Area and whether the proposal would preserve the setting of 17 Bell Street, a Listed Building.

The Inspector determined that Units A & B would not be a prominent feature in the Conservation Area, they would not intrude into the sense of spaciousness behind 11, 17 and 19 Bell Street. The Inspector felt that these two would sit comfortably alongside the pair of existing houses.

In contrast, the other two houses proposed (labelled as Units C&D) would block important views within the Conservation Area and therefore cause harm to its character. The Inspector determined that this harm was less than substantial within the meaning of Paragraph 193 of the National Planning Policy Framework; however the limited benefits gained from providing two additional houses were outweighed by the harm caused.

The Inspector also determined that Units C & D, which would be very close to the listed building, would rob it of its open setting and therefore be harmful to its setting. The harm to the setting of the listed building is not outweighed by the benefits of additional housing.

The second of the linked appeals (B) was for a revised scheme for Units A & B only. The application was refused at Planning Committee contrary to officer recommendation. The Inspector considered that Units A & B do not have a harmful impact on the Conservation Area and allowed the appeal.

#### **Award of Costs**

In awarding costs against the Council, the Inspector found that Council had been inconsistent in its assessment of the applications as there had been no change to planning policy in the intervening time.

- 3.5 Appeal Reference: APP/B1225/W/19/3228318**  
**Planning Reference: 6/2018/0504**  
**Proposal: Demolition of existing dwellings and erection of two detached dwellings with garaging and car parking.**  
**Address: 1&2 Park Farm Cottages, Poole Road, Upton BH16 5LW**

#### **Appeal dismissed**

The site is situated outside of the settlement boundary of Upton, within the South East Dorset Green Belt.

The Inspector considered the main issues to be whether the proposal would be inappropriate development in the Green Belt, the effect of the proposal on the character and appearance of the area and if inappropriate, whether the harm to the Green Belt is outweighed by other considerations, amounting to very special circumstances.

The Inspector concluded that the replacement buildings would be materially larger than the original; contrary to paragraph 145 of the National Planning Policy Framework (NPPF) and therefore amounts to inappropriate development in the Green Belt.

Due to the replacement buildings being set further into the plot, the cumulative impact of the built development being dispersed across the site, and a new access point, it was judged that the proposal would cause visual harm to the openness of the Green Belt and represent encroachment of additional built form into the countryside, contrary to paragraph 134 of the NPPF.

Given the relatively minor scale of the proposal, moderate harm would be caused to the openness of the Green Belt.

The Inspector considered that the proposal would have a detrimental impact upon the character and appearance of the area, due to the change from a modest scale, traditional form workers cottage to a sizeable detached dwelling with an imposing appearance due to its scale, increase in height and use of significant areas of glazing. The second dwelling was considered to be more modest however the design was considered by the Inspector to be more commonly associated with suburban areas and deemed contrary to Policy D of

the Purbeck Local Plan Part 1 which states that development should positively integrate with its surroundings.

The Inspector considered the appellants argument that the existing houses could be extended using permitted development allowances but did not give this significant weight. The existing cottages are derelict and there is little basis to suppose that the appellant would realistically seek to carry out these works. Moreover these extensions would be primarily single storey and would have less of an impact.

The Inspector also addressed the appellant's assertion that the site should be considered as brownfield land, clarifying that the definition does not assume that the whole curtilage of the houses should be developed. Development on brownfield land must not have a greater impact on the openness of the Green Belt than the existing development. Although the appellant was looking at making their development sustainable, the Inspector concluded that this does not outweigh the harm to the Green Belt.