



Appeal Decision

Site visit made on 5 August 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 September 2025

Appeal Ref: APP/F2415/W/25/3360307

Old Barn Farm, Welford Road, Husbands Bosworth, Leicestershire LE17 6JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Richard King against the decision of Harborough District Council.
- The application Ref is 24/01053/FUL.
- The development proposed is conversion of barn to residential dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above has been taken from the original application form, as applied for by the appellant.
3. The appellant advances that the development would be exempt from the general Biodiversity Net Gain condition, as set out in paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended). However, given the date of the application and because no mechanism has been put before me to secure the development as self-build, it is necessary to consider biodiversity as a main issue.

Main Issues

4. The main issues in this appeal are the effect of the proposal on:
 - biodiversity; and,
 - the Council's development strategy for the area.

Reasons

Biodiversity

5. Biodiversity Net Gain (BNG) is a mandatory requirement of Schedule 7A of the Town and Country Planning Act 1990 (Schedule 7A), as inserted by Schedule 14 of the Environment Act 2021. Unless exempt, the appeal development would be subject to the mandatory BNG, which requires developers to deliver a BNG of at least 10%. The proposal is advanced on the basis that, as a self-build dwelling, it is exempt from BNG.
6. The appeal has not been accompanied by a planning obligation which would secure the dwelling as self-build, as defined in Section 1(A1) of the Self-build and Custom Housebuilding Act 2015 (the Act), as amended. As such, the exemption would not be secured with any degree of certainty. While the appellant asserts the description of development is sufficient enough to secure the dwelling as self-build, this was not referenced in the description of development on the original application

form. Furthermore, a condition, as suggested, to secure the dwelling as self-build would not be robust enough and I have concerns about its enforcement. Therefore, it would fail to satisfy the tests in the National Planning Policy Framework (the Framework). Consequently, the appeal proposal would be liable to provide BNG.

7. No substantive evidence has been provided to allow full comparison between the appeal proposal and the examples of other permissions granted by the Council, whereby it accepted a condition restricting new dwellings elsewhere as self-build. Notwithstanding such, having regard to the guidance for self-build and custom housebuilding registers and, even if there is a proposed amendment to the Act, which is not yet enacted, such matters do not persuade me that a condition, would be appropriate to restrict the proposed dwelling to self-build in this instance.
8. Although much of the appeal site is hard surfaced, there are some green areas around the building, including where the parking area for the new dwelling is proposed. Also, while it is intended that new planting including a hedgerow would be provided and the appellant asserts the minimum required BNG could be secured by condition, the minimum information in relation to BNG as set out in Article 7(1A) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015 (DMPO) has not been provided with the proposal. Therefore, I cannot be sure that the proposed development would achieve at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat.
9. In view of the above, the proposal would not comply with the requirements of Schedule 7A of the Town and Country Planning Act 1990 or the DMPO.

Development strategy

10. The appeal site is within the countryside, where new development is restricted, unless it is for a purpose set out in Policy GD3 of the Harborough Local Plan (April 2019) (LP). This includes rural housing in accordance with Policy GD4 of the LP and the conversion or re-use of permanent and substantial buildings.
11. The Council does not dispute in its statement of case that the appeal building is a 'building,' although it considers that it is not a building of permanent and substantial construction capable of conversion with minimal alterations. Having regard to Part 9 of the Council's Development Management Supplementary Planning Document (SPD) (December 2021) and the evidence provided, despite its incomplete construction, I find the appeal building is a disused and redundant building. The building has a concrete base and a steel structure with part built walls to 4 of its 6 sides, and even though it has no roof and only some timber boarding in limited areas of the upper walls, it has a definite degree of permanence and is of a substantial construction, despite its incomplete state.
12. The appeal proposal would use the existing footprint, concrete base and steel frame of the existing building. While some of the proposed openings would be different to those in the original design of the building, the overall scale, form and general appearance of the proposed dwelling would follow that of the original design of the approved and partially complete building. The proposed development would not destroy the original and existing form of the building, nor render it unrecognisable. The external works to the building would be fairly minimal and involve cladding or recladding the roof and walls of the existing building and, the

proposed materials would ensure the building would retain its visual character and form, structure, materials and massing.

13. Accordingly, having regard to such together with *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin), the proposed development would not result in the major or complete reconstruction of the existing building and rather would involve the re-use of a building of permanent and substantial construction, in accordance with part 1g of Policy GD3 of the LP.
14. From the evidence provided and my site observations, the appeal building is not currently and it is unlikely that it has been used for agricultural purposes. Rather, the building, together with the wider site has been used for other purposes unrelated to agriculture for some time. Also, even though it is an incomplete building, it is demonstrated that it has been in situ for some time. Therefore, it is a redundant and dis-used building. Furthermore, there is no requirement under Policy GD4 1c of Policy GD4 of the LP that an existing redundant or dis-used building has to have been previously used for agriculture.
15. The appeal building is not particularly attractive in its current state and there is some ad hoc storage and overgrown vegetation within the appeal site. Therefore, the proposed re-use of and works to the redundant building would enhance its immediate setting.
16. Even though it is unlikely the appeal building is now needed for agricultural purposes and that it would be completed and subsequently used for such purposes, the lack of such fallback does not weigh against the proposal, particularly as I find the proposal would satisfy part 1g of Policy GD3 and 1c of Policy GD4 of the LP.
17. Having regard to the above, the proposal would be an acceptable form of development in the countryside and would not have a harmful effect on the Council's development strategy for the area, in compliance with Policies GD3 and GD4 of the LP. Also, in view of such compliance, there would be no conflict with Policy SS1 of the LP, which amongst other matters, strictly controls development in the countryside.

Other Matters

18. The proposals for residential and other types of development on adjoining land and at nearby buildings, and that the appellant has set out their intentions for the residential development of the wider site, are neutral matters in relation to my findings on the appeal proposal, which is for a different proposal on a different site. Furthermore, any future applications for such other development proposals would be considered having regard to their individual merits at the time of their determination.
19. Notwithstanding that the Council granted prior approval for the change of use of the appeal building from an agricultural building to a dwellinghouse in 2015 (application ref. 15/00503/PDN), this permission has since lapsed. Furthermore, the evidence provided with the appeal proposal, sets out that the building has not been used for agricultural purposes. Therefore, it is unlikely that it could be demonstrated that all parts of Q1, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO) would be met.

Consequently, there would be no fallback position in respect of permitted development under Class Q of the GPDO.

20. It would be a matter for the Council to consider whether to take any action in relation to any alleged unauthorised development and not a matter for this appeal.
21. No substantive evidence has been provided to demonstrate that the shared use of the existing vehicular access to Old Barn Farm and the traffic movement associated with one additional dwelling would cause a danger to highway safety. In view of such, the proposal would not cause unacceptable highway safety impacts. Although, such lack of harm does not affect my findings in relation to the main issues.

Planning Balance and Conclusion

22. The proposal would provide social and economic benefits, although the delivery of one additional dwelling would not be significant. Even if the Council is not meeting its duty in regard to the delivery of self-build and custom housing, without a mechanism in place to secure the appeal dwelling as self-build, there is no certainty that the proposal would contribute toward such delivery. Furthermore, I have found that the proposal would not comply with the statutory provisions for BNG, which is a matter of importance I attach considerable weight to.
23. Consequently, while the proposal conforms with the development plan in regard to the second main issue, material considerations indicate that the appeal should be decided other than in accordance with it.
24. For such reasons, the appeal should be dismissed.

C Billings

INSPECTOR