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## Appeal Decision

Site visit made on 9 December 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 17<sup>th</sup> February 2026

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### Appeal Ref: APP/W2465/C/23/3324396

#### Aylestone Meadows, Land North of Braunstone Lane East

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
- The appeal is made by Mrs Michelle Ikin against an enforcement notice (EN) issued by Leicester City Council.
- The EN was issued on 16 May 2023.
- The breach of planning control as alleged in the EN is:  
Without planning permission, construction of outbuildings.
- The requirements of the notice are:  
Remove the buildings (including any flooring and/or concrete plinths associated with these buildings) marked B, C, F and G on the image attached at Appendix 1 and remove the materials from the site resulted from demolition.
- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.
- This decision supersedes that issued on 18 March 2025. That decision on the appeal was remitted for re-determination by order of the High Court.

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### Decision

1. It is directed that the EN is corrected by the deletion of all wording from section 2 (The land affected) and its replacement with '*Land North of Braunstone Lane East, Leicester*'.
2. Subject to the correction, the appeal is allowed insofar as it relates to the construction of the outbuilding marked C on the image attached at Appendix 1 to the EN and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for that outbuilding at Land North of Braunstone Lane East, Leicester.
3. The appeal is dismissed and the EN is upheld as corrected insofar as it relates to the construction of the outbuildings marked B, F and G on the image attached at Appendix 1 to the EN.

### Application for costs

4. An application for costs was made by Mrs Michelle Ikin against Leicester City Council. This application for costs is the subject of a separate decision.

### Preliminary Matters

5. Four buildings are targeted by the EN and are labelled B, C, F and G within Appendix 1 attached to the EN. The appellant is only pursuing each ground of

appeal in relation to different buildings. The ground (c) appeal is made in relation to Building B and the previous Inspector considered that the appellant's evidence also related to a ground (b) appeal. The ground (d) appeal is made in relation to Building F and the ground (a) appeal is made in relation to Building C. The ground (f) appeal is made in relation to Buildings B, C and F. No case has been put forward in relation Building G and I noted that this building has been removed from the site.

6. The previous Inspector's decision, dated 18 March 2025, was remitted for redetermination as it was accepted that the Inspector erred in failing to take into account all of the relevant evidence submitted in the appellant's appeal and specifically the updated recommendations made by the Environment Agency (the EA) in October 2023 regarding the flood risk of the site.
7. Given the above I consider that the previous Inspector's finding on the ground (b), (c), (d) and (g) appeals do not fall to be redetermined. The previous Inspector's findings on those grounds of appeal therefore remain and the ground (b), (c), (d) and (g) appeals fail. In any case, based on the evidence before me and my observations at the site visit I have no reason to dispute the previous Inspector's findings on those grounds of appeal.
8. The previous Inspector corrected the EN by "*the deletion of all wording from section 2 (The land affected) and its replacement with 'Land North of Braunstone Lane East, Leicester'*". I agree with the Inspector's findings<sup>1</sup> on this matter and I intend to make those corrections to the EN.
9. I note the appellant's concerns in relation to the fee paid associated with the ground (a) appeal and deemed planning application. However, this is a procedural matter that I have no jurisdiction over.

### **The ground (a) appeal and deemed planning application**

10. The appellant has made this ground of appeal with regards to Building C only. Section 177(1)(a) of the 1990 Act states that the Secretary of State may '*grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates*'. As such, I am satisfied that the deemed planning application can be determined for Building C only as it forms part of the matters that constitute the breach of planning control. Even if planning permission is granted for Building C the EN and its requirements would still be in place in respect of the remaining outbuildings.

### **Main Issues**

11. The main issues are:
  - The effect of Building C on the character and appearance of the area;
  - Whether Building C is contrary to policies relating to flood risk; and
  - The effect of Building C on biodiversity.

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<sup>1</sup> Paragraph 3

## Reasons

### Character and appearance

12. The appeal site is within an area of largely open land that runs, along the Rivers Soar and Biam, through this part of Leicester. That open land has the character and appearance of a rural area, but it is within the setting of the city of Leicester. There is a relatively large building on the opposite side of Braunstone Lane East that is in use as a boarding kennels and there is an electricity pylon within the appeal site.
13. The walls of Building C are clad with dark stained timber, and it has a very shallow mono-pitch roof. Building A, that the Council has stated is immune from enforcement action, is constructed of similar materials to Building C and it is sited between Building C and Braunstone Lane East. The construction of Building C has had a visual impact on the openness of this part of the largely open land. Nonetheless, it is seen in the context of Building A, boundary gates and fencing, the boarding kennels building and the electricity pylon. Moreover, the design and materials of Building C reflect that of similar buildings that are utilised to house animals and store items on farms and small holdings in rural areas. As such, Building C does not appear incongruous in this context and when the trees and landscaping that adjoin the pavement are in full leaf that building is only seen in glimpsed views from Braunstone Lane East.
14. Therefore, I conclude that Building C does not harm the character and appearance of the area and it complies with Policy CS3 of the Council's Core Strategy (CS) which, amongst other things, seeks to secure high quality development and places. It has not been shown that there is conflict with CS Policy CS13, which is concerned with the Green Network.

### Flood risk

15. In a response dated 10 September 2025, submitted as part of this redetermination, the EA has stated that: *"Our initial response to the appeal (our letter date 5 September 2023, reference LT/2023/128036/01-L01) was mistakenly based on the River Soar 2017 model data, which showed the site to be in flood zone 3b. This was corrected in our October 2023 response where we clarified that the latest modelling, the Soar 2022 model, showed the site to be in flood zone 1. At that time, the Flood Map for Planning (FMfP) had not been updated with the Soar 2022 model, and so the FMfP was showing the site in flood zone 3 (the FMfP did not differentiate between FZ3a and FZ3b). The Soar 2022 model superseded the FMfP at that time, although it was not yet published on the FMfP. The Soar 2022 model has now been incorporated into the FMfP and the application site is now therefore showing as flood zone 1 on the published FMfP.....We can therefore state that according to our current best available data, the application site is in flood zone 1."*
16. As it has been confirmed that the site is within flood zone 1 there is a low probability of flooding on the appeal site. As such, Building C is unlikely to have created a flood risk on the site or elsewhere. Based on the up-to-date information from the EA the development complies with saved Policy BE20 of the City of Leicester Local Plan (LP).

### ***Biodiversity***

17. The reasons for issuing the EN include *“the loss of part of a defined Local Nature Reserve and a local wildlife site”*. The Council has subsequently stated that the appeal site is not within the Local Nature Reserve (LNR) (Aylestone Meadows) but adjoins it. However, it maintains that the site is within the local wildlife site (LWS), Aylestone Meadows North (Twelve Arches Bridge to Braunstone Lane East) and has provided evidence to support that. That is disputed by the appellant but there is little evidence to indicate that the designation and notification procedures relating to the LWS (formerly known as a Site of Importance to Nature Conservation) were carried out incorrectly. The Council has stated that the development may have negatively impacted local biodiversity and that it is unclear if protected species were present on the site when it was constructed.
18. I acknowledge that no ecological surveys have been carried out. However, paragraph 99 of Circular 06/2005 states that *“bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.”* Moreover, based on the information before me including the aerial photographs there is no substantiated evidence to indicate that there was a reasonable likelihood of protected species being present when the building was constructed. In addition, it appears that the part of the site occupied by Building C was cleared and used by the EA when mitigation works were being carried out nearby. Therefore, even though the site is within a LWS and adjoins a LNR there is little specific evidence to indicate that the construction of Building C has harmed biodiversity. Additionally, the evidence before me does not indicate that the objectives of LWS designation have been harmed.
19. The Council has stated that the use of the appeal site for animal grazing is immune from enforcement action. I acknowledge that Building C could be used to house animals but at the time of my site visit the building was in use to store animal feed and other items. I note the previous Inspector’s finding that a planning condition could be imposed regarding the storage and disposal of animal waste. However, I consider that there is little to indicate that it is necessary to impose a planning condition in these circumstances.
20. Taking into account all of the above, it is more likely than not that there has been no harm to biodiversity resulting from the construction of Building C. The development therefore complies with the aims and objectives relating to biodiversity of CS Policy CS17 and LP saved Policy GE02.

### ***Other Matters***

21. The references to other development plan policies have been noted. However, the development plan policies to which I have referred are considered the most relevant to this appeal.

### ***Planning balance and conclusion – the ground (a) appeal***

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that Building C complies with CS Policies CS3, CS17 and LP saved Policies BE20 and GE02. As such, I find Building C complies with the development plan as a

whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan. I conclude that the appeal on ground (a) and the application for deemed planning permission should succeed.

### **The ground (f) appeal**

23. A ground (f) appeal is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The purposes of an EN are set out in sections 173(4) (a) and (b) of the 1990. The EN does not specify which purpose it seeks to achieve. Yet, as the requirements relate to the removal of the buildings and the resultant materials it is clear that the purpose of the EN is to remedy the breach of planning control.
24. As the ground (a) appeal and deemed planning application has succeeded the ground (f) appeal relating to Building C does not fall to be determined. This is because section 180 of the 1990 Act states that where, after the service of a copy of an EN planning permission is granted for any development carried out before the grant of that permission, the EN shall cease to have effect so far as inconsistent with that permission.
25. In relation to the other outbuildings the appellant has stated that the walls to those structures could be altered to allow water to pass through and drain out easily. It is also stated that the removal of all materials would be excessive.
26. Altering the walls of those outbuildings would not remedy the breach of planning control. Moreover, as stated above, the site is within Flood Zone 1 therefore there is a low risk of flooding.
27. The removal of the materials arising from the removal of those outbuildings is not excessive as it would be part of the restoration of the land to its condition before the breach took place. This does no more than required to meet the purpose of the EN. Removal of the materials from the site does not necessarily prevent their reuse for some purpose in the future. The requirements are therefore not excessive, and the ground (f) appeal fails.

### **Conclusion**

28. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission as it relates to the construction of the outbuilding marked C on the image attached at Appendix 1 to the EN, but otherwise I will uphold the EN with a correction. The requirements of the EN will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act.

*D Boffin*

INSPECTOR