



Appeal Decision

Hearing held on 27 January 2026

Site visit made on 27 January 2026

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 February 2026

Appeal Ref: APP/D1265/W/25/3370752

Brooklands Farm, Early's Farm to Burt's Lane, Horton, Dorset BH21 7JU

- 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 Andrew Johnson and Mrs Amanda Johnson against the decision of Dorset Council.
 - The application Ref is P/FUL/2024/04777.
 - The development proposed is change of use of land from agriculture to dwelling and retention of 1 residential dwellinghouse (C3), the demolition of two outbuildings, and installation of a bat box.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land from agriculture to dwelling and retention of 1 residential dwellinghouse (C3), the demolition of two outbuildings, and installation of a bat box at Brooklands Farm, Early's Farm to Burt's Lane, Horton, Dorset BH21 7JU in accordance with the terms of the application, Ref P/FUL/2024/04777, subject to the conditions in the attached Schedule.

Background and Preliminary Matters

2. I have used the description of the development as set out in the Council's Decision Notice, which is more accurate than that used in the application form. I have taken the address of the site from the application form, despite the appeal form using a different address. These are the versions used in the first Statement of Common Ground (SoCG) between the Council and the appellants, and I am satisfied that no party would be prejudiced as a result.
3. The appeal site relates to a collection of former agricultural barns located in countryside. Prior Approval¹ to convert one barn (Barn C) into a dwelling was granted in February 2021 (the Prior Approval). During the works to convert Barn C, the steelwork of the building was removed, effectively demolishing the barn.
4. A dwelling (the new dwelling) has now been largely completed on the site of Barn C. There is no dispute that the work involved went beyond the scope of that authorised by the Prior Approval. The appeal application seeks consent for the new dwelling, as well as the change of use of agricultural land to domestic use. It also includes the demolition of Buildings D and G, amongst other things.
5. As part of the appeal, the appellants have submitted a Flood Risk Assessment (FRA) and amended plans. The plans seek to extend the application site boundary

¹ LPA reference 3/20/2244/PNAGD

to incorporate new drainage works, as well as to more accurately show what has been built. The Council has commented on these plans and information, and it is common ground with the appellants that they should form the basis of my consideration of the appeal, having regard to the *Holborn*² tests. I see little reason to disagree, and so I shall base my decision on these plans. I am satisfied that no party would be prejudiced as a result.

6. During the appeal, it became apparent that part of the application site (the Off-Site land) was within the ownership of another party, Paradise Farms Limited. However, notice was served by the appellants on this party in August 2025. I am therefore content that they have been properly notified, and have had the opportunity to comment on the appeal development and its effects. At the Hearing, the Council confirmed that it was satisfied with the validity of this approach.

Planning Obligation

7. The appeal submission includes a signed and dated Planning Obligation Unilateral Undertaking (UU) dated 20 October 2025. Amongst other things, this secures that, in the event of the appeal being allowed, two existing buildings will be demolished and an approval for a garage will not be further implemented. The UU includes the operation of a Biodiversity Mitigation and Enhancement Plan (BMEP), the implementation of a proposed drainage strategy, and their subsequent maintenance. I shall return to these matters below.

Main Issues

8. The main issues are:
- the effect of the appeal development on the South East Dorset Green Belt, within which the site lies, including on its openness,
 - whether the appeal development would be acceptable in respect of flooding and drainage, including whether the flooding sequential test applies, and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by Other Considerations so as to amount to the very special circumstances required to justify the appeal development.

Reasons

Green Belt

9. As a new-build dwelling, the appeal development does not accord with any of the exemptions provided under paragraph 154 of the National Planning Policy Framework (the Framework). The Council and the appellants also agree that it would not comply with Framework paragraph 155, and that it constitutes inappropriate development in the Green Belt. The Framework states that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

² R (on the application of Holborn Studios Limited) v. Hackney LBC [2017] EWHC 2823 (Admin)

10. The fundamental aim of Green Belt policy is to keep land permanently open. The dwelling as built would be of a very similar size to Barn C. Nevertheless, following its demolition, the permission provided by the Prior Approval has fallen away. On removal of Barn C, the relevant part of the appeal site had an open appearance.
11. Had the new dwelling subject to this appeal not been built, the openness of the site may well have remained for many years to come. Granting planning permission would make this loss of openness permanent. The new dwelling has a large size, height and scale, and results in some additional domestic paraphernalia. It is partially screened by trees and hedging from the adjacent public footpath. However, these are not in the control of the appellants and so cannot be relied upon. The new dwelling is also visible from higher parts of the footpath.
12. The site makes little or no contribution to some of the purposes of the Green Belt, set out at Framework paragraph 143. That said, both the Christchurch and East Dorset Green Belt Assessment, and the Dorset Strategic Green Belt Assessment Stage 1, make clear that the site makes a strong contribution to safeguarding the countryside from encroachment. Consequently, retention of the new dwelling would result in appreciable continued spatial and visual harm to the openness of the Green Belt and its purpose.
13. Policy K3 of the Christchurch and East Dorset Local Plan (the Local Plan), adopted April 2014, identifies the most important purposes of the Green Belt. Nonetheless, it does not make specific requirements relevant to this case. Even so, in accordance with Framework paragraph 153, I give substantial negative weight to the harm caused to the Green Belt, including to its openness. The parties dispute whether the benefits of the appeal development would amount to the very special circumstances required to justify it. I shall consider this below.

