



## Appeal Decision

Site visit made on 30 July 2025

**by R Major BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

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**Appeal Ref: APP/G2435/W/25/3364142**

**Land adjoining 20 Worthington Lane, Breedon on the Hill, Leicestershire, DE73 8AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Henderson against the decision of North West Leicestershire District Council.
  - The application Ref is 24/00574/OUT.
  - The development proposed is erection of a single self build dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Outline planning permission is sought with the means of access and layout to be considered at this stage. The submitted application therefore includes a proposed site plan showing where the dwelling would be located on the site and how it would be accessed.
3. Subsequent to the Council issuing its decision the Breedon on the Hill Neighbourhood Plan 2020 – 2040 (March 2025) (BotHNP) has been made. It is part of the Development Plan. The parties have had an opportunity to comment on the implications of the adopted BotHNP for this appeal within their respective submissions.
4. During the appeal several revised versions of a Unilateral Undertaking (UU) have been submitted which seek to secure the self-build status of the proposed dwelling. The latest version of the UU is signed and dated 13 August 2025, and it is this version that has been considered as part of this appeal. The Council was given an opportunity to comment on the latest version and has not raised any concerns in respect of its provision.

### Main Issues

5. The main issues are:
  - whether the appeal site is a suitable location for housing, having regard to the Council's spatial strategy and the relevant development plan policies;
  - the effect of the proposed development on the character and appearance of the surrounding area; and
  - the effect of the proposed development on highway safety, with particular regard to the suitability of the access.

## Reasons

### *Suitable location*

6. The appeal relates to a parcel of land located to the south of the residential dwelling at 20 Worthington Lane in Breedon on the Hill. The appeal site adjoins, but sits outside, the defined 'Limits to Development' boundary and is therefore identified as being within the countryside by Policy S3 of the North West Leicestershire Local Plan (March 2021) (LP).
7. Policy S3 of the LP sets out a number of specified uses (a – s) which are supported in the countryside. However, the proposed development does not fall into any of these specified uses and thus is contrary to LP Policy S3.
8. Policy BotH14 of the BotHNP sets out how the housing requirement for the neighbourhood plan area for the period 2020 – 2040 will be met. This includes existing committed developments and allocations, neither of which are applicable to the appeal site. Policy BotH14 does also seek to deliver housing through windfall developments in accordance with BotHNP Policies BotH15, BotH17 and BotH21.
9. In this respect, Policy BotH17 relates to windfall housing development within the nearby village of Wilson and Policy BotH21 relates to the residential conversion of rural buildings. As such, both these policies are not applicable to this appeal proposal.
10. With regard to Policy BotH15, this states that housing development proposals will be supported within the Limits to Development<sup>1</sup>. As mentioned earlier, the appeal site is located outside the Limits to Development boundary and therefore the proposal would also not accord with BotH15. Subsequently, the residential development of the appeal site would be contrary to BotHNP Policy BotH14.
11. Additionally, BotHNP Policy BotH20 relates specifically to rural housing outside the Limits to Development boundary and lists five criteria for which development will be permitted. The appeal proposal would not meet any of these five criteria.
12. In view of all the above, when having regard to the relevant development plan policies and its spatial strategy, the appeal proposal would not represent a suitable location for housing as it would conflict with the principal relevant provisions, which I have set out above, of LP Policy S3, and BotHNP Policies BotH14, BotH15 and BotH20.

### *Character and appearance*

13. The appeal relates to an undeveloped parcel of green land located within the countryside. The site forms part of a larger agricultural field which benefits from an existing access onto Worthington Lane, with the appeal site and this field set on land slightly higher than the road.
14. The front boundary of the appeal site, fronting onto Worthington Lane, is defined by a hedgerow and trees which are separated from the road by a grassed verge. These features provide the appeal site, and this section of Worthington Lane, with an attractive green and rural character, in keeping with its countryside designation.
15. To the north of the appeal site, and on the opposite side of the highway, are the dwellings located within the Limits to Development boundary of Breedon on the Hill. However, the undeveloped appeal site represents the transition from the neighbouring

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<sup>1</sup> Identified on Map 17 of the BotHNP

built development to the wider countryside. It makes a positive contribution to the intrinsic green and rural character of the area.

