



Appeal Decision

Site visit made on 9 December 2008

by **Nicholas Hammans** FRSA FRTPI
FRGS PPBEng

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
14 January 2009

Appeal Ref: APP/U1240/A/08/2080687

Land adjoining 5 Heath Close, Colehill, Wimborne, Dorset BH21 2LP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Messrs P.A., P & J & B Dent, Loader & Huggins. against the decision of East Dorset District Council.
- The application Ref 3/08/0163/OUT, received 6 February 2008, was refused by notice dated 6 May 2008.
- The development proposed is residential development.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are whether this proposal is inappropriate development for the purposes of Planning Policy Guidance Note 2 and, if so, whether the harm to the Green Belt by reasons 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 development;

Impact on the rural character and appearance of the countryside;

The effect on trees, including those protected by Tree Preservation Orders;

The suitability of vehicular access; and

The impact of the proposed residential development on Sites of Special Scientific Interest, Special Protection Areas and Special Areas of Conservation.

3. The principal parties in this appeal perceive that the first issue hinges on whether any doubts over the availability of housing land or supply of affordable housing in East Dorset would justify releasing this land from the Green Belt.

Development in the Green Belt

4. The application site, of 1.74 hectares, is on the outskirts of the settlement of Colehill, accessible from Pilford Heath Road via a short cul-de-sac called Heath Close. The site is in Green Belt, designated in the Bournemouth, Dorset and Poole Structure Plan. It is an assembly of paddocks and pasture, set back behind the frontage of Pilford Heath Road. At the time of my visit, most of it was in use, grazing horses. Adjacent land includes a mixed coniferous and deciduous plantation, and cultivated farmland with broad and distant views
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across open landscapes. This is part of the countryside; it is a green-field site, vulnerable to pressures for development.

5. There is a general presumption against inappropriate development in the Green Belt. This presumption is firmly founded on national policies explained in Planning Policy Guidance Note 2 [PPG2]. Inappropriate development is, by definition, harmful; and it is for the appellants to show why permission should be granted.
6. East Dorset Local Plan Policy CSIDE1 is in step with National policies. It has been saved for the purposes of the Planning and Compulsory Purchase Act 2004. Development which would damage the rural character of the countryside is not normally permitted. The Council's Policy GB2 has not been saved in the same way, but national policies carry very substantial weight. The proposed residential development is inappropriate in the Green Belt.

Aspects of Harm

7. Although an illustrative layout plan of 61 dwellings was originally submitted, with revisions dated 17 September 2008, this application remains in outline. The latest plan shows 42 dwellings on 1.743 hectares. The appellants explain that their appeal stands or falls on Policy grounds alone, but that their plans demonstrate how a housing estate could be developed, including a play area.
8. Where a Greenfield site is to be released for housing, Planning Policy Statement 3 explains why the indicative minimum density should be 30 dwellings per hectare. So it is reasonable to expect any suitable site of comparable size to provide 50 dwellings or more. The scheme advocated in the appellants' latest grounds of appeal has a net density of 23.5 dwellings per hectare.
9. This latest density is influenced by constraints on the site. However, the numbers of dwellings, and variations of layout, are not determining factors in this appeal. I saw that most of site might be physically capable of development, in many alternative ways, if all the constraints could be overcome. A decision must first be reached on Green Belt Policy in the context of PPG2.
10. Clearly, any significant residential development on this site would substantially and adversely affect the openness of the countryside beyond Heath Close and further east of Colehill. Although some written representations are in favour of affordable housing, several hundred people express concern, mainly objecting on grounds of encroachment into the Green Belt. The objectors include Colehill Parish Council. Encroachment would be harmful, by definition.
11. Heath Close is a minor cul-de-sac with six dwellings. The carriageway is about six metres wide, with one footway. It terminates at a farm gate providing access to the appeal site. Several objectors point out that residential development on the appeal site would significantly increase local traffic, and adversely affect the outlook from their houses. Others refer to a perceived lack of local infrastructure. These objections would not in themselves be conclusive.
12. Houses on this site would be prominent in the landscape seen from Cannon Hill Plantation and the attractive surrounding countryside. I saw on my visit that pedestrian paths follow the north and eastern boundaries of the site. The appellants confirm that this plantation is a regular place for people to walk and

- exercise dogs: as part of their scheme they would provide a gate into it. It is clearly apparent that housing on this site would damage the rural character of this area of countryside, so it would conflict with Local Plan Policy CSIDE1.
13. The highest part of the site is well-timbered with mature trees, protected by a Tree Preservation Order since 1978. The lowest part includes a hedgerow with trees protected by another Order in 2008. The grant of outline planning permission would not necessarily entail permission to fell specific trees protected by Tree Preservation Orders. An arboricultural statement indicates that the submitted layout of 61 dwellings would necessitate removal of some protected trees, and would result in objectionable or oppressive relationships between houses and other trees to be retained. The revised scheme leaves more room for trees. However, I found on my inspection of the site that either of the alternative layouts submitted by way of illustration would require mature trees to be felled. The loss of trees would further harm the character and appearance of the countryside.
 14. Trees are an amenity. As the loss to public amenity would not be outweighed by other considerations, such as the benefits of housing in this part of the Green Belt, any application for express consent to fell trees would conflict with the objectives of Local Plan Policy DES7.
 15. The appeal site lies beyond 400 metres, but within 5 kilometres, of Sites of Special Scientific Interest which are part of Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation. Natural England has been consulted about the impact of the proposed residential development upon the integrity of the protected areas. The evidence of urban effects on heathland is such that this development, in combination with other developments in the area cannot be shown not to have an adverse effect on the integrity of the European sites.
 16. The Local Plan recognises the importance and vulnerability of heathland. Policy NCON4 seeks, through the use of conditions and agreements, to re-create and re-establish heathland where opportunities arise. If the developers contribute towards mitigation in accordance with a planning framework agreed by the Local Planning Authority then there is a reasonable prospect that effective mitigation would be delivered. They say they are willing to do so. Various alternative measures of mitigation have been suggested, any of which might be acceptable.
 17. However, there is insufficient evidence on which to specify essential mitigation by means of planning conditions. The number of dwellings is yet unknown; though development in excess of fifty is likely to have a significant effect in the light of any appropriate assessment. Any such contributions would be a matter for a binding Obligation under Section 106 of the 1990 Act. No such Obligation has been entered into by the prospective developers, so I cannot ascertain that the proposal would have no adverse impact. And there is no evidence of imperative reasons, of overriding public interest, sufficient to override the possible harm. Outline planning permission should therefore be refused.

