
Appeal Decision

Site visit made on 6 May 2025

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2025

Appeal Ref: APP/F0114/W/24/3357348

Meadow Farm Ruett Lane, Farrington Gurney, Bristol BS39 6UP

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr M Pugh against the decision of Bath and North East Somerset Council.
- The application Ref 23/03709/FUL was approved on 30 October 2024 and planning permission was granted subject to conditions.
- The development permitted is erection of a single storey dwelling following demolition of existing stable buildings.
- The condition in dispute is No 7 which states that: *No development shall commence until full details of a Biodiversity Gain Plan for delivery and monitoring of Biodiversity Net Gain, and a Habitat Management Plan have been submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with the approved Biodiversity Gain Metric produced by Crossman Associates, dated 23rd 2024 as well as with current best practice guidelines and shall include the following:*
 1. *An up-to-date BNG habitat map for on-site baseline and proposed habitats.*
 2. *Habitat Management Plan - protection measures for all retained habitats and species, including fencing and boundary details.*
 3. *Evidence of the purchase of offsite units.*
 4. *Long-term aims and objectives for habitats (extents, quality) and species.*
 5. *Detailed management prescriptions and operations for newly created habitats including new planting and individual trees; locations, timing, frequency, durations; methods; specialist expertise (if required), specialist tools/machinery or equipment and personnel as required to meet the stated aims and objectives.*
 6. *A detailed prescription for the management of boundary habitats.*
 7. *Details of any management requirements for species-specific habitat enhancements including the bat and bird boxes.*
 8. *Annual work schedule for at least 30 years.*
 9. *A list of activities and operations that shall not take place and shall not be permitted within the HMP Plan area (for example use of herbicides; disposing of grass cuttings / arisings in "compost" heaps on-site or in hedgerows (or other on-site waste disposal); routinely cutting ivy where there is no specific arboricultural justification; inappropriate maintenance methods; storage of materials; machine or vehicle access).*
 10. *Detailed monitoring strategy for habitats and species, particularly the individual trees, and methods of measuring progress towards and achievement of stated objectives.*
 11. *Details of proposed reporting to the Local Planning Authority and proposed review and remediation mechanism.*
 12. *Proposed costs, resourcing, and legal responsibilities.*

The Biodiversity Gain and Habitat Management Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

- The reason given for the condition is: *To protect and enhance ecological interests in accordance with policy D5e of the Bath and North East Somerset Placemaking Plan and policies NE3, NE3a and NE5 of the Bath and North East Somerset Local Plan Partial Update.*
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr M Pugh against Bath and North East Somerset Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission was granted by the Council on 30 October 2024 for the erection of a single storey dwelling following demolition of existing stable buildings¹. The original permission included sixteen conditions. The appellant disputes one of those conditions (condition 7), which they consider to be unnecessary and unreasonable.
4. Disputed condition 7 requires the submission of a Biodiversity Gain Plan and a Habitat Management Plan for approval by the Council and their implementation in accordance with an agreed timetable. The Council's reason for imposing the condition is to protect and enhance ecological interests in accordance with Policies D5(e), NE3, NE3A and NE5 of the Bath and North East Somerset Local Plan: Core Strategy and Placemaking Plan incorporating the Local Plan Partial Update (adopted January 2023) (LP).
5. Bearing in mind this background, the main issue is whether disputed condition 7 is reasonable and necessary in the interests of biodiversity.

Reasons

6. The appeal is proposed as a self-build dwelling. Planning Practice Guidance confirms that in order for self-build development to be exempt from Biodiversity Net Gain (BNG) rules, the development must consist of no more than nine dwellings, be on a site that has an area no larger than 0.5 hectares and consist exclusively of dwellings that are self-build or custom housebuilding as defined in Section 1(A1) of the Self-build and Custom Housebuilding Act 2015.
7. The appellant has suggested a planning condition to secure the proposal as a self-build so that the proposal would be exempt from the BNG requirements set out in Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021).
8. However, a planning condition requiring the initial owners of the proposed dwelling to be those that had built or completed it would not pass the National Planning Policy Framework's enforceability test for conditions. A planning obligation would therefore be the most appropriate method of ensuring that the development is self or custom build housing rather than market housing.
9. Such a planning obligation is not before me so I cannot be certain that the proposal would provide self-build or custom housebuilding. Given the absence of a planning obligation to secure the appeal proposal as a self-build house, I am not satisfied that the proposed scheme would be exempt from the BNG rules.

¹ Planning application reference 23/03709/FUL

10. In any event, there is a clear requirement of the development plan for harm to biodiversity to be mitigated and, where appropriate, compensated. Furthermore, the planning permission for the dwelling was granted, despite it being contrary to the Council's spatial strategy, as there were benefits of the scheme that made it preferable to the fallback position created by an approved Class Q scheme for the conversion of the existing building to a dwelling². The ecological enhancement resulting from the planting of trees in the adjacent field was part of the overall package of benefits arising from the appeal development.
11. As such, there would still be a need for a planning condition to be attached to the permission to secure the conservation and enhancement of biodiversity. However, as it has not been established that the proposal can be secured as a self or custom build dwelling, disputed condition 7 in its current form is reasonable and necessary.
12. For these reasons, I conclude that disputed condition 7 is reasonable and necessary in the interests of biodiversity. Consequently, the proposal would conflict with Policies D5(e), NE3, NE3A and NE5 of the LP, which collectively seek, in part, to secure no net loss and appropriate net gain of biodiversity, and for development to mitigate, and as a last resort, compensate harm to biodiversity to at least equivalent ecological value, make a positive contribution to ecological networks, and provide new or improved wildlife habitats and features.

Conclusion

13. For the reasons given above, the proposal would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal should be dismissed.

K Reeves

INSPECTOR

² Planning application reference 23/00609/ADCOU