16. The appeal proposal seeks to erect a self-build dwelling on this site, utilising the existing access from Worthington Lane. The residential development of the appeal site would however extend the existing ribbon development on this side of Worthington Lane south into the countryside and result in built development on a site that is currently undeveloped. The erection of a dwelling on this site would therefore have a harmful visual effect upon the appeal site's open character, to the detriment of the visual qualities of the wider countryside landscape.
17. In coming to this view, I acknowledge that the proposal would not extend the built development beyond that found on the opposite side of Worthington Lane, and the proposed dwelling would be set back from the road with its front projection set in line with the front elevation of the existing property directly to the north.
18. Furthermore, whilst scale is a reserved matter the appellant has stated that they would be agreeable to a condition restricting the proposed dwelling to single storey in height. I also note that the proposed retention of the existing vegetation along the front boundary of the site would provide some visual screening, and additional landscaping could be secured at reserved matters stage. These factors therefore somewhat temper the visual harm arising from the appeal proposal on the character and appearance of the area.
19. Nonetheless, the proposed dwelling, with its car parking area to the front, would introduce built development and domestic paraphernalia on this site which would be visually more prominent and harmful to the intrinsic rural character of the area and landscape in comparison to the positive contribution the existing undeveloped site currently provides.
20. I note the Council's reason for refusal makes reference to further conflict with LP Policy S3 in relation to the effect of the proposal on the character and appearance of the area. However, for the reasons given earlier, as the appeal proposal does not fall into any of the specified uses permitted within the countryside by Policy S3 there is no requirement for the proposal to be assessed against the further six criteria within this policy, despite these criteria being referred to by both parties. For this reason, I find that LP Policy S3 is not determinative in relation to the effect of the proposal on the character and appearance of the area.
21. In view of all the above, I conclude that the appeal proposal would result in a limited degree of harm to the character and appearance of this verdant, rural area. The proposal would therefore not accord with LP Policy D1 which seeks to ensure, amongst other things, that development is well designed. The proposal would also be contrary to the provisions of the National Planning Policy Framework (the Framework) which seeks to ensure that development adds to the overall quality of the area and that proposals should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

### *Highway Safety*

22. The appeal site contains an existing access onto Worthington Lane, which was approved as an agricultural access<sup>2</sup>. This existing access would serve the proposed

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<sup>2</sup> Council Ref: 17/01342/FUL

dwelling and continue to provide access to the agricultural field beyond. Condition 5 on the approved agricultural access requires the visibility splays shown on the approved plan, measuring 2.4m x 65m, to be retained in perpetuity.

