



Appeal Decision

Site visit made on 18 August 2025

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 08 September 2025

Appeal Ref: APP/K2420/W/25/3365553

Barton Hill Fields Farm, Main Street, Barton in the Beans, Nuneaton CV13 0DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Chris Mee against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref is 24/00757/CONDIT.
 - The application sought planning permission for ‘Retention of log cabin for permanent occupation as a dwelling’ without complying with a condition attached to planning permission Ref 16/00640/FUL, dated 13 July 2016.
 - The condition in dispute is No.3 which states that: Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) the dwellinghouse hereby approved shall not be extended without the grant of planning permission for such extensions by the Local Planning Authority.
 - The reason given for the condition is: ‘To ensure the dwelling remains of a size and scale appropriate to the proper functioning and needs of the rural enterprise in accordance with Policy DM5 of the Site Allocations and Development Management Policies DPD.’
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Decision

1. The appeal is dismissed.

Procedural matter

2. This type of appeal that seeks the deletion of a condition means that the original grant of planning permission is opened for re-consideration in its entirety with the initial grant of permission therefore being at risk. Having reviewed the application, I have no reason to dispute the opinion of both parties that the proposed development is acceptable in principle (without detailed considerations) and is made in accordance with the Development Plan, having considered its policies and any other material considerations. Taking this into account, I will therefore only consider the elements in dispute which revolves around whether Condition No.3 meets the tests of conditions in accordance with Paragraph 57 of the National Planning Policy Framework (the Framework) and the National Planning Policy Guidance (NPPG).

Main Issue

3. The main issue is whether Condition No.3 meet the tests of conditions as prescribed by the Framework and the NPPG.

Reasons

Background, Site Description and Considerations

4. Whilst the appeal site as defined by the red line boundary only encapsulates the living accommodation building, the building is part of a larger agricultural operation which consists of approximately 4.5 hectares and contains horse riding areas, paddocks, grazing land, and stable buildings. The site is located off Congerstone Lane and Main Street within an open countryside location, and outside the defined settlement boundary. A number of Public Rights of Way (PROW) are located close to and around the site.
5. The appeal site itself consists of a long driveway that leads to a small single storey modular timber chalet/cabin type building. The building is of a functional design and limited in size and provides a kitchen, living area and two bedrooms. The original approval¹ for the temporary erection and use of the building was so that the building could act as rural workers accommodation for a livery business. The building has since been given further consents and has undergone different ownerships over the past decade whereby the last consent in 2016 enabled the building to be located permanently.
6. Condition No.3 as described in the header to this letter is a condition that removes permitted development rights which are defined by the General Permitted Development Order 2015 (as amended) (GPDO). The purpose of the GPDO is to fast-track what is typically smaller types of development via this legislation, without the need to apply to the Local Planning Authority (LPA) for planning permission. Over the years, additions to permitted development have been made to increase the types of development possible and to seek further processes such as 'Prior Approval.' In this particular case the condition in question removes permitted development rights meaning that the Appellant would need to apply for planning permission for any alterations deemed 'development' that requires consent.
7. Paragraph 57 of the Framework as well as the NPPG provides that conditions on grants of planning permission should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I turn to this assessment below.

Necessary

8. In order to pass the necessary test a condition must be essential in order for the development to proceed, as without the condition, the development would not be appropriate. In determining the appropriateness of the proposed scheme, the proposal was assessed under the policies of the Hinckley and Bosworth Site Allocations and Development Management Development Plan Document (DPD) where a balanced judgement was given as to whether a rural workers dwelling was appropriate when considered against the development plan and other material considerations. DPD Policy DM5 appears to be one of the main policies that influenced the placement of Condition No.3 where this policy is related to enabling the development of rural workers housing in locations where typically dwellings

¹ Council Planning Ref: 10/00920/FUL

would be inappropriate. The policy specifies criteria such as being essential for the proper functioning of the rural business, enables the rural enterprise to be economically sustainable; there are no other available dwellings, and the proposed dwelling is of a size and scale to enable the proper functioning and needs of the rural enterprise.

