Planning Inspectorate

Appeal Decision

Site visit made on 23 September 2026

by K Craddock BA (Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2026

Appeal Ref: 6011673
Moorbeck, 7 Butt Lane Close, Hinckley, Leicestershire LE10 1LF

- 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 Scott Halborg of Business Solutions Associates Limited against Hinckley & Bosworth Borough Council.
- The application Ref is 25/01059/FUL.
- The development proposed is "Erection of 2 semi-detached dwellings".

Decision

1. The appeal is dismissed and planning permission for the erection of two semi-detached dwellings (re-submission of Planning Application ref: 22/00612/FUL) is refused.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council 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 issues, which I set out below.

3. The Council does not raise issue with the principle of development and considers the proposal does not give rise to any significant material impacts in terms of design and appearance, living conditions for future and neighbouring occupiers, highway safety and flood risk. Based on the evidence before me, I have no reason to come to an alternative conclusion.

4. Subsequent to the Council's decision, the Government published a new National Planning Policy Framework (the Framework) dated 17 August 2026, which replaces the previous Framework. Both the appellant and the Council were given the opportunity to comment on any changes relevant to the main issues in this appeal, and I have taken those comments into account in reaching this decision.

5. My attention has been drawn to the emerging Hinckley & Bosworth Local Plan although it has not been explained to me what the implications of the draft policies might be for this appeal. Neither is it clear what stage of preparation it has reached nor the extent to which there are unresolved objections. I have therefore only had regard to the adopted development plan in considering the appeal proposal.

6. A conjoined appeal (Ref: 6011672) is the subject of a separate decision.

Main Issues

7. The main issues are:

- the effect of the proposed development on protected species; and
- whether the proposed development would satisfy the requirements of the statutory framework for Biodiversity Net Gain.

Reasons

Protected Species

8. The Government's Planning Practice Guidance (PPG) states that an ecological survey will be necessary in advance of a planning application, if the type and location of development is such that the impact on biodiversity may be significant and existing information is lacking or inadequate. It also advises that ecological surveys should only be required where clearly justified, for example if there is a reasonable likelihood of a protected species being present. In addition, Circular 06/2005 states that 'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted'.

9. All species of bats are protected principally under the Conservation of Habitats and Species Regulations (2017). There is also additional protection under the Wildlife and Countryside Act (1981), as amended. Furthermore, guidance from Natural England advises that surveys should be requested in certain circumstances, including where development sites include trees or have built structures close to trees. Those circumstances are relevant in this case.

10. Whilst guidance may not be definitive on this matter, the site-specific circumstances raise a reasonable likelihood of there being bats nesting or roosting in the roof area or trees. As such, and in order to avoid the potential for harm to this protected species, a survey would be appropriate.

11. The appellant argues that the ecological value of the site is low and that any survey work could be secured by condition. However, in the absence of an up-to-date Preliminary Ecological Appraisal (PEA) or other proportionate survey evidence, I am unable to rule out the possibility of bats being disturbed or unacceptably harmed by the proposal. Given the potential presence of protected species and the nature of the site, this is not a matter that can be left to a planning condition, consistent with Circular 06/2005.

12. I therefore find that insufficient information has been provided to demonstrate that the proposal would avoid unacceptable harm to a protected species. The development would conflict with Policy DM6 of the Hinckley & Bosworth Borough Council Site Allocations and Development Management Policies DPD (2016), which requires development proposals to conserve and enhance features of nature conservation, or adequately mitigate against any harm identified. Consequently, I cannot conclude that the proposal would be in accordance with the Framework, the Circular or the PPG.

Biodiversity Net Gain

13. Biodiversity Net Gain (BNG) is a statutory requirement introduced by the Environment Act 2021. Under the statutory framework for BNG, every consent for planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met, unless the proposal is classed as an exempt development. This objective requires development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or, as a last resort, statutory biodiversity credits.

14. Where BNG is applicable to a development, it is secured through a statutory planning condition intended to ensure a minimum 10% increase in biodiversity value. Compliance with this statutory regime is a material consideration for the decision taker, as failure to do so could undermine both its effective implementation and the wider biodiversity objectives it seeks to achieve.

15. Article 7 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015 (DMPO) requires an application for planning permission to be accompanied by a statement confirming whether the development would be subject to the statutory BNG condition and, if not, the reasons for that belief. If BNG is applicable, further information relating to BNG is required. This provides the basis on which compliance with the statutory BNG requirements can subsequently be assessed.

16. Both parties agree that the proposal is liable for BNG as it would not fall within any of the exempt development types. The dispute focusses on whether suitable information has been provided to enable the baseline biodiversity value to be measured, to demonstrate that the statutory BNG requirements are capable of being met.

17. Whilst the appellant has supplied a version of a statutory BNG metric, it is poorly formatted and the information within it is unclear and illegible. I cannot be satisfied it demonstrates that a robust calculation of the of pre-development biodiversity value of onsite habitat has been undertaken. As such, the appeal has not been accompanied by the minimum information set out in the DMPO. In the absence of this, the mandatory BNG requirements would not be met.

18. Given the deficient information before me, it is not possible to establish what the baseline biodiversity value for the site is. Neither is it possible to establish what the relative 10% increase in biodiversity over the existing baseline value would be. For these reasons, I am not satisfied that the mandatory BNG requirements would be capable of being met.

19. Overall, I conclude that it has not been demonstrated that the proposal is capable of satisfying the statutory BNG requirements. The proposed development would therefore be contrary to the Framework, which advocates that developments provide for biodiversity net gains and take appropriate steps to avoid, mitigate or compensate for any harm caused. It would also conflict with the requirements of Schedule 7A of the Town and Country Planning Act 1990 and Article 7 of the DMPO.

Other Matters

20. I have had regard to the previous permissions for residential development granted on this site. There is no dispute between the main parties that the site is within the settlement boundary and the principle of development is acceptable. The full details of those cases, including the planning considerations undertaken, are not before me. Nevertheless, from the limited information before me, it is evident that these consents have expired and any new application must be determined in accordance with the development plan unless material considerations indicate otherwise. I have also had regard for the planning permissions on neighbouring sites referenced by the appellant and, for the same reasons as the expired consents on the appeal site, these do not alter my overall conclusions on the main issues.

21. Since 22/00612/FUL was granted consent, BNG has become a statutory requirement and represents a significant material consideration in the determination of this appeal. The new Framework has also been published, providing a further significant material consideration. That previous development has been approved at the site does not mean the current proposal should automatically be allowed, particularly where harm has been identified.

22. The Council cannot demonstrate a five year housing land supply and, under the Framework, the site would be classed as previously developed land. The parties do not dispute either of these matters and I have had regard to them in coming to my decision.

23. The appellant has put forward a number of benefits they believe the proposal delivers, namely the efficient use of land, renovation of an existing dwelling and economic benefits through construction. I apportion modest weight to these benefits.

24. I have had regard to the appellant's submission that surveys were not carried out due to not having legal access to the land and building, and that roost assessment were undertaken as part of previous schemes. However, this does not justify the lack of information concerning protected species and BNG. Such information is necessary to determine the appeal.

Planning Balance and Conclusion

25. On the main issues, I find that the proposed development would fail to comply with the statutory BNG requirement, and that there is insufficient evidence provided to demonstrate that it would not harm a protected species. This results in conflict with the development plan, taken as a whole.

26. Framework Policy S3 sets out a presumption in favour of sustainable development and requires that Policy S4 is applied to development proposals within settlements.

27. Policy S4 of the Framework states that development proposals within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the National Decision-Making Policies (NDMP) in the Framework.

28. Framework Policy HO7 states that substantial weight should be given to the benefits of providing homes which will contribute towards the evidenced accommodation needs of the community. The Councill cannot demonstrate a five

year housing land supply and whilst the proposal would only deliver two units, this would nonetheless be valuable in boosting housing stock in circumstances where there is a shortfall. This is a benefit to which I give substantial weight.

29. Whilst the proposal would provide additional housing, it would conflict with other policies of the Framework, including Policy N2, relating to the conservation and enhancement of the natural environment through delivering biodiversity net gain and protected species, and Policy DM1(2), which states that proposals should be accompanied by the minimum necessary information requirements to enable a decision. Taken together, I find the benefits of the proposal would be substantially outweighed by its adverse effects when assessed against the NDMPs of the Framework. As such, Policy S4 of the Framework does not point to permission being granted in this instance.

30. For the reasons given above, I conclude that the proposed development would conflict with the development plan, when read as a whole, and there are no other material considerations that indicate I should take a decision other than in accordance with it. Accordingly, the appeal is dismissed.

K Craddock

INSPECTOR