23. At the time of my site visit, in the early afternoon on a weekday, I observed a limited number of vehicle movements along Worthington Lane. Whilst only a snapshot in time there is no substantive evidence to suggest that what I saw was untypical traffic for this lane.
24. Directly to the front of the appeal site the speed limit on Worthington Lane is 30mph. However, to the south the speed limit increases to the national speed limit and this change is depicted by two road signs. I note an interested party has raised concerns in respect of the legalities surrounding the Traffic Regulation Order relating to the siting of these speed limit signs. However, I have been provided with no clear evidence to indicate that the speed limits along Worthington Lane are different to those displayed by the existing road signage.
25. The appeal proposal is accompanied by a speed survey which shows that the average speed of vehicles along this section of Worthington Lane was 30.9mph southbound and 31.5mph northbound, with the 85<sup>th</sup>-percentile of speeds being 37.5mph southbound and 39.1mph northbound. This data therefore demonstrates that on average vehicles are traveling in excess of the speed limit along this section of Worthington Lane.
26. The proposal includes a plan showing visibility splays in both directions measuring 2.4m x 65m. The Council's Highway Officer is satisfied that given the speed survey data these splays are in line with the requirements of the Leicestershire Highway Design Guide (LHDG) and are acceptable.
27. Nonetheless, a number of interested parties have raised concerns over the proposed visibility splays. However, during my site visit I observed that visibility in both directions from the access appeared to accord with the submitted splays and limited substantive evidence has been submitted to demonstrate otherwise. In coming to this view, I note that the existing speed sign is situated within the southern visibility splay. However, given its narrow profile at eye level I do not consider that this sign would impair vision of any oncoming vehicles to an extent that would result in highway safety issues.
28. Interested parties have also raised concerns over land ownership in relation to the visibility splays. The Council's Highway Officer has however confirmed that they are satisfied that the visibility splays are contained within highway land or the appellant's boundary, and a highway boundary plan has been submitted to support this.
29. I note the highway boundary plan states that the highway records are not definitive, and both this plan and the visibility splay plan are provided at a large scale. Nevertheless, based on the submissions of the appellant and the Council's Highway Officer it would appear that the visibility splays would be located within highway land and/or land owned by the appellant, and there is limited detailed evidence before me to indicate otherwise.
30. Concerns have been raised as to whether the Highway Authority and/or the appellant would continue to cut back vegetation in order to ensure that the proposed visibility splays are retained. The provision of the visibility splays could be secured by a suitably worded planning condition, and it would not be reasonable to dismiss the appeal on the grounds that any such condition would not be complied with in the future.

31. In addition, as mentioned earlier, the access for the proposed dwelling already exists and was granted planning permission. Condition 5 on the approved access requires the same visibility splays to be provided and retained as those required for the appeal proposal. Consequently, the principle of the access, with the same visibility splays required for this proposal, has already been established and is operational at the appeal site. Whilst I accept that the proposed dwelling would increase the use of this access, the existing access and its required visibility splay, are significant material considerations in relation to this main issue. Furthermore, I find the number of vehicle movements associated with a single house is unlikely to be significant.
32. It has also been drawn to my attention that condition 3 on the previously approved access requires a turning area to be provided, to enable vehicles to enter and leave the highway of Worthington Lane in forward gear. Whilst I did not observe any such formal turning area during my visit, the erection of the proposed dwelling, and its front parking area, would likely impact upon this turning area.
33. Nevertheless, the submitted location plan shows that the appellant owns land surrounding the appeal site, edged blue on the plan. Consequently, a suitably worded Grampian condition could be imposed requiring a turning area for vehicles accessing the field to be provided within the land owned by the appellant which adjoins the appeal site and this access.
34. In view of all the above, I conclude that the existing access is suitable to serve the appeal proposal and the development would not have a harmful impact upon highway safety for all users. I therefore find no conflict with LP Policy IF4 where it seeks, amongst other things, to ensure that development takes account of the impact upon the highway network and incorporates safe and accessible connections to the transport network. Also, the proposal would satisfy the Framework which seeks to ensure that safe and suitable access can be achieved for all users and that development should only be refused on highways grounds where it would have an unacceptable impact on highway safety.

### **Other Matters**

35. I am aware of a previous appeal decision<sup>3</sup> at this site. However, that appeal related to the erection of 27no. dwellings and there was no existing access into the site at that time. As such, the impacts of that appeal proposal are not directly comparable to the appeal scheme before me which seeks consent for one dwelling, served via an existing access point onto Worthington Lane. Additionally, the BotHNP has since been made and now forms part of the development plan. As such, whilst the previous appeal decision is a material consideration, these matters limit the weight I can give it in the determination of the appeal before me. I have therefore determined the appeal scheme before me on its own merits, based on the submitted evidence and relevant planning policies.
36. The appellant has made reference to case law<sup>4</sup> relating to the consistency of decision making and drawn my attention to two decisions<sup>5</sup> of the Council where self-build housing, resulting in ribbon development outside the Limits to Development boundaries, have been approved.