Flooding

14. The site is within Flood Zone 1 but is identified as being susceptible to groundwater flooding. The appellants' site-specific FRA demonstrates that infiltration-based drainage would not be suitable here. Instead, its preliminary drainage strategy proposes that surface water flows would be attenuated by a manhole and pipe network. Exceedance flows beyond the network capacity would be directed away from the new dwelling and towards a drainage ditch. The network would be located within the application site boundary as amended.
15. The parties dispute whether the maximum discharge rate proposed within the FRA (4.7L/s) would be appropriate, with the Council stating that the rate should be much closer to the greenfield run-off rate. However, in the SoCG, the Council and the appellants confirm that this matter can be left to a planning condition requiring further details of the drainage strategy. I see no reason to take a different view. On the basis that an acceptable run-off rate is achievable, it has been shown that built development within the site boundary would not be at risk of flooding, now or in the future.
16. A large section of the access track to the site lies within high-risk Flood Zone 3. My visit represents only a snapshot in time, but it coincided with heavy flooding following stormy weather. I saw that the track was flooded and passable only with off-road vehicles or similar. The Framework seeks to direct proposals away from areas at risk of flooding. It does so by applying a sequential test, whereby

development is not permitted if there are reasonably available sites for it with a lower risk of flooding.

17. That said, at paragraph 175, the Framework makes clear that the sequential test should not be used where a site-specific FRA demonstrates that no built development within the site boundary, including access or escape routes, would be within an area of flood risk. The at-risk parts of the vehicular access lie outside of the appeal site boundary. As such, and given my findings above, the sequential test does not apply in this case. At the Hearing, the Council confirmed that it now takes the same view.
18. For the reasons given above, I conclude that the appeal development would be acceptable in respect of flooding and drainage, and that the flooding sequential test does not apply. It would thus accord with the Framework in this respect. It would similarly accord with Local Plan policy ME6, which requires the application of the sequential test as set out in the Framework. This matter is therefore neutral in the planning balance.

Other Considerations

Biodiversity Benefits

19. As a retrospective application, the development is exempt from Biodiversity Net Gain requirements. However, as a positive benefit, the application proposes that land to the south of the new dwelling would be used to secure a Biodiversity Net Gain of around 46% in habitat units and 34% in hedgerow units. This would be achieved through the BMEP, secured by the UU. The BMEP includes measures such as enhanced neutral grassland, proposed fruit trees, additional native hedgerow and bird and bat boxes. The UU confirms that the measures would be in place for at least thirty years.
20. The BMEP includes parts of the Off-Site land. The owners of the land are not a party to the UU. Although the UU does seek to obtain their agreement to the measures, such agreement is by no means certain. Nonetheless, most of the Off-Site land within the BMEP consists of artificial, unsealed surface with little or no ecological value. A small part of the remainder is shown on the BMEP as other neutral grassland, to be enhanced.
21. Being outside of the control of the appellants, the use of this area as enhanced neutral grassland is not assured. That said, given its small size and constraints, it seems very unlikely that the future use of this area of land would undermine the positive effects of the BMEP. Even if the Off-Site land were excluded from the BMEP, there is no dispute that this would result in a slight increase in the percentage of habitat units created. Consequently, I consider that the absence of control over the Off-Site part of the BMEP area does not materially diminish the biodiversity benefits as a whole.
22. In the event that the BMEP is not adhered to, the UU does not require occupation of the new dwelling to cease. However, the Council does have powers under Schedule 2, Part 3 to undertake the measures if necessary. I am therefore satisfied that it is enforceable. I conclude that the biodiversity benefits attract considerable positive weight.

