



Appeal Decision

Site visit made on 22 July 2025

by **J Bell-Williamson MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/R0660/W/25/3362494

Unit 13, Brooks Lane, Middlewich, Cheshire East CW10 0JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Awat Murad against the decision of Cheshire East Council.
 - The application Ref is 24/5136/OUT.
 - The development proposed is opening and operation of a car wash and vehicle detailing business.
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Decision

1. I decline to determine the appeal, taking no further action.

Background

2. The application is for outline planning permission with all matters reserved for subsequent consideration except for access and scale.
3. Following consideration of the appeal submissions and the site visit, the view reached was that the appeal might be found invalid. This finding is based on the fact that the appeal proposal involves an outline planning application for a proposed change of use of land for the operation of a car wash and vehicle detailing business.
4. The power to grant outline planning permission is contained in section 92 of the Town and Country Planning Act 1990 (as amended) and Article 5 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO). Article 2(1) of the DMPO states that *"outline planning permission" means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more reserved matters.*
5. The definition of outline permission in the DMPO is clear that this type of application relates to the erection of a building only. As there is no reference to a change of use of land in this definition, it is not possible to apply for outline planning permission solely for a change of use, as proposed in this case.
6. As this finding has significant implications for the status of the appeal, in the interests of natural justice the parties were given the opportunity to comment. In the reference back letter inviting comments it was indicated that the Secretary of State could decline to determine the appeal, taking no further action upon it, under Section 79(6) of the Town and Country Planning Act 1990 (as amended). This would be likely to be on the basis that outline planning permission for the development could not have been granted by the local planning authority.

7. In reaching a final view on this appeal, I have had full regard to the comments made by the parties.

Reasons

8. In response to matters raised by the appellant, the Secretary of State is not bound by the fact that the Council validated the application and reached a decision on it. The appeal involves a separate decision-making process where the Secretary of State can decline to determine an appeal where there is reason to do so. Development plan policies are not directly relevant to the considerations set out above, which relate to whether a proposed change of use meets the statutory provisions for outline applications.
9. The appellant contends that it is implicit that buildings would be provided as an element of the type of development proposed in this case. However, in determining the application the Secretary of State is required to have regard to the facts of the proposal as submitted. In this case, there is no indication in the application or accompanying plans that it is intended to provide a building or buildings as part of the proposal. Moreover, the appeal statement originally submitted refers under 'paragraph 1' to the fact that 'this outline application deals with land use'. As such, it is reasonable based on the facts of the proposal for this outline application to be treated as involving a change of use of land only.
10. It is suggested that in the event that the appeal proposal is found to be invalid then as an alternative the proposal should be considered as involving an application for full planning permission. However, this type of remediation is not possible as it would clearly go well beyond the terms of relevant case law¹, in that this level of change would be fundamental rather than minor and would be likely to result in unlawful procedural unfairness to other parties.
11. Based on the above considerations, there is no basis to find differently to the initial finding that, for the reasons given, the appeal is invalid.

Conclusion

12. Section 79(6) of the Act provides that if, before or during the determination of an appeal, the Secretary of State forms the opinion that planning permission for that development could not have been granted by the local planning authority, he may decline to determine the appeal.
13. For the reasons given above, I conclude the appeal to be invalid and the current position is not readily capable of any reasonable remedy. I am therefore not in a position to consider the planning merits of the case. Accordingly, I decline to determine the appeal, taking no further action.

J Bell-Williamson

INSPECTOR

¹ *Procedural Guide: Planning Appeals – England*, paragraph 16.3