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<sup>3</sup> APP/G2435/W/17/3167167

<sup>4</sup> North Wiltshire DC v SOSE (1993) 65 P & CR 137; and R (Midcounties Co-Operative Limited) v Forest of Dean District Council [2017] EWHC 2050

<sup>5</sup> Council Ref: 22/01054/FUL and 23/00740/OUT

37. Whilst I acknowledge consistency of decision making is important to ensure public confidence, I am not bound by previous decisions of the Council. Furthermore, I note that one of these proposals was for 5no. self-build dwellings and it is therefore not comparable to the appeal scheme before me for one dwelling.
38. Nevertheless, having reviewed the submitted information I note that in both these cases the Council identified that there was conflict with the development plan policies. However, when engaging paragraph 11(d) of the Framework the Council concluded that in both cases the harms would not significantly and demonstrably outweigh the identified benefits. Undertaking such an assessment of the harms and benefits is very much case specific and each application must therefore be judged on its own merits. These previous decisions of the Council therefore carry very limited weight in my determination of the appeal scheme.
39. The appellant has also drawn my attention to a proposed self-build policy<sup>6</sup> within the Draft North West Leicestershire Local Plan (2020 – 2040). The appellant contends that the appeal proposal would comply with this draft policy. I have however been provided with very limited information in respect of the status of this emerging plan, other than it is at Regulation 18 Stage. Given the emerging plan is still in its early stage there is a high degree of uncertainty as to whether it will be submitted for examination under Regulation 19 in the same form. As such, the reference to any policies within the emerging plan attracts limited weight and I have therefore determined this appeal in accordance with the extant development plan.
40. It has been suggested that works to hedgerows took place during bird breeding season and that hedgerows not owned by the appellant have been removed. I have limited evidence before me to support these claims. Nevertheless, any disturbance of breeding birds is covered by other legislation, and land ownership issues would be a private matter. Consequently, these are matters I cannot take into account in the determination of this appeal.
41. A number of interested parties have raised concerns on the grounds of loss of sunlight, loss of privacy and overshadowing. The appeal proposal is however in outline form with appearance, landscaping and scale all to be considered at reserved matters stage. Based on the submitted layout I find that a dwelling could be located on this site without resulting in a harmful impact upon the living conditions of neighbouring occupiers. However, a full assessment of the impact of the proposal on the living conditions of neighbouring occupiers would need to be made as part of the consideration of any potential reserved matters application.
42. Concerns have also been raised in respect of flooding. I note that the appeal site is within Flood Zone 1 and the Lead Local Flood Authority have been consulted on the appeal proposal, raising no objection. There is no substantive evidence before me to suggest that potential flood and drainage issues could not be managed by suitably worded planning conditions were the appeal to be allowed.
43. An interested party states that the appeal site forms part of a wider site within the appellant's ownership. It is therefore claimed that the wider site measures more than 0.5 hectares and thus would not meet all the exemptions relating to self-build and biodiversity net gain. There is however no requirement for the appellant to include all the land they own as part of the appeal site. The submitted application details that the

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<sup>6</sup> Draft Policy H7

appeal site measures approx. 668sqm and I have been provided with no compelling evidence to indicate otherwise.

