



Appeal Decision

Site visit made on 15 July 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/X1118/W/25/3363322

The Green Hut, Saunton Down, Saunton, Devon x244434 y138051

- 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 Christie of Christie Devon Estates against the decision of North Devon District Council.
 - The application Ref is 78756.
 - The development proposed is use of existing hut as tourism accommodation and associated works.
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Decision

1. The appeal is invalid, and I am therefore unable to determine it.

Procedural Matters

2. The relevant primary legislation for the statutory framework for biodiversity net gain is principally set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990.
3. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:
 - (a) A Biodiversity Gain Plan has been submitted to the planning authority, and
 - (b) The planning authority has approved the plan.
4. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. This includes circumstances where the development does not impact an onsite priority habitat and impacts less than 25sqm of onsite habitat that has a biodiversity value greater than zero. The exemption also applies where there is less than 5 metres in length of onsite linear habitat.
5. The appellant has submitted revised plans, amongst other things, to attempt to bring the development under 25sqm, and thus exempting it from the aforementioned condition. These revisions include a reduced area of land around the appeal building. There are also significantly altered amendments to the lengthy access arrangement and notable additional land to accommodate for a different drainage scheme. I consider these collective amendments to be a substantial change to the original proposal and a matter that those consulted may have

wished to have had the opportunity to comment on. The appeal system should not be used to evolve a scheme and in applying the 'Holborn Principles' I have proceeded on the basis of the plans considered by the Council, on which interested people's views were sought.

6. Even in the event I were to accept the revised plans, the application form states that the appeal site area is 480sqm, which greatly exceeds any de minimis exemptions. In that respect, there is little substantive evidence before me to demonstrate that any part of the appeal site area, such as its access, is not subject to the biodiversity gain requirements.
7. Moreover, despite identifying the development as a de minimis exemption in the application form, the appellant recognises that the determined red line area around the appeal building exceeds these tolerances. This means that the appeal must be accompanied by minimum information such as metric calculations and pre-development biodiversity value, as set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
8. I have paid regard to the comments made by the appellant in respect of the processing of the application, with particular regard to the lateness of the sustainability officer feedback. Nevertheless, in the absence of such information, I am, as a consequence, unable to determine the appeal site's overall biodiversity value, or whether or not it is in a priority habitat.
9. For these reasons, I have no option but to conclude that the appeal is invalid, and I shall take no further action upon it. Therefore, I am not able to consider the planning merits of the case or the matters in dispute between the parties. It would be open to the appellant to submit a fresh planning application to the Council.

J Hills

INSPECTOR