



Appeal Decision

Site visit made on 21 August 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/X0415/W/25/3367374

Landrecies, Oxford Road, Gerrards Cross, Buckinghamshire SL9 7AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Krzysztof Pogwizd of Fran Estates Ltd against Buckinghamshire Council - East Area (Chiltern).
 - The application Ref is PL/24/2591/FA.
 - The development proposed is the conversion of 2 previously part converted barns into 2 semi-detached dwellings and 1 detached dwelling and the enlargement of the vehicular access onto Fulmer Lane.
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Decision

1. The appeal is dismissed and planning permission for the conversion of 2 previously part converted barns into 2 semi-detached dwellings and 1 detached dwelling and the enlargement of the vehicular access onto Fulmer Lane is refused.

Preliminary Matters

2. There is a difference in the spelling of the appellant's surname between the application and appeal forms. For the purposes of the header, I have used the spelling in the application form.
3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council states it would have refused planning permission, should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issue, which I set out below.
4. The Council had amended the description of development during the course of consideration of the application to include the enlargement of the vehicular access, and to identify the application as being part retrospective. As this is a more concise description of the proposal, I have used this description in the heading above, though I have not referred to it as being part retrospective, as this does not constitute an act of development.
5. The appeal site received Prior Approval¹ under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) on 2 May 2018 and included works under Class Q(a) and Class Q(b). The applicable legislation required that 'Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date'. As works subsequently commenced following receipt of prior approval, but

¹ 18/00428/MBNOT

were not completed by 2 May 2021, there is no dispute that they can no longer be completed.

6. The proposals before me essentially seek approval for the works that previously had the benefit of prior approval. However, as this is a full application, it is subject to wider local and national policy considerations than prior approval applications.
7. At my visit, it was apparent that the works for the conversion of one of the barns to 2 semi-detached dwellings was well advanced, with the floor slab in place and external and internal walls progressed to waist and head height. Works to convert the other barn to a detached dwelling were not as advanced, being at the structural alterations stage. The Council consider accordingly that the application is part retrospective. I have considered the appeal from the plans and other evidence before me.

Main Issue

8. The Council considers that the application has not demonstrated that it would meet the statutory requirements introduced by the Environment Act (2021) (the EA), to deliver a mandatory biodiversity net gain of at least 10%, and would therefore be contrary to South Bucks Core Strategy Development Plan - Core Policy 9, and to Chapter 15 of the National Planning Policy Framework (the Framework), together with the EA.
9. Therefore, the main issue is whether the proposal demonstrates compliance with the statutory framework for biodiversity net gain.

Reasons

10. The eastern boundary of the appeal site fronts onto Fulmer Lane and has a thick belt of mature hedging and trees. The southern boundary has a mature hedgerow running along its entire length, with a watercourse on the site's side of the hedgerow. To the south of the hedgerow is open land in agricultural use and with isolated farms, whilst to the west is an open area of land, which was part of the former 'Landrecies' property, as was the appeal site. Hence the appeal site contains natural features which it is reasonable to suppose offer a degree of biodiversity value as habitat.
11. The EA places a requirement on all development (save for specified exceptions) to demonstrate a minimum of 10% Biodiversity Net Gain. To demonstrate the gain, it is important that a base line of the biodiversity values present on the development site, is established prior to commencement of the development, against which to calculate the required minimum 10% increase in biodiversity. A standard metric is used as the methodology for such calculations, and the Government has published information and guidance in this respect.
12. The appellant submitted a Preliminary Ecological Appraisal (PEA) and Biodiversity Net Gain (BNG) Metric Calculation and Report with the application. This submission utilised the Small Sites Metric (SSM) as the basis of the calculation. The Council consider this is the wrong form of Metric. The SSM used, does not include for input of data relating to watercourses, such as the one present on the site, only identifying canals, culverts and ditches. They state that the Full Metric version should have been used to account for the watercourse, which is identified on main river mapping as a stream/tributary.

13. The Councils Ecology team further note that modified grassland had been used rather than Vegetated Garden in the Area Habitats (proposed habitats), for the areas of proposed lawns. Comment was also made in relation to the baseline relative to commencement of development. The submitted metric is based on the site condition immediately prior to the submission of the application. However, given that the partially completed works under the prior approval had reduced the baseline value from that which existed previously, the ecology team considered that this degradation should be considered in the baseline calculation.
14. Whilst it is clear that the applicant did seek to comply with the requirements of the EA by the submission of the PEA and BNG metric calculation with the application, based on the evidence before me there are serious deficiencies in how the standard metric has been applied in this instance. Therefore, given the number and nature of the assessment, very little weight can be attributed to its findings in establishing a baseline position from which BNG can be calculated. Hence, the information before me does not satisfactorily demonstrate compliance with the statutory framework in relation to BNG.
15. The Framework requires in paragraph 187(d), development to minimise impacts on and provide net gains for biodiversity. Paragraph 193 sets out broad principles to be followed when determining planning applications. These include, if significant harm to biodiversity cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.
16. For the above reasons, I find that the proposal fails to demonstrate compliance with the statutory framework for biodiversity net gain. I therefore conclude that the proposal would conflict with Core Policy 9 of the South Bucks Core Strategy Development Plan Document (2011), which requires, among other things, that development conserves and enhances resources and provides a net gain in biodiversity as part of development proposals. The proposal would also be contrary to the policies within Chapter 15 of the Framework, which require, among other things, that development protects and enhances biodiversity.

