

Appeal Decisions

**1. PURPOSE AND RECOMMENDATIONS**

<b>Purpose of Report:</b>	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.
<b>Recommendations:</b>	<b>It is RECOMMENDED that:</b>
	<b>(This report is for Information)</b>
<b>Wards:</b>	Council-wide

**3.0 APPEAL DECISIONS**

**3.1 Appeal Reference: APP/D1265/W/20/3255404**

**Planning Reference: 3/2019/1900/OUT**

**Proposal: Outline planning application (Access and Layout for consideration with Scale, Appearance and Landscaping reserved) for erection of a single dwelling house.**

**Address: The Bothy, 63 Avon Castle Drive, Ashley Heath, Dorset BH24 2BE**

**Appeal Dismissed**

The proposal comprised an outline planning application with all matters reserved except for access and layout for a single dwelling sited to the southern edge of Avon Castle, Ashley Heath.

The site was located outside the settlement boundary and within the South East Dorset Green Belt and Area of Great Landscape Value (AGLV). To the immediate east of the site is the River Avon, an important nature conservation site which is designated as a Special Area of Conservation (SAC) Avon Valley SPA, Avon Valley Ramsar and Avon Valley (Bickton to Christchurch) SSSI. A number of trees are sited on the southern boundary.

The application was refused under the Council’s Scheme of Delegation; the Inspector note the main issues were:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
- The effect of the proposal on the character and appearance of the area, including protected trees at the site.
- The effect of the development on international and national ecology designations/sites.

In relation to the Green Belt issue the Inspector found:-

*4. The Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt. The construction of new buildings within the Green Belt is inappropriate development, unless the development falls within one of a number of stated exceptions, which includes **limited infilling in villages**. The term limited infilling is not defined in the Framework.*

*5. To qualify for this exception the proposal must be both 'limited infilling' and in a 'village'. Firstly, the site is one where it is on the southern edge of this settlement known as Avon Castle. There are other dwellings to the north, south and west. The host dwelling, 'The Bothy' is to the east or south-east. Whilst the site may be outside of the defined urban area and settlement boundary this is not a determinative factor in this case for establishing whether the plot is within a village for Green Belt purposes. To my mind, when viewed on the ground and also on plan view, the site is within a village.*

*6. With regards to being limited, this is a single dwelling proposed which is not indicated to be of a particularly large scale, and so I conclude that this is a limited form of development. However, the question which is at the heart of this dispute is whether this is an infill plot. It should also be noted that the characteristics of the area which would receive development are a material factor in considering whether the proposal would constitute infilling. The wider context of the development form and pattern of adjoining development should inform the assessment of whether the proposal would be limited infilling. The space within which the development would take place is also an important factor.*

*7. This is an area characterised by large dwellings set within spacious and verdant plots. This character is evident within Chapel Rise, although this street has a varied layout with differing plot sizes. It does not have a regular or uniform row of dwellings fronting the highway. As such, building on this plot as proposed would not be a typical form of infill development. Nonetheless, it is essentially the filling of a plot which would have direct access off Chapel Rise, set between the plots of other dwellings. It would fill a space in much the same way as the other dwellings have done along this street. As such, in the context of this street and taking into account its prevailing character, I would consider this a form of infill development.*

*8. As such, I would regard the proposal as a form of limited infill in a village. The proposed development would therefore meet with the exception set out in paragraph 145(e) of the Framework and would not amount to inappropriate development in the Green Belt.*

The Inspector in the first instance concluded that the settlement of Avon Castle was deemed to be a 'village', even though it does not on face value appear to be a village in terms of having shops or other services. Looking at the issue of 'limited infilling', the Inspector clearly identifies the character of the area and whilst his views are subjective and contrary to the Local Planning Authority's (LPA), fully justifies the rationale in arriving at his view that this plot is limited infill. On this basis the principle of development of a single dwelling within the Green Belt is allowed. Whilst disappointing, this decision remains subjective and would not give rise to an overriding precedent for similar developments throughout the Green Belt, but rather reinforces the case by case application of policy and NPPF guidance taken by officers.

Turning to other issues. In relation to the character of the area the Inspector found that the proposal would not be harmful to the character and appearance of the area or result in adverse visual clutter within the landscape. The proposal would be, based on the outline details, sympathetic to the AGLV. In relation to trees the Inspector was satisfied that this issue might be covered by planning condition.

Notwithstanding the above issues the Inspector went on to assess the potential harm to nature conservation, notably the issue of phosphates derived from wastewater and the resultant impact the River Avon.

