
Appeal Decision

Site visit made on 18 November 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 15th December 2025

Appeal Ref: APP/U2750/W/25/3370902

Land off Old Vicarage Lane, Monk Fryston, Leeds LS25 5EA

- 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 S Haines against North Yorkshire Council.
 - The application Ref is ZG2025/0058/FUL.
 - The development proposed is a new dwelling with access off Old Vicarage Lane.
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Decision

1. The appeal is dismissed and planning permission for a new dwelling with access off Old Vicarage Lane is refused.

Preliminary Matters

2. For the purposes of certainty and clarity I have used the site address, as shown in the banner heading above, as it appears in the appeal form.
3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council has provided a statement of case, confirming that, had it been provided with a legally compliant planning obligation securing the proposed development as self-build, it would have determined the application within agreed timescale and granted planning permission.

Main Issue

4. The main issue is the whether the proposed development meets statutory Biodiversity Net Gain (BNG) requirements, having regard to the claimed self-build exemption.

Reasons

5. The appellant seeks to rely on the self-build exemption from statutory BNG requirements, as set out in the relevant legislation and guidance. While the appellant has submitted a draft Unilateral Undertaking (UU), it does not provide a legally binding planning obligation in accordance with Section 106 of the Town and Country Planning Act 1990 that would secure the self-build status of the scheme.
6. Notwithstanding the draft UU provided, the appellant considers that a UU to secure the self-build status of the scheme could be provided following the grant of planning permission. However, the National Planning Policy Framework and Planning Practice Guidance make clear that planning obligations should be completed before permission is granted, in order to provide the necessary legal certainty and enforceability. Deferring the completion of a planning obligation until after the decision would not deliver the required assurance that the development would be secured as self-build. In the absence of an appropriate and legally binding planning obligation

being in place at the time of decision, the exemption from statutory BNG requirements cannot be applied.

7. Therefore, I conclude that the proposal is not exempt from the statutory requirements for BNG. The proposal is therefore subject to the statutory biodiversity gain condition and associated information requirements. Without such information the proposal does not accord with Policy ENV1 of the Selby District Local Plan, February 2005, (LP) and Policy SP18 of the Selby District Core Strategy Local Plan, October 2013, (CS) which seek, among other things, to ensure good quality development that produces a net gain in biodiversity.

Planning Balance

8. The National Planning Policy Framework (the Framework) does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the LP and CS, with the associated conflict reflecting a failure to demonstrate the delivery of a net gain in biodiversity. For this reason, the development conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
9. The Council have indicated that they do not currently meet the Housing Delivery Test and can only demonstrate a 2.6 years-supply of housing land. Consequently paragraph 11(d) of the Framework should be applied. Paragraph 11(d) explains that in these circumstances, planning 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.
10. The proposal would make a positive contribution to housing supply, with associated social and economic benefits during the construction period and once the dwelling is occupied. However, the benefits associated with a single dwelling would be limited even taking account of the objective of boosting significantly the supply of housing in the Framework and the Council's housing land supply position.
11. In the particular circumstances of this case, I have concluded that the proposed development is not exempt from the statutory requirements for BNG and, therefore, cannot demonstrate satisfactory net gains in biodiversity. As such, the conflict with policies in the LP and CS should be given significant weight. Consequently, the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

12. The proposal would conflict with the development plan, when considered as a whole, and there are no material considerations, including the provisions of the Framework, that indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

C Mayes

INSPECTOR