



Appeal Decision

Site visit made on 17 September 2025

by **Andreea Spataru BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 November 2025

Appeal Ref: APP/H1033/W/25/3368346

Thorncroft, Lower Hague, New Mills, Derbyshire SK22 3AP

- 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 & Mrs K Povah against the decision of High Peak Borough Council.
 - The application Ref is HPK/2024/0495.
 - The development proposed is described as 'demolition of existing outbuilding and erection of a single self build dwelling with associated landscaping works.'
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs K Povah against High Peak Borough Council. This application is subject of a separate decision.

Preliminary Matters

3. A Unilateral Undertaking (UU) dated 10 October 2025 was submitted at the appeal stage. I have taken it into account in my assessment below.

Main Issues

4. The main issues are:
 - Whether the proposal qualifies as a self-build dwelling for the purposes of the exception to the biodiversity net gain requirement; and
 - Whether the appeal site is a suitable location for the proposed development, having regard to local and national policy.

Reasons

Self-build dwelling / biodiversity net gain

5. The appellants assert that the appeal development is exempt from the biodiversity net gain (BNG) requirement¹ because the proposed dwelling would be self-build. In this regard, I have been provided with an UU pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) dated 10 October 2025.
6. The application form indicates that the appellants are not the sole owners of all the land to which the appeal site relates. The name of the owners has been redacted on

¹ The Biodiversity Gain Requirements (Exemptions) Regulations 2024

the application form. Nevertheless, the form shows that notice has been served to the owners, and three different addresses are outlined for those owners.

7. The submitted UU outlines the owners of the appeal site and the appellants. In the contents of the UU the appellants are referred to as the 'Applicants'. The address of the two owners outlined within the UU matches one of the addresses of the owners on the application form. No reference is made to the other two addresses of the owners as outlined on the application form. Therefore, the details outlined within the UU in relation to the owners of the site do not fully match those previously outlined on the application form.
8. Section 1 of the UU outlines several definitions, one of which is for the 'Approved Person': *"means (unless otherwise agreed in writing with the Council) an individual (whether in their own right or as a member of an association of individuals) entered on the Self Build Register or (save in paragraph 5.1.2) a person working with or for that individual or with the association of individuals"*. In this regard, paragraph 5.1.1 of the UU states that the owner covenants to the Council not to commission, build or complete the dwelling except as an exclusively self-build dwelling by an Approved Person. However, there are no specific details that link the 'Approved Person' to the people who made and signed the deed.
9. Accordingly, given the inconsistencies outlined above and the lack of specific details, I am not persuaded that the content of the UU is fit for purpose to secure the proposed dwelling as a self-build dwelling.
10. The appellants also proposed that the dwelling be secured as a self-build unit through the use of a planning condition, referencing a previous appeal decision² where such a condition was imposed. However, while I acknowledge that decision, I do not have full details of that case. More importantly, the appellants have not adequately demonstrated how the suggested condition would meet the enforceability requirement, which is essential to assess its compliance with the six tests set out in the National Planning Policy Framework (the Framework).
11. Consequently, in the absence of either an appropriate mechanism to secure the proposed dwelling as a self-build dwelling, or adequate information to demonstrate the proposal satisfies the BNG requirement, I must take a precautionary approach and find that the proposal conflicts with paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990.

Location

12. The appeal site comprises a parcel of land containing an outbuilding, accessed via Lower Hague. It is situated adjacent to a residential dwelling and forms part of a row of residential properties. Additional dwellings are located along the northern side of Lower Hague. The site lies within Green Belt.
13. Policy EQ 3 of the High Peak Local Plan 2016 (LP) relates to rural development and states that outside the settlement boundaries and sites allocated for development as defined on the Policies Map, including the Green Belt, the Council will seek to ensure that new development is strictly controlled. This policy allows several forms of new residential development, including the re-use of redundant and disused buildings and/or the redevelopment of a previously developed site, where it does not

² Appeal ref: APP/P4605/W/24/3355180

have an adverse impact on the character and appearance of the countryside. Where the existing building is in an isolated location the development should lead to an enhancement of the immediate setting. Another acceptable criterion includes developments that comply with Policy H 1 of the LP.

14. Policy H 1 of the LP sets out the location of housing development and states that the Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other policies in the LP provided that, amongst other things, the development would adjoin the built up area boundary and be well related with the existing pattern of development and surrounding land uses and would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities. Notably, Policy H 1 does not reference the specific forms of housing development permitted under Policy EQ 3.
15. The proposal seeks to replace an existing domestic outbuilding in the countryside with a dwelling. Given its siting relative to neighbouring dwellings, I am satisfied that the building is not in an isolated location. The Council found the proposal acceptable in terms of its effect on the character and appearance of the area, and based on the evidence before me, I have no reason to disagree. The Council confirms that the site is not in a built-up area and, within the 'Principle of development' section, it acknowledges that the proposal can be considered re-development of previously developed land. Therefore, as the proposal qualifies for redevelopment of a previously developed site and would have an acceptable effect on the character and appearance of the countryside, it is supported by LP Policy EQ 3.
16. The Council contends that the proposal does not comply with LP Policy EQ 3 because it fails to meet the 'limited infilling' criterion and/or has not demonstrated a specific planning need. However, LP Policy EQ 3 does not require more than one criterion to be satisfied for a proposal to be considered an acceptable form of residential development in the countryside. Similarly, while compliance with LP Policy H 1 is one of the criteria listed under Policy EQ 3, it is not a prerequisite for proposals that already meet another qualifying criterion. Nor is there a requirement for such proposals to also comply with LP Policies S 1 or S 2.
17. Accordingly, although the proposal does not accord with LP Policy H 1, the appeal site represents an appropriate location for the proposed development under the provisions of LP Policy EQ 3. Overall, the proposal constitutes an acceptable form of development in accordance with the development plan. As the proposal would not result in an isolated dwelling in the countryside, it would also comply with Paragraph 84 of the Framework, which seeks to avoid isolated homes in the countryside unless justified by specific circumstances.

Planning Balance and Conclusion

18. I have found that the appeal site is an appropriate location for the proposed development. However, there is no appropriate mechanism before me to secure the proposed dwelling as self-build, and thus the proposal does not satisfy the BNG requirement.
19. Paragraph 187 of the Framework states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

20. The appellants indicate that the Council cannot demonstrate a 5-year supply of deliverable housing sites. The Council has not disputed this. No specific details have been provided regarding the Council's position with respect to its housing supply.
21. Nevertheless, due to the housing land supply position paragraph 11 d) of the Framework is relevant. Given the location of the appeal site in the Green Belt, I am mindful of paragraph 11 d) i. which seeks to protect areas of particular importance. The evidence before me does not suggest there is any conflict with the Council's Green Belt policies or those of the Framework and I have no reason to find otherwise on the evidence. Therefore, in this regard, national Green Belt policy does not provide a strong reason for refusing the development. In this case, in the context of paragraph 11 d) ii. it is necessary for me to determine whether the adverse impact of the proposal would significantly and demonstrably outweigh the benefits inherent in providing an additional dwelling to assist the Council in addressing its undersupply.
22. One additional dwelling would make a minimal difference to the overall supply of housing, and the support one extra small household would provide to the local economy would be modest. The proposal would be particularly beneficial for the appellants as it would allow them to live close to, and care for their family. However, I find that the BNG conflict would significantly and demonstrably outweigh the limited benefits of the proposal when assessed against the policies of the Framework taken as whole. As a result, the presumption in favour of sustainable development does not apply.
23. In conclusion, for the reasons set out above, the appeal is dismissed.

Andreea Spataru

INSPECTOR