Other considerations

18. The appellants' case is that the release of this land from the Green Belt can be warranted on two grounds: doubts expressed over sites expected to deliver housing in the remaining Plan period; and a dire need for affordable housing in Cole Hill and East Dorset.
19. Accordingly, as this is an outline application, I draw no further conclusions from objections arising from detailed scrutiny of the alternative drawings, amended plans for on-site vehicular access, illustrative designs, or layouts submitted in support of the scheme.
20. Available evidence about **housing land supply** in the context of the adopted Structure Plan shows that there is presently an adequate five-year supply. However, future targets are called into question by the emerging draft Revised Regional Spatial Strategy. The Local Planning Authority intends to bring forward more housing land by means of urban extensions, but has not yet produced the relevant Core Strategy of the Local Development Framework. The appellants think this process will be contentious. In these circumstances there is considerable doubt about the correct, robust identification of any extra housing land which might be needed to meet targets in the longer term.
21. The appellants assert that a Development Plan review would be far from speedy, though they admit that in the shorter term there is no need to release the appeal site to meet some general housing requirement up to March 2011.
22. Government guidance strongly emphasises a presumption that the strategic identification of necessary housing land should be sustainable and plan-led. I find no compelling evidence in these written representations that Colehill has been identified, by a sequential search, as the right place for urban extension or as the best, least objectionable location for plan-led residential development.
23. Moreover, PPG2 declares that once a Green Belt boundary has been approved it should be altered only in exceptional circumstances. If such an alteration is proposed the Secretary of State will wish to be satisfied that exceptional circumstances necessitate such revision. In these terms a widespread and widely anticipated shortage of housing land cannot reasonably be called an exceptional circumstance. So there is no good reason to alter the Green Belt boundary.
24. As to **affordable housing**, the Local Planning Authority anticipates the introduction of a regional policy which requires at least 35% of new housing to be affordable. A local target for East Dorset is still under consideration, though the Council normally expects some 40%. In this case the appellants offer to provide 60% of affordable units. Affordable housing would be a benefit, but only if it is in the right places.
25. Colehill Parish Council finds the local need for affordable housing is an increasing problem. The Local Authority admits their pressing need is District-wide. But this application does not follow the mechanism recommended by the Council to secure affordable housing in accordance with their published Supplementary Planning Guidance.

26. On the presumption that East Dorset needs as much affordable housing as can realistically be provided, the appellants advocate a "My Homes Concept" exemplified by a draft Obligation. They offer to provide 25 units. But they concede that details governing the necessary tenure and mix are not yet known. Even if assured delivery, and appropriate tenure, could be secured here at Colehill in terms of PPS3, the prospect of affordable housing on a windfall site in the Green Belt would not be an exceptional circumstance in terms of PPG2.
27. The appellants present a résumé of certain constraints which inhibit the availability of various other sites throughout the District, and I note their conclusion that potential affordable housing units are very few. They say there is a high degree of uncertainty about the supply of windfall sites. If this is so, PPS12 explains that the remedy must be based on a sequential approach. It is for the appellant to show why permission should be granted for this inappropriate development in the Green Belt. In the absence of common ground between the appellants and the Council on these and other sites, the available evidence does not enable me to assess the availability or sequential suitability of land District-wide. My decision to dismiss this appeal is necessarily based on an assessment of the merits of the current application.
28. This application is accompanied by copies of several earlier appeal decisions elsewhere, when housing land supply or affordable housing were at issue. There was also an appeal at Pilford Heath Road, dismissed in 1979. None of these decisions militate in favour of the release of Green Belt land.
29. Flood risk, sustainable drainage systems, ecological assessment, biodiversity, the design of an artificial badger sett and the protection of any other burrowing animals, have all been raised as issues, though they are not fully resolved in this outline application. However, those issues make no difference to my conclusions which arise from the undisputed fact that the proposed residential development would occupy Green Belt which is currently undeveloped. The most important attribute of the Green Belt is its openness. Were these arguments about doubtful housing delivery, or supply of affordable housing, to prevail, similar arguments might apply to windfall sites generally throughout the District, making it more difficult to maintain Government objectives in the Green Belt.
30. I have taken account of submitted examples of community land trusts and other means of providing affordable housing. I have had regard to the Dorset County Structure Plan, emergent planning policies and Supplementary Planning Guidance which have been drawn to my attention, and all other matters explained in the written representations. I conclude that these and all the other considerations do not clearly outweigh the totality of harm to the Green Belt. Therefore no very special circumstances exist to justify the development. For the reasons given above I conclude the appeal should be dismissed.

Nicholas Hammans

Inspector