The Inspector found harm stating: -

16 *...the site is within the catchment of the River Avon, with the wastewater connecting with this river via the Ringwood Waste Water Treatment Works (if connected to the mains sewer system, which is understood to be available). Natural England has concerns with additional development which will give rise to increased levels of phosphate entering the River Avon catchment system.*

17. *The SAC is designated for its important and diverse species of wildlife that depend on the good water quality that is typical of chalk rivers such as the Avon. This SAC is particularly vulnerable to the effects of pollutants including phosphate and nitrogen which may enter the river at sewage treatment works. In this case, the development of even a single dwelling could, through sewage discharge, have the effect of deterioration of the quality of River Avon waters. The increase in dwellings could result in more pollutants into this river which would adversely affect its quality which is important to wildlife species.*

18. *An appropriate assessment must be undertaken to ensure there is no reasonable scientific doubt as to the effects of the proposal, in combination with other developments. Natural England advise that all new residential developments, including those of a smaller scale, within the catchment should achieve 'nutrient/phosphate neutrality'. If they do not, then additional phosphate loads could enter the water environment causing significant adverse effects on the River Avon SAC.*

23. *Whilst this is a small scale development proposed, there are currently no firm detailed proposals for mitigation before me and as such, I cannot conclude with any clear certainty that, following the conclusions of this appropriate assessment, the adverse effects on the integrity of this SAC and other designations would not arise from the development, in combination with other developments within the River Avon catchment area. As this substantial uncertainty remains, it would not be reasonable or adequate to use a 'Grampian' style condition to try to address this issue as it would not provide sufficient assurance for me, as the competent authority, that the proposal would not adversely affect the integrity of this valuable habitat arising from the development.*

\*"Grampian condition" - A planning condition attached to a decision notice that prevents the start of a development until off-site works have been completed on land not controlled by the applicant.

The Inspector concluded that for this reason, the proposal would therefore conflict with Policy ME1 of the Christchurch and East Dorset Core Strategy and dismissed the appeal.

### **3.2 Appeal Reference: APP/D1265/W/20/3251279**

**Planning Reference: 3/19/1900/OUT**

**Proposal: Erection of a dwelling (outline with all matters reserved)**

**Address: The Orchard at Lismore, Dogdean, Colehill, BH21 4HA**

#### **Appeal Dismissed**

The application was for outline approval of a dwelling in the Green Belt at Dogdean, a hamlet outside of Wimborne. The decision, made under delegated powers, was to refuse due to harm to the Green Belt, impact on the character of the area and harm to biodiversity.

The Inspector agreed that the site, which was part of a gap between properties, did not fall to be considered as 'limited infilling' as Green Belt exception development because the site was in open countryside rather than within a village. The development would harm Green Belt openness and the character of the area and would not contribute to affordable housing need. It repeated often the cumulative effect of such a development would result in an urbanising effect.

The appellants argued that the site did not meet the criteria set out in the Dorset Biodiversity appraisal protocol guidance for consultants and biodiversity had not been a reason for refusal on a previous scheme, however the Inspector noted that Natural England had identified a requirement for a Biodiversity Plan and without one she could not conclude that there would not be an adverse impact on biodiversity.

The Inspector concluded that the benefits of additional housing did not outweigh the harm identified and dismissed the appeal.

### **3.3 Appeal Reference: APP/D1265/W/19/3241493**

**Planning Reference: 6/2019/0398 and 6/2019/0404**

**Proposal: Alternations and extensions of Grade II listed building**

**Address: Slepe Green, Dorchester Road, Lytchett Minster, BH16 6HS**

#### **Appeal Allowed**

Planning and listed building consent were refused under delegated powers for alterations to Slepe Green, a 17<sup>th</sup> century, Grade II listed dwelling which has an adjacent Grade II listed cob barn, both some distance from the centre of Lytchett Minster within the Green Belt. It was judged that the proposal represented disproportionate additions to the original property which were inappropriate in the Green Belt and harmed the character and setting of the property.

The Inspector considered previous extensions that had been allowed to the dwelling and judged that the appeal proposal was modest in relation to these. He also considered that there was a margin of error in historical mapping and judged that a more accurate estimate of the footprint of the original building was greater than the Council had identified such that the cumulative additions were not numerically unacceptable. In his opinion the modest scale and harmonious design of the proposal would result in little visual change to the listed building. As the scheme would not dominate or represent a discordant visual addition, he judged that the proposal was appropriate in the Green Belt.

Additionally, the Inspector judged that the proposal would not harm landscape character nor the historic significance of the Listed Building which was principally in the north east element and internal. The Inspector did not agree with the Council that changes to a designated heritage asset needed to be positive to be supported. As only recently added elements of the listed building would be directly affected, he judged that the effect on heritage would be neutral and therefore the proposal would preserve the Listed Building as

required by the Planning (Listed Buildings and Conservation Areas) Act 1990. The two appeals were allowed.

**3.3 Appeal Reference: APP/D1265/W/20/3254542**

**Planning Reference: 6/2019/0499**

**Proposal: Erect a new dwelling**

**Address: Land adjacent to 1 Wyatts Lane, Wareham, BH20 4NH**

**Appeal Dismissed**

The application for one new chalet style dwelling was refused under delegated powers on the basis that the proposal failed to positively integrate into its surroundings and would result in harm to the Wareham Conservation Area.

The Inspector agreed, noting that the proposal would sit forward of an adjacent dwelling and fill a gap between the listed cottages and adjacent bungalow resulting in a prominent structure which would dominate the location at the edge of the Conservation Area. The proposal's design which featured front flat roof dormer windows would adversely affect the character and appearance of the site and its surroundings and would neither preserve nor enhance the Conservation Area. He identified less than substantial harm to heritage assets and did not consider that the public benefits of an additional dwelling on an otherwise unused site would outweigh this harm.

The appeal was dismissed.