
Appeal Decision

Site visit made on 9 April 2026

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2026

Appeal Ref: 6004043

Marche Buildings, Unit B2, Marche Lane, Halfway House, Shrewsbury, Shropshire SY5 9DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr. Kevin Peake against the decision of Shropshire Council.
 - The application Ref 25/02334/FUL was approved on 11 August 2025 and planning permission was granted subject to conditions.
 - The development permitted is extension and alterations to existing industrial outbuildings.
 - The conditions in dispute are Nos 4, 5 and 8 which state that:
 4. No development works or vegetation clearance shall take place at any time within the bird breeding season (March to August inclusive) unless and until the applicant submits written confirmation from a suitably qualified ecologist to the Local Planning Authority that a survey has been undertaken and found that there are no breeding birds, their young, nests or eggs that would be disturbed by the works to be carried out. If breeding birds, their young or eggs are found, no works may take place until the bird breeding season is completed or it can be ascertained that the chicks have left the nest and there is no evidence of their returning.
 5. Prior to first use of the building(s), the makes, models and locations of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of two artificial nests, of either integrated brick design or external box design, suitable for; Swifts (Swift bricks or boxes with entrance holes no larger than 65 x 28 mm can accommodate a wide range of species (CIEEM, 2019)), Sparrows (32mm hole, terrace design), Starlings (42mm hole, starling specific) and/or House Martins (House Martin nesting cups) shall be erected on the site prior to first use of the development. The boxes shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.
 8. No work shall be carried out at the premises between 19:00 hours and 07:00 hours Monday to Saturday, nor at any time on Sundays, Bank or Public Holidays.
 - The reasons given for the conditions are:
 4. To ensure the protection of nesting birds, which are protected under the Wildlife and Countryside Act 1981 (as amended).
 5. To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and Section 180 of the NPPF.
 8. To protect the amenities of occupiers of nearby properties from potential nuisance.
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Decision

1. The appeal is allowed and the planning permission Ref 25/02334/FUL for extension and alterations to existing industrial outbuildings at Marche Buildings, Unit B2, Marche Lane, Halfway House, Shrewsbury, Shropshire SY5 9DE, granted on 11 August 2025 by Shropshire Council, is varied by deleting conditions 4, 5 and 8 and substituting them with the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the Preliminary Ecological Appraisal, reference FP/3219/24.1, by Star Ecology.

Applications for costs

2. An application for costs was made by Mr. Kevin Peake against the decision of Shropshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. This appeal principally seeks the removal of Conditions 4, 5 and 8 which relate to the prevention of development during the bird breeding season (Condition 4), the prior approval and subsequent installation of bird boxes (Condition 5) and a restriction on the hours of operation (Condition 8).
4. Section 79(1) of the Town and Country Planning Act 1990 allows me to allow or dismiss the appeal or reverse or vary any part of the decision (whether the appeal relates to that part or not) and I may deal with the proposal as if it had been made to me in the first instance.
5. The Planning Practice Guidance and Paragraph 57 of the National Planning Policy Framework (the Framework) state that planning conditions 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.

Main Issues

6. The main issues are:
 - whether Conditions 4 and 5 are reasonable and necessary having regard to the effect of the proposed development on ecology; and
 - whether Condition 8 is reasonable and necessary having regard to the effect of the proposed development on the living conditions of neighbouring occupiers in respect of noise and disturbance.

Reasons

Ecology

7. The appeal site comprises two buildings located on an established industrial estate, within the open countryside. Aside from the existing buildings on the industrial estate, the surrounding area has a prevailing rural character, dominated by open fields, with occasional houses and agricultural buildings. There are an abundance of trees and hedgerows within the landscape.
8. Although small, the industrial estate has a commercial character, comprising modest buildings with associated external storage and parking areas, which are relatively contained. The proposed extensions to units B2 and B3 would be modest and the alterations would be unassuming within the context of the commercial appearance of the site and adjacent buildings.
9. The planning application was accompanied by a Preliminary Ecological Appraisal (the PEA), which concludes that units B2 and B3 are of very low / negligible ecological value. Even though the PEA was undertaken outside the bird breeding season, its conclusions are robust.

10. While the Framework seeks to avoid significant harm to biodiversity, including wildlife, as units B2 and B3 do not provide nesting opportunity for birds, and the proposals are for alterations to existing buildings, located amongst other industrial uses, Condition 4 which restricts development to during the bird breeding season is not justified.
11. Likewise, as the proposals would not result in the loss of existing bird nesting opportunities, I am not persuaded, on the evidence before me, that buildings with an industrial / commercial use, on an industrial estate, would be an obvious location for bird nest boxes as a means of biodiversity enhancement. In addition, it is not clear whether there are suitable trees that could support bird boxes on land within the appellant's control. The Council also suggest that the proposed development would be exempt from Biodiversity Net Gain. In these circumstances, the submission and approval of bird nest boxes is not reasonable and necessary to make the development acceptable.
12. Although I conclude that Conditions 4 and 5 are not justified, I note that the PEA makes a number of sensible, but less stringent, suggestions to safeguard ecology. As such, it is reasonable and necessary to condition that the development is undertaken in accordance with the PEA. Therefore, Conditions 4 and 5 are replaced with a new condition to secure this.
13. Accordingly, for the reasons given, and with a substituted condition, the proposed development would continue to accord with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy, 2011 (the CS) and Policy MD12 of the Shropshire Council Site Allocations and Management of Development Plan, December 2015, which together and amongst other things, require development to protect, conserve and enhance the natural environment.

Hours of operation

14. With a rural character, the surrounding area is quiet. The small industrial estate consists of five commercial buildings and a barn. The estate also includes compounds, parking and manoeuvring space and outside storage areas. The industrial estate is set significantly back from Marche Lane, and the appeal buildings are established and uncontrolled.
15. During my site visit, on a weekday morning, I observed that noise from operations being carried out in one of the existing units was audible within the estate. That building is closer to the road than units B2 and B3. The noise was not continuous, and it was not audible along the lane.
16. Even though my site visit represents a snapshot in time, on the basis that the existing buildings and uses are unrestricted, there is no substantive evidence that the modest increased floor space to units B2 and B3 would generate a significant and harmful level of additional noise and disturbance, which would reasonably necessitate a need to restrict hours of operation of those two buildings. Particularly in the context that there are other buildings closer to residential dwellings than the appeal scheme. In addition, Condition 7, which restricts the use classes of units B2 and B3, would further ensure that the living conditions of nearby houses would be safeguarded.
17. Consequently, in these circumstances, and for the above reasons, I conclude that Condition 8 is not reasonable or necessary to safeguard the living conditions of

neighbouring occupiers in respect of noise and disturbance. Without the condition the proposed development would continue to accord with Policy CS6 of the CS and the Framework, which together and amongst other things, seek to safeguard residential and local amenity. I shall therefore delete Condition 8.

Conclusion

18. For the reasons given above, the appeal is allowed and the planning permission is varied by deleting Conditions 4, 5 and 8 and substituting them with a new condition which requires the development to be carried out in accordance with the PEA. This decision sits alongside the previous decision and therefore both sets of conditions remain engaged.

N Bromley

INSPECTOR