Other Matters

17. The appeal proposal is located within the Metropolitan Green Belt. It comprises the redevelopment of two existing non-traditional agricultural barns to become residential dwellings.
18. The Government attaches great importance to Green Belts, requiring LPA's to ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt. Paragraph 154 of the Framework identifies that development in the Green Belt is inappropriate unless one of eight exceptions, labelled a to h, applies.
19. The appellant has suggested that exceptions 154(d) and 154(g) apply to the appeal proposal. Exception 154(d) states 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'. Whilst the new dwellings would not be materially larger than the existing, it would not be in the same use, changing from an agricultural use to a residential use. I therefore do not find that this exception to inappropriate development applies to the proposal.
20. Exception 154(g) states 'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding

temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development'. The proposal would reflect the redevelopment of previously developed land, and the existing buildings were not temporary buildings. The question therefore is whether the proposal would have any greater impact on the openness of the Green Belt?

21. The proposal would maintain the same external envelopes of the existing farm buildings with no extension to them. Whilst visually, there would be more openings to facilitate the change to a residential use, this would not change the mass of the buildings. The proposal would introduce additional surfacing for parking and vehicular access and would introduce residential garden space, together with fencing to define the residential boundaries. However, this would be at relatively low height levels and would be unlikely to have a harmful effect on the openness of the Green Belt. The site is bounded by substantial mature hedging and tree boundaries to its perimeter. It is, therefore, not visually exposed to wider open landscape views, limiting its effect on the openness of the Green Belt.
22. For the above reasons, I find that the proposal would comply with the exception to inappropriate development outlined in paragraph 154(g) of the Framework and would therefore not represent inappropriate development in the Green Belt.
23. My attention has been drawn to 3 appeal decisions² relating to residential development in the Green Belt that were allowed. In relation to this matter my approach is consistent with those findings. However, none of those cases has compliance with the statutory framework for biodiversity net gain as a main issue. Consequently, in this respect they are not directly comparable and carry little favourable weight.
24. The Council cannot demonstrate a 5-year Housing Land Supply (5YHLS) as required by the Framework. Accordingly, paragraph 11(d) of the Framework is engaged for decision making purposes. Although not quantified, the appellant describes the present figure as falling well short of the requirement.
25. There are no protected areas or assets as referenced in paragraph 11(d)(i) and footnote 7 of the Framework that would provide a strong reason for refusal. Therefore, the test set out in paragraph 11(d)(ii) applies, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including the key policies cited.
26. The proposal has not demonstrated compliance with the statutory BNG required by the EA and the Framework. Consequently, I have found it would conflict with the Local Plan policies in this regard, and with the development plan when considered as a whole. The Framework requires that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated or as a last resort compensated for, then planning permission should be refused. The proposal has not demonstrated that it would avoid significant harm to biodiversity and would provide a minimum 10% BNG. Therefore, I attribute substantial weight to this in the balance.
27. In terms of the benefits of the scheme, the proposal would provide a boost to housing supply, on a windfall site, though this is relatively small in relation to the

² APP/N0410/W/16/3157969; APP/X0415/W/19/3233363; APP/N0410/W/22/3311441

level of under-supply, and is not within the built-up area. The principle of infill development in the Green Belt is acceptable as the site benefits from an exception to inappropriate development under paragraph 154(g). However, the occupants of the new dwellings would not be in an easily accessible location relative to local services, facilities and employment and would be reliant on the private motor car.

28. Whilst the additional housing units would be energy efficient, and there would be short term economic benefits during the construction process and more long-term economic benefits resulting from future residents spending within the locality, cumulatively, these matters attract moderate weight in favour of the development.
29. The Local Plan is more than five years old. However, the policies within the Local Plan, with which the development conflicts, generally accord with those of the Framework. Therefore, the policy conflicts I have found attract full weight against the scheme in this case.
30. As set out above, collectively, the benefits attract moderate positive weight in the planning balance. However, I have reason to doubt that the proposal would achieve a minimum 10% BNG required by statute, which attracts full weight in the planning balance. Consequently, I consider that the adverse impacts of approval of the development, would significantly and demonstrably outweigh the benefits of doing so. Accordingly, the presumption in favour of sustainable development does not apply in this instance.

Conclusion

31. For the reasons set out above, I conclude that the appeal proposal would be contrary to the development plan, read as a whole, and that there are no material considerations, including policies in the Framework, that would justify determining other than in accordance with it. Therefore, the appeal is dismissed.

D R Kay

INSPECTOR