9. The accompanying text of DPD Policy DM5 seeks to give further guidance to the policy where it is highlighted that there is a need to balance the intrinsic value, beauty and openness of the countryside and the needs of the rural enterprise. In applying needs the accompanying text seeks that it is the enterprise that defines the size of the dwelling rather than the occupant's needs, and that in order to avoid harms to the open countryside, that dwelling sizes will be restricted. Removing permitted development rights is a way in order to achieve this.
10. In this particular case the Council found it necessary to control the size of the development in order to establish the principal of the development of a rural workers dwelling in order to be compliant with DPD Policy DM5. Without the condition, when assessed against the development plan policies, the scheme would not have been appropriate. The Council's view that allowing permitted development rights would enable extensions, for example an 8m long rear extension for a detached property under prior notification, that would cause harm to the value, openness and beauty of the countryside.
11. I also agree with this approach being necessary as there is no other (less complicated) planning mechanism to enable the development than to place a condition restricting any extensions and requiring planning permission. The DPD Policy DM5 appears to be quite flexible in that it does not prescribe limits to floorspace with evidence being required to demonstrate appropriate floorspace to accommodate the needs of the rural enterprise. This is not to say that any alterations would be refused, just that any alterations require planning consent to ensure that the intrinsic value, openness and beauty of the countryside is protected and that the dwelling is commensurate with the operations of the enterprise. Given that the existing building is more of a temporary construction, such a condition would also have the benefit of enabling a more substantial and appropriate construction if a larger/different building was justifiable.
12. The Appellant's Statement of Case (SoC) contains appeal decisions² for rural worker's dwellings where it was determined that a condition seeking the removal of permitted development rights was unnecessary. Having read these appeal decisions, it would appear that these illustrate a site specific approach that was based upon the merits of the particular appeal, rather than a blanket type approach that would apply to all types of rural dwellings which is implied. In each of the three appeals, comments were made around the lack of sufficient justification as to why the removal of permitted development rights was required. This merits type approach appears to be performed in the other examples illustrated by the Appellant's SoC³ that highlights that in some decisions the Council sought the removal of permitted development and in other cases the Council did not seek this. In this particular appeal there are concerns around the impact to the countryside which is directly linked to considerations around DPD Policy DM5 that seeks to enable appropriate development in the countryside that is a careful balance linked

² Appeal Refs: APP/Q1153/W/24/3341365; APP/Y3940/W/21/3270044; APP/X1545/W/23/3327933

³ Page 12, New Oak Farm

to the need for rural enterprises and potential harm caused to the character and appearance of a locality.

13. Taking the above into account and in conclusion of this matter, it is clear to me that in order to comply with DPD Policy DM5, that the removal of permitted development rights was a necessary requirement. Without this condition, the scheme would not provide certainty around the need to protect the character and appearance of the countryside. Consequently, and in conclusion of this matter, the condition is necessary in order to make the detail of the scheme acceptable.

Relevant to Planning and to the development to be permitted

14. Character and Appearance, visual amenities, the natural environment and facilitating rural enterprise is a planning issue and therefore the imposition of such a condition regarding removal of permitted development rights is relevant to planning. The removal of the ability to extend the dwelling is relevant to the development permitted as the scheme was originally permitted on the basis that it was related to the rural enterprise through justification that the building was the appropriate size to facilitate the rural enterprise in accordance with DPD Policy DM5.
15. I note comments in the Appellant's SoC that revolve around whether the assessment of the condition around the removal of permitted development rights is relevant given that the use has now been established and that in the Appellant's opinion, the Council should only be assessing this aspect of the permitted development rights rather than the application again as a whole. I do not agree that separating the issues is an appropriate approach, as they are intertwined, and as mentioned previously, in these types of applications, the Council is testing whether the removal of the condition would affect the original granting of the building. As such and in conclusion of this matter, Condition No.3 in question is relevant to planning and to the development permitted.

Enforceable

16. To be enforceable it must be reasonable that a condition can actually be enforced by the LPA either by it being aware when it is not being implemented or by avoiding it being too vague for the LPA to know when it is being implemented.
17. Whilst it does not appear that the appeal documents question the enforceability of Condition No.3, for the avoidance of doubt, this element of the test will also be assessed. The condition is worded in a way that is specific in that the to comply with the consent that the owner must apply to the LPA for any extensions and that no further extensions under the GPDO are permitted. The condition would be easily enforceable as the compliance with the condition would be readily observable. In conclusion of this matter, I find that the Condition No.3 as imposed would be enforceable.

Precise

18. In order to be precise the condition must be specific in what it is asking an applicant to do to comply with the condition. Whilst it does not appear that the appeal documents question whether Condition No.3 is precise, for the avoidance of doubt, this element of the test will also be assessed.
19. Having reviewed the Condition No.3, the Condition is precise in that it specifically directs the Appellant what they need to do in order to comply with the condition, for

example that they cannot erect any extension without obtaining planning permission. In conclusion of this matter, I find that Condition No.3 is precise.

Reasonable in all other aspects

20. In order to be reasonable a condition should ensure that it makes sense and is fair on the applicant and others who will need to comply with the condition.
21. The imposition of removal of permitted development is directly related to DPD Policy DM5 as well as considerations around impact to character and appearance as normally this type of location would not be appropriate to construct a dwelling, and that the construction of a dwelling would be required to be linked to the requirements of a rural enterprise.
22. I can appreciate the concerns from the Appellant in that the Council have not been specific in terms of what is the limit of development in this location, however this is a subjective assessment which is related to the enterprise as well as balancing the harm caused to the surrounding locality. As mentioned in the Council's SoC, a larger dwelling may be appropriate, however it must first be justified when considered against the relevant Development Plan policies and be appropriate for its location. This is completely reasonable situation to seek approval from the LPA where matters of sensitivity to the character and appearance of the locality and the needs of rural enterprises are important considerations. In conclusion of this matter, I find that Condition No.3 is reasonable in all other aspects.

Conclusion

23. For the reasons given above, and considering all evidence before me together with the Development Plan and relevant material considerations, the correct procedure was followed in the imposition of Condition No.3 and that this condition also meets the tests of Conditions. Taking this into account, the appeal is dismissed.

J Somers

INSPECTOR