### **Planning Balance**

44. I have found that the appeal proposal would conflict with LP Policy S3, and BotHNP Policies BotH14, BotH15 and BotH20. The proposal does not therefore represent a suitable location for housing when having regard to the relevant development plan policies and its spatial strategy. I find the harm arising from this conflict to be significant. The proposal would also result in limited harm to the character and appearance of the area, contrary to LP Policy D1.
45. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. In this respect the Framework seeks to direct new housing to suitable locations, to actively manage patterns of growth and to protect the intrinsic character and beauty of the countryside.
46. The Framework also recognises that the planning system should be genuinely plan led. Consequently, to develop the appeal site as proposed, in conflict with the LP and BotHNP, would undermine public confidence in the plan-led system. I therefore give significant weight to the conflict between the proposal and LP Policies S3 and D1, and BotHNP Policies BotH14, BotH15 and BotH20. As the proposal would be contrary to these policies there would be conflict with the development plan as a whole.
47. The Council has confirmed that it can currently demonstrate a five-year supply of deliverable housing sites, and this has not been disputed by the appellant. However, the parties agree that paragraph 11 (d) of the Framework applies in this instance given the absence of a self-build policy. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
48. Footnote 9 explains the policies referred to are those in paragraphs 66; 84; 91; 110; 115; 129, 135 and 139 of the Framework (as the appeal proposal is not for a major housing development, and does not propose a main town centre use, paragraphs 66 and 91 are not relevant to this appeal).
49. In respect of paragraph 84, the appeal site adjoins the settlement of Breedon on the Hill and does not therefore represent an isolated home in the countryside. I find paragraph 84 is therefore not applicable. Nevertheless, even if applicable, the proposal would not adhere to any of the five criteria within paragraph 84 which permits isolated homes in the countryside.
50. I acknowledge that the proposed development seeks outline consent with scale, landscaping and appearance reserved matters. Nevertheless, as I have found that harm, albeit limited, would be caused to the rural character and appearance of the area from the introduction of built development onto an undeveloped plot of land, I find the proposal would conflict with paragraphs 135 and 139 of the Framework.
51. In respect of being a sustainable location, the appeal site is outside, but does adjoin, the Limits to Development boundary of Breedon on the Hill. Policy S2 of the LP sets

out the Council's settlement hierarchy to distinguish between the roles and functions of different settlements and to guide the location of future development. Breedon on the Hill is identified as a sustainable village within this policy.

52. I observed that the site is within walking and cycling distance of the existing services and facilities within the village of Breedon on the Hill. As such, future occupiers of the dwelling would have access to services and facilities by sustainable modes of transport.
53. In coming to this view I note that a section of Worthington Lane does not include any footway for pedestrians. However, the submitted highway boundary plan shows that the existing grass verges are highway land and therefore could be used. Furthermore, I observed that the highway of Worthington Lane is lightly trafficked; well surfaced; wide enough to safely accommodate vehicles and pedestrians; and includes street lighting.
54. As such, I find that the appeal site would represent a sustainable location and the proposal would therefore accord with the provisions of paragraphs 110, 115 and 129 of the Framework.
55. In addition, the Framework seeks to significantly boost the supply of homes and make efficient use of land, and the proposal could be delivered relatively quickly on site. Given that the Council can currently demonstrate a five-year supply of deliverable housing sites I attribute limited weight to the provision of one additional dwelling.
56. The appeal proposal has however been submitted as a self-build dwelling and I acknowledge paragraph 73 (b) of the Framework supports small sites to come forward for self-build and custom-build housing. The Self-build and Custom Housebuilding Act (2015) (as amended) places a statutory duty on Council's to keep a register of the persons who are interested in acquiring a self-build or custom-build plot, and to grant enough suitable development permissions for serviced plots to meet the demand.
57. According to the Council's submission there was an unmet demand for 18no. self-build plots in this authority for the last base period ending 30 October 2024. This unmet demand is carried over to the next base period and the Council has confirmed there is currently a shortfall of 28no. self-build plots which would need to be granted planning permission by 30 October 2025. These figures have not been disputed by the appellant within their final submission, however I note that in their own Statement of Case the appellant suggests that the current shortfall is 31no. dwellings.
58. In either scenario the Council is failing to meet its statutory duty and I consider the shortfall to be significant. This however does not mean that self-build development should automatically be exempt from policies designed to direct development to the most suitable locations.
59. Nonetheless, whilst I recognise the importance of self-build and custom build dwellings, the proposal would only add one additional dwelling to the supply of self-build accommodation and the proposal would therefore make a small contribution in addressing the shortfall in self-build provision. Therefore, even in the scenario where I apply the appellant's suggested higher shortfall of 31no. dwellings, I attach moderate weight to the benefits arising from one self-build unit in favour of the appeal scheme.

