

EASTERN PLANNING COMMITTEE

Appeal Decisions

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

2.0 APPEAL DECISIONS

2.1 Appeal Reference: APP/U1240/C/19/3226644

Planning Reference: Enforcement

Address: 223 Ringwood Road, St Leonards, Ringwood, BH24 2SD

Decision: Appeal dismissed, Enforcement notice upheld with corrections and variations

223 Ringwood Road lies in the Green Belt south of the A31 within 5km of protected Dorset Heathland. The site comprises a dwellinghouse, a residential caravan benefiting from a Certificate of Lawfulness and there was a historic Certificate of Established Use for a Kennels. The Council's attention was drawn to the site when two businesses started to operate there.

Following an enforcement investigation, a Planning Enforcement Notice was issued on 15 March 2019 in respect of:

- Unauthorised change of use of land for the stationing of caravans for residential purposes
- Unauthorised use of land to business use
- Hard surfacing

The appeal was lodged on grounds (b) that the breach of control alleged had not occurred, (c) that there was no breach of planning control, (d) that it was too late to take enforcement action and (f) that the steps required by the notice were excessive.

Following a two-day planning inquiry during which aerial photographs provided critical evidence, the Inspector determined that:

- The lawful caravan did not confer 'caravan site' status in respect of the whole Appeal site on which a number of uses were taking place.
- The caravans represented a wholly new use. The appellants evidence was 'confusing, ambiguous and contradictory' he could not prove on the balance of probability that either caravan had been in continuous residential use for 10 years.
- The area to the rear of the site represented a separate planning unit on which the site services business was operating. This intensive use was materially different to the previous low-key business use and there was no case to show that the use was immune by reason of time.
- A massive change in the character and appearance of the southern part of the site led the Inspector to conclude that the caravan storage and sales use represented a change of use of the site which was not immune by reason of time.
- No significant new areas of hardsurfacing had been laid on the southern part of the site but there was evidence that scalplings representing development had been laid behind the dwelling.

The Inspector amended the Enforcement Notice to require the cessation of the use of the site for caravans for residential use and the use for a site services and container/modular buildings installation business and a mobile homes, containers, temporary buildings and portacabins storage and sales business.

The original time frame of 6 months has been amended by the Nominated Officer to 9 months in the light of Covid19. This requires compliance by 20 January 2021.

2.2 Appeal Reference: APP/D1265/W/20/3245921

Planning Reference: 3/19/1015/FUL

Address: Misty Meadows, 147 Ringwood Road, Ferndown, Dorset, BH22 9AB

Decision: Appeal dismissed

The site, which has been the subject of numerous planning applications, lies within the Green Belt to the west of the Longham village infill area. The proposal involved demolishing the existing, unauthorised building on the site – which has the appearance of, and is fitted out as, an independent unit of residential accommodation - and re-constructing what was previously constructed on the site – an open fronted shed for the storage of logs.

The Inspector noted that the building had solid and enclosed walls to all elevations, timber clad, domestic like windows and doors, and was internally subdivided into rooms including an area for a kitchen and a separate bathroom.

The Inspector considered that the main issues were:

- whether or not the proposal would be inappropriate development in the Green Belt

- the effect of the proposal on the openness of the Green Belt, and
- if the appeal development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

The Inspector concluded that the proposal would constitute inappropriate development within the Green Belt.

With regard to openness, the Inspector came to the view that the proposal would introduce a building where no lawful building was present and therefore there would be both a spatial and a visual reduction to the openness of the site. He concluded that the proposal would therefore harm the openness of the Green Belt. He also found that the proposal would not assist in safeguarding the countryside from encroachment and would therefore not accord with one of the purposes of the Green Belt.

Inspector found that the other considerations put forward in support of the proposed development did not clearly outweigh the harm to the Green Belt and consequently, the very special circumstances necessary to justify the development did not exist.

The Inspector concluded that the proposal would constitute inappropriate development in the Green Belt and no very special circumstances had been demonstrated.

The appeal was therefore dismissed on this basis.

2.3 Appeal Reference: APP/U1240/C/19/3222991
Planning Reference: Enforcement
Address: Land adjacent to premises at 6 Uppington Close, Hinton Martell, Wimborne, BH21 7HS
Decision: Appeal dismissed. Enforcement Notice upheld with variations

The site lies within the Green Belt and an Area of Great Landscape Value within open countryside. The owners of no. 6 Uppington Close had purchased adjoining farmland and had undertaken works to create a playing pitch for residential enjoyment.

Following an enforcement investigation an Enforcement notice was served. The alleged breach of planning control was the change of use of land from grazing paddock to land used for residential purposes incidental to 6 Uppington Close and the construction of an astro-turf sports area, together with associated goal posts/net, netball posts/net, sleeper walls and access steps.

The appeal was lodged on grounds (a) permission should be granted, (c) that there was no breach of planning control, (d) that it was too late to take enforcement action and (f) that the steps required by the notice were excessive.

The Inspector noted that the land had been purchased in 2008 and had thereafter formed part of the planning unit but was not convinced by the appellant's evidence that the land benefited from a lawful residential (garden) use.

When considering the works undertaken to form a pitch the Inspector judged that the works represented an engineering operation which had taken place outside of the residential curtilage and required planning permission.

The Inspector declined to grant permission for the development. He judged that the introduction of the sizeable games pitch set into the slope of the land and incorporating retaining walls and access steps, which facilitated a material change of use of the land to residential purposes incidental to the dwelling, failed to preserve the openness of the Green Belt and represented encroachment into the countryside in conflict with the purposes of Green Belt. He also gave some weight to the inevitable pressure to add further structures if the change of use was granted permission. Although the development to date had little impact on the appearance of the land, the Inspector anticipated that the appearance of the site would be likely to become a manicured garden and/or home to residential paraphernalia which would conflict with policy HE3. No very special circumstances were identified to outweigh harm.

The appeal was dismissed.

2.4 Appeal Reference: APP/D1265/W/20/3245075
Planning Reference: 6/2019/0269
Address: Hill House, Jennys Lane, Lytchett Matravers, BH16 6BP
Decision: Appeal dismissed.

Outline permission was refused under delegated powers, to demolish existing workshop and stables, remove other fixed infrastructure and build a dwelling. The site lies within open countryside designated as Green Belt, outside the Lytchett Matravers settlement boundary.

The Planning Inspector agreed with the Council that the proposal represented inappropriate development in the Green Belt. The appellant's contention that the development represented village infilling was dismissed; the Inspector found that the site lay beyond the village as the loose ribbon development along Jennys Lane had a different character and the site was bordered to the west by undeveloped fields rather than between existing buildings. Although the site was previously developed land, the proposed two storey dwelling would have a greater impact on openness than the buildings to be demolished as a result of its physical impact and visual prominence.

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The Inspector also agreed that the proposal would cause harm to the semi-rural character of the area and represent an unsustainable form of development contrary to policies CO, LD and SD of the Local Plan and national policy.

No very special circumstances were identified to outweigh the harm and the appeal was dismissed.