Previous Planning Permissions

23. Planning permission³ (the Garage Approval) has been granted to demolish Buildings B, D and E, and to erect a new garage and store. Another planning permission⁴ has been granted to convert Building G into an annex associated with Building F, a separate dwelling. Buildings B and E have already been demolished but Building D remains. Notwithstanding these permissions, the UU obligates the appellants to demolish Buildings D and G if the appeal is allowed. The UU also requires that the approved garage would not be built.
24. Building G is located at the outer edges of the appeal site and is visible from the site entrance. Both it and Building D are positioned closer to the footpath than the new dwelling, making them more prominent. They would be smaller in volume than the new dwelling, even when taken together. That said, given their position, the removal of Buildings D and G would represent a notable benefit to the openness of the Green Belt hereabouts. Erection of the four-bay garage would add to the mass of built development here. Its non-implementation would further assist in the openness of the Green Belt.
25. The Garage Approval, which has been implemented, has an application site boundary that encompasses other parts of the wider site. This was on the assumption that the Prior Approval scheme would have been completed as approved. Condition 4 of the Garage Approval describes the land within its application site as garden, and requires the Council's approval of the position of the fencing or other boundary treatment, and its subsequent retention.
26. The land defined as garden in this condition is adjacent to Building F. If the appeal was not successful, it is possible that the land within the boundary of the Garage Approval could instead become garden to serve Building F, and a boundary treatment plan provided on this basis. This could allow for the additional spread of domestic paraphernalia, or possibly the siting of a caravan.
27. However, no approval of such a plan pursuant to Condition 4 has been brought to my attention. Moreover, the two sites are in separate ownerships, and I saw that there is currently a tall fence and retaining structure on the boundary that divides the sites. As such, I cannot be certain that the appeal development would necessarily result in a reduction in garden land or curtilage to that which might take place anyway. I therefore give this element only limited positive weight.
28. Nevertheless, for the reasons already given, I give the cumulative benefits in respect of the previous planning permissions, including the demolition of existing buildings D and G, and the non-implementation of the approved garage, very significant positive weight in the planning balance.

Personal Circumstances

29. The personal circumstances of the appellants have been made clear in Statutory Declarations. If the new dwelling could not be used as the appellants' family home, they would face potential bankruptcy and risk of repossession, and adverse effects on Mr Johnson's business. This could lead to a risk of homelessness, and harmful effects on the children's education. One of their children has health problems

³ LPA reference 3/21/0887/FUL

⁴ LPA reference 3/21/0889/FUL

which could well be made worse as a result of the uncertainties about their living arrangements.

30. Although the appellants have additional income from Mrs Johnson's company, the evidence before me is that this is used for other liabilities. Building F, now a separate dwelling, is mortgaged and owned by a company under the appellants' control. It is used for holiday accommodation, which provides an income. However, I see little reason to doubt that, were the appeal to be unsuccessful and the new dwelling removed, the appellants would have to occupy Building F, leaving them with potentially little or no available income.
31. The Council does not dispute the facts of the appellants' circumstances. Some of these effects are likely to be of limited duration, whereas the appeal seeks retention of the new dwelling on a permanent basis. The works were undertaken at the appellants' own risk. Even so, I do not underestimate the adverse effects that dismissal of the appeal would have on the appellants and their family, in particular their children. Accordingly, I give these matters very significant positive weight in the planning balance.

Low Carbon

32. The new dwelling has been designed as a low carbon property, and has obtained an EPC 'A' Rating. Its features include high performance structural insulated panels, an air source heat pump and solar panels on the roof. The carbon levels resulting from the new dwelling have been kept as low as possible. Window positioning and sizes have been chosen to benefit from the south facing elements and natural light, reducing the need for heating and lighting.
33. The Framework requires that developments achieve a high standard of environmental sustainability. Nevertheless, the low carbon nature of the new dwelling attracts additional moderate positive weight.

Housing Land Supply

34. The Council accepts that it is unable to demonstrate an adequate supply of housing land, at around 2.53 years. Retention of the new dwelling would add one unit to the housing land supply of the area. This is a benefit which attracts further moderate positive weight.

Other Matters

35. The site is located within 5km of parts of the Dorset Heathlands Special Protection Area (SPA) and Ramsar site, which is part of the Dorset Heaths Special Area of Conservation (SAC). Its qualifying features include Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes. The conservation objectives for the area include maintaining or restoring the extent, distribution, structure and function of qualifying natural habitats and species.
36. The evidence before me is that this area is under significant pressure from an increase in the level of human recreation and dogs, and a disturbance of bird species, resulting from new development. Retention of the new dwelling would result in an increase in human activity within the area of influence, thus adding to the impacts on the protected site.

