
Appeal Decision

Site visit made on 1 October 2025

by **Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 7th October 2025

Appeal Ref: APP/R0660/W/25/3361881

Land to the rear of 36 Nursery Road, Alsager, Stoke-on-Trent ST7 2TX

- 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 Ian Wilson against the decision of Cheshire East Council.
 - The application reference is 24/2129/C.
 - The development proposed is a 4-bedroom detached home.
-

Procedural Matters

1. I have edited the description of development above, removing superfluous text.

Validity

2. The Local Planning Authority indicates that it made mistake in validating and then proceeding to determine the application subject of the appeal. This is given that the application failed to comply with statutory information requirements in relation to biodiversity net gain (BNG).
3. An invalid planning application cannot be the foundation for any jurisdiction in an appeal. This is the case regardless of whether the Local Planning Authority has validated and determined an application which is then the subject of an appeal.
4. Article 7(1A) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) sets out information requirements for planning applications in respect of BNG. These include the requirement to provide a statement as to whether the applicant believes that planning permission, if granted, would be subject to the biodiversity gain condition. The Planning Practice Guidance draws together a list of exemptions.
5. The application form was dated 10 June 2024. It was therefore submitted after the date upon which small developments ceased to be exempt. The application form however stated that the scheme would not be subject of the biodiversity gain condition on account of the application being a resubmission. Whether or not this was the applicant's belief, this is not a valid exemption. The fact that the application was a resubmission did not in any case alter the date on which the application itself was submitted. Having incorrectly claimed exemption, the application was not accompanied by the information required by Article 7(1A). As such, the application was invalid.
6. The fact that the scheme was not exempt was acknowledged in the officer report. This also incorrectly stated that the validation information was required prior to

determination, thus confirming some confