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## Appeal Decision

Site visit made on 26 September 2018

**by Rory MacLeod BA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 November 2018**

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**Appeal Ref: APP/B1740/W/18/3205446**

**Land at New Lane, Milford on Sea, SO41 0UQ**

- 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 Mr and Mrs Mason against the decision of New Forest District Council.
  - The application Ref 17/11549, dated 6 November 2017, was refused by notice dated 21 February 2018.
  - The development proposed is erection of 12 No. dwellinghouses with associated access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. During the appeal process the appellant has submitted a Unilateral Undertaking in respect of the provision of affordable housing. The Council has confirmed that this satisfies the requirements of their fourth refusal reason.
3. Outline planning permission is sought for 12 houses with access to the site to be determined at this stage. A new access is proposed on to New Lane. An illustrative layout has been submitted showing how the houses could be laid out all fronting a new road and backing on to the site boundaries. I have had regard to this in determining this appeal.

### Main Issues

4. The main issues are
  - (a) whether the proposal would constitute inappropriate development in the Green Belt,
  - (b) its effect on the openness of the Green Belt,
  - (c) the effect of the proposal on the character and appearance of the countryside setting,
  - (d) whether the proposal makes appropriate provision for on site open space,
  - (e) if it 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 development.

## Reasons

### *Whether Inappropriate Development*

5. The application site comprises a rectangular piece of land extending to some 0.7 hectares to the east of Milford on Sea. It is generally flat and has a rough grass surface bounded by hedgerows to the boundaries. To the west and north are residential areas whilst to the east and south are large arable fields which are part of a designated Site of Importance for Nature Conservation. The site lies outside the built up area and within the designated Green Belt.
6. Policy CS10 of the Core Strategy for New Forest District outside the National Park (2009) (CS) sets a spatial strategy that directs new residential development primarily towards the main settlements and seeks to retain and support Green Belts. Policy DM20 of the Council's Local Plan Part 2: Sites and Development Management (2014) (LPP2) sets out criteria for residential development in the countryside and requires all development to be of an appropriate design, scale and appearance in keeping with the rural character of the area.
7. Paragraph 145 of the National Planning Policy Framework (the Framework) states that "*a local authority should regard the construction of new buildings as inappropriate in Green Belt*". The proposal is for new build housing and does not satisfy any of the exceptions to inappropriate development listed at Paragraphs 145 or 146 of the Framework. As such, the proposal constitutes inappropriate development. Paragraph 143 of the Framework states that "*inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*".

### *Openness*

8. The application form describes the use of the site as "*agricultural pastureland*". The site is currently devoid of buildings. Whilst the appeal application is in outline form and the scale of the buildings has not been specified, the provision of 12 houses would result in a substantial built form that would have a significant impact on the openness of this part of the Green Belt. Retention of the present hedgerow screening around the site would dissipate that impact to a limited degree but upper floors and roofs are likely to be seen over the hedgerow and the whole site would be conspicuous from the proposed site entrance. Whilst the site is adjacent to residential areas and close to a caravan site, it is also perceived as part of the open and undeveloped land to the south and east of the site. There would be a significant loss of openness that would be harmful to the Green Belt.

### *Landscape character*

9. The appellant has prepared a Landscape Visual Impact Assessment (LVIA). This examines the landscape merits of the site in its context which is described as being "*defined by the contrast between the urban form of Milford on Sea, tourist facilities and the generally flat rural landscape with occasional small woodland blocks and tree belts*". The LVIA is a comprehensive document that examines the impact of the proposal on long and close range views in relation to natural elements and built structures in the wider area. From examination of the LVIA and observations made at my site visit, there would be negligible harm to the landscape in any of the long range views. In many of these, the

proposals are likely to be a recognisable but not a prominent new element seen against the back drop of buildings in Milford on Sea and /or against the caravan park to the south-west, or to be screened by these features. Furthermore, these views would be filtered by the existing screening particularly from the south and east. I also note the appellant's intention to strengthen this screening as a mitigation measure in the LVIA.

10. However, when viewed from closer perspectives across the open arable land, the roof forms of the two storey buildings would be likely to be conspicuous features over the boundary screening. Whilst the layout of the site is not for determination at this stage, the proximity of some of the houses as shown on the illustrative layout to a continuous and enhanced boundary screen would result in some shading of gardens and be likely to result in pressure from occupiers to reduce the height of the boundary screen to improve outlook and light. This undermines the weight that can be attached to the mitigation measures without greater certainty on the overall layout. The greatest impact would be from Plover Drive and New Lane close to the site's north-western corner where the houses would be seen through the new access.
11. Whilst there would be negligible harm arising from long range views there would be limited harm to the rural landscape character arising from closer views of the development. To this extent the proposal would be in conflict with Policies CS2 and CS7 of the CS that requires new development to be well designed and to respect the character, identity, and context of the area's towns, villages and setting of the countryside.

#### *Open space*

12. Policy CS7 of the CS supports the provision of open spaces, sports and recreation facilities. At (c) it requires all new residential developments on sites of 0.5ha or over to provide appropriately designed informal public open space on site and to include the provision of designed good quality play spaces. At about 0.7ha in area, the site exceeds this threshold, but the proposal does not include provision of such facilities and so would be in conflict with this policy. The appellant considers that public open space on a site of this small scale would not deliver any meaningful recreational benefit, and has drawn my attention to another 12 house scheme without the provision of any public open space on site. I am not familiar with all the circumstances of that site and each proposal needs to be considered on its individual merits. Whilst the proposal is in outline form with the layout of the site not to be determined at this stage, in the absence of any on site provision of public open space, or an agreed contribution to provision elsewhere, a conflict with Policy CS7 would remain.

#### *Other Considerations*

13. The appellant has submitted evidence to support a case for the proposal being considered as very special circumstances. First, reference is made to the Council's Green Belt Study (2016) (GBS) which assessed land parcels against the 5 purposes for the Green Belt as set out at Paragraph 134 of the updated Framework (2018). In relation to the third purpose, "*To assist in safeguarding the countryside from encroachment*", the GBS concluded the appeal site (referenced MS09) has a moderate rating with the comment "*the parcel is strongly contained by its wooded boundaries and aligns with the pattern of surrounding development to the west and north. However, it also sits within*

*part of the arable field to the east and south and is free from development or urbanising features”.*

14. The appellant points to the GBS’s finding in relation to Green Belt boundary strength that the parcel boundaries “*would form an equally strong Green Belt boundary to the existing boundary*”. However this comment does not undermine the moderate rating for the site in presently fulfilling a green belt purpose, a purpose that would be wholly frustrated should the appeal site be developed for housing. Whilst that rating may only be moderate, whether or not the site should be released from its Green Belt designation would ordinarily be a matter to be weighed in association with the merits of other sites in the consideration of the Council’s development plan preparations. The moderate rating and presence of an equally strong Green Belt boundary are neutral considerations and not a benefit arising from the proposal.
15. Secondly, the appellant has referred to the Council’s Sustainability Appraisal, an assessment of the sustainability of sites that might contribute to housing supply in the future. Whilst the site’s rating is “*amber*” meaning negative impact, the appellant points to the positive finding against many objectives and challenges the findings on objectives for “*protecting wildlife*” and “*landscape and townscape*” that are scored negatively. The appellant asserts that the site has no particular wildlife benefits and that it is sustainably located on the edge of an existing settlement. The LVIA findings are also relevant to the landscape and townscape assessment. The Council has not completed its assessment of representations on all sites covered by the Appraisal in relation to an emerging local plan, but has not objected to the appeal proposal on sustainability grounds. Given that the Appraisal finds that this site “*has potential for small scale development*” this is a factor that attracts limited weight in favour of the proposal.
16. The Council is not able to demonstrate a 5 year supply of deliverable housing sites in relation to recent objectively assessed need. In these circumstances, Paragraph 11 to the Framework indicates that housing policies should be regarded as out of date and that there is a ‘tilted balance’ in favour of granting permission. However, footnote 6 to Paragraph 11 states that land designated as Green Belt is one of the policy issues of particular importance that provide a clear reason for refusing permission to a proposal as an exception to this arrangement. The appellant has referred to the direction in the Hopkins<sup>1</sup> case affirming that this does not mean that the tilted balance does not apply, but that the specified policy areas carry greater weight in the planning balance and are more capable of outweighing it. My findings in this case are that harm to the Green Belt is sufficient to outweigh the tilted balance in favour of granting permission.
17. The Council has referred to the absence of an Appropriate Assessment in accordance with the Habitat Regulations as a second policy area covered by footnote 6 as to why the tilted balance should not apply. However, I note that this is an issue which may be subject to clarification by Government later this year. It is not a point on which I need to conclude in reaching a determination on this appeal.
18. The appellant raises as an additional point in favour of the proposal the Council’s stepped trajectory in its emerging local plan which lowers the amount

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<sup>1</sup> Suffolk Coastal District Council v Hopkins Homes Ltd

of housing required in the first half of the Plan period and raises it in the second half. The merits of a stepped trajectory are for others to decide in relation to the Local Plan process, but in that the Council is not able to demonstrate a 5 year housing land supply, the early release of the appeal site for housing would make a small contribution towards unmet need in the first half of the Plan period. This therefore attracts limited weight in favour of the proposal.

#### *Other Matters*

19. The proposal would be likely to result in recreational impacts on the New Forest and Solent European Nature Conservation Sites. Had I been minded to allow the appeal, it would have been appropriate to include a planning condition to enable appropriate mitigation to be secured.
20. I have noted the representations submitted against the proposal at application and appeal stages by local residents and also reference by Southern Water to the presence of a public foul rising main crossing the site.

#### **Conclusion**

21. The proposal amounts to inappropriate development and the Framework indicates that this is by definition harmful to the Green Belt and should not be approved except in very special circumstances. There would also be a significant impact on openness arising from the provision of buildings on an undeveloped site. Substantial weight should be given to the harm to the Green Belt. In addition, there would also be limited harm in relation to the character and appearance of the countryside setting and in the absence of provision of public open space.
22. On the other hand, I have attributed limited weight in favour of the proposal to the findings of the Council's Sustainability Appraisal, that the site has potential for small scale development, and to shortcomings in the Council's record and envisaged trajectory in meeting housing need. But the various matters raised by the appellant, even if taken together, would not outweigh the harm arising to the Green Belt from the inappropriate development, and therefore do not amount to very special circumstances.
23. The proposal would also be contrary to policy CS10 of the Core Strategy and with Policy DM20 of the LPP2 which are compatible with the Framework and only support the provision of new buildings in the Green Belt in accordance with national planning policy.
24. For the reasons given, and having regards to all other matters raised, the appeal is dismissed.

*Rory MacLeod*

INSPECTOR