37. The SPA, SAC and Ramsar site are protected pursuant to the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). For the reasons given above, alone and in combination with other development, a likely significant effect on the SPA, SAC and Ramsar site cannot be ruled out. Consequently, in accordance with the Habitats Regulations and as competent authority for this appeal, I must undertake an Appropriate Assessment.
38. Mitigation has been developed in the form of Strategic Access Management and Monitoring (SAMM), such as raising awareness of the value of the protected sites and for ongoing monitoring. This is provided from financial contributions towards SAMM. This would be collected via the Community Infrastructure Levy (CIL) process.
39. The Council and Natural England have confirmed that the use of CIL would be acceptable. In undertaking the Appropriate Assessment, the information before me indicates that the mitigation would reduce the impact of the appeal development on the integrity of the SPA, SAC and Ramsar site to a de minimis level. Accordingly, it would accord with the Habitats Regulations. It follows that this matter is neutral in the planning balance.

Planning Balance

40. For the reasons set out above, as a matter of planning judgement, I find that the other considerations in this case clearly outweigh the harm identified. Looking at the case as a whole, very special circumstances exist which justify the appeal development. There is no need to apply paragraph 11(d) of the Framework as doing so would lead to the same outcome.

Conditions

41. The Council and the appellants have provided an agreed list of conditions in the first SoCG, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. A condition setting out the approved plans is necessary for certainty.
42. In the interests of the openness of the Green Belt, conditions removing permitted development rights in respect of enlargements to the dwelling and the erection of outbuildings are required. For a similar reason, and in the interests of the character and appearance of the countryside, a condition is necessary confirming that the garden to the new dwelling shall not exceed the area shown on drawing 205.RD2.02.3a.
43. In the interests of avoiding groundwater flooding of the site or its surroundings, a condition is necessary to ensure that a finalised drainage scheme is submitted, including an appropriate discharge rate. As a planning condition can be used, paragraphs 1.3 to 1.6 of Schedule 1 of the UU are not compliant with Regulation 122 of the CIL Regulations 2010 (as amended), because they are not necessary. They are not therefore binding on the relevant land pursuant to clause 4.2 of the UU.
44. The timber solar shading battens shown on the elevation plans have not yet been installed. They are necessary to prevent overheating due to solar gain and unnecessary light spill. At the Hearing, the need for a condition to secure the battens, and a date for their implementation, was discussed. I am satisfied that to

enforce their provision, a condition is necessary, and that twelve months is a suitable period for their installation.

45. The SoCG included a condition preventing further first floor windows in the interests of the privacy of the occupiers of Building F. However, the appeal development already includes such windows serving habitable rooms and facing that building. At the Hearing, the Council accepted that such a condition was unnecessary, and I agree. I have not therefore imposed a condition in respect of first floor windows.

Conclusion

46. For the reasons given above, the balance of material considerations indicate that planning permission should be granted. Accordingly, I shall allow the appeal.

O Marigold

INSPECTOR

APPEARANCES

FOR THE APPELLANTS

Harley Ronan
Kelly Burns
Amanda Johnson
Andrew Johnson
William Davies

Counsel
Tozers, Instructing Solicitor
Appellant
Appellant
Ecologist

FOR THE LOCAL PLANNING AUTHORITY

Elizabeth Adams MRTPI

Development Management Team Leader

DOCUMENT HANDED UP DURING THE HEARING

1. Sketch Location Plan indicating the appellants' understanding of the ownership of Paradise Farms Limited.

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved drawings: 205.RD2.01E, 205.RD2.02.1C, 205.RD2.02.2D, 205.RD2.02.3A, 205.RD2.03C, 205.RD2.03.2B.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no enlargement of the dwellinghouse permitted by virtue of Classes A, B and C of Part 1 of Schedule 2 to the 2015 Order shall be undertaken.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no garages, sheds or other outbuildings permitted by Class E of Schedule 2 of Part 1 of the 2015 Order shall be erected or constructed.
- 4) The garden of the dwelling hereby approved shall not extend beyond the area shown cross hatched grey on approved drawing 205.RD2.02.3A.
- 5) The external materials of the walls and roof of the appeal development shall be retained in a similar colour and texture to those specified on approved drawings 205.RD2.02.3A and 205.RD2.03C for the lifetime of the development.
- 6) Unless within 3 months of the date of this decision and notwithstanding the grant of planning permission, a detailed Surface Water Drainage Scheme is submitted in writing to the Local Planning Authority for approval, and unless the approved Surface Water Drainage Scheme is implemented within 3 months of the Local Planning Authority's approval, the occupation of the dwelling shall cease until such time as a scheme is submitted, approved and implemented. Upon implementation of the approved Surface Water Drainage Scheme specified in this condition, the approved Surface Water Drainage Scheme shall be retained and maintained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition would be suspended until that legal challenge has been finally determined.
- 7) Within 12 months of the date of this decision, the solar battens shown on approved plan 205.RD2.03C shall be installed in accordance with the approved details, and shall thereafter be retained.

End of Conditions