60. Economic benefits would also arise from the proposal, including contributions to the local economy during the construction phase of the development. These however would be short term benefits. In accordance with paragraph 83 of the Framework further economic benefits would also arise from additional spending in the village and wider area by future occupants of the dwelling. Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
61. The proposal has the potential to increase biodiversity on the appeal site and also provide additional landscaping at reserved matters stage. Whilst I do not have all the information before me at this stage as to exactly what the biodiversity enhancement measures would entail, and / or the amount that would be provided, I acknowledge that there would be an opportunity to increase the overall biodiversity value of the site and provide additional landscaping. However, in the absence of the precise details and given the scale of the development site, I attribute these matters limited weight in favour of the appeal at outline stage.
62. Notwithstanding the above benefits, paragraph 14 of the Framework advises that where paragraph 11d) is engaged, the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that two criteria are satisfied. These are:
  - a) *the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
  - b) *the neighbourhood plan contains policies and allocations to meet its identified housing requirement.*
63. The BotHNP was made in March 2025 and is therefore less than five years old. Criterion a) of paragraph 14 is therefore satisfied.
64. The appellant states that because there are no policies within the BotHNP or the LP which relate to self-build housing, the Council is not meeting its identified housing requirement for self-build housing. As such the appellant contends that paragraph 14 is not enacted as the BotHNP does not meet criteria b) and has drawn my attention to an appeal decision<sup>7</sup> in a different authority.
65. In this regard, paragraph 14 (b) specifically refers to the neighbourhood plan containing policies and allocations to meet its identified housing requirement, making reference to paragraphs 69 - 70 of the Framework. Paragraphs 14, 69 and 70, and the associated footnotes, relate to an authority's housing requirement figure and do not make reference to meeting a need for self-build and custom-build housing. As such I find that the failure of the Council to meet its duty to provide self-build and custom-build housing does not mean that the Council is not meeting its identified housing requirement and therefore does not mean that criterion (b) of paragraph 14 is failed.
66. In reaching this finding I have had due regard to the appeal decision referred to by the appellant. Whilst I do not have all the information before me in respect of that appeal, it is clear from the decision letter that in addition to not granting enough permissions to meet the demand for self-build and custom housebuilding, that Council could also

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<sup>7</sup> APP/K0235/W/24/3349671

not demonstrate a five years' supply of deliverable housing sites. That appeal decision is therefore not comparable to the appeal scheme before me where it has not been disputed that the Council can currently demonstrate a five-year supply of deliverable housing sites. This therefore limits the weight I attribute to that appeal decision in my determination of the appeal proposal.

67. I find that the BotHNP contains policies and allocations to meet its identified housing requirement and I have not been presented with any compelling evidence to indicate otherwise. I therefore conclude that criterion b) is also satisfied and paragraph 14 of the Framework is relevant to the determination of this appeal.
68. The appellant has also referenced an allowed appeal decision<sup>8</sup> for a self-build dwelling on the edge of the settlement of Osgathorpe, which is identified as a small village with very limited services in LP Policy S2. Again, I do not have all the information before me in respect of that appeal but when engaging paragraph 11(d) the inspector concluded that the harms would not significantly and demonstrably outweigh the identified benefits. As mentioned earlier, each appeal must be judged on its own merits and undertaking the planning balance is case specific.
69. Furthermore, from the information before me there is no evidence to suggest that paragraph 14 of the Framework was engaged in that appeal, whereas for the reasons given earlier it is engaged in the appeal before me. The engagement of paragraph 14 is therefore a significant difference between the current appeal and that appeal referenced by the appellant. Consequently, that appeal is not comparable to the appeal scheme before me and this limits the weight I can attribute to it.
70. In light of all the above, and having particular regard to paragraph 14 of the Framework, I find that the adverse impacts of allowing this development which would conflict with the development plan's spatial strategy for new housing, and results in limited harm to the character and appearance of the area, would significantly and demonstrably outweigh the identified benefits when assessed against the policies in the Framework taken as a whole. Accordingly, the presumption in favour of sustainable development does not apply.

## Conclusion

71. I conclude that the proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

*R Major*

INSPECTOR

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<sup>8</sup> APP/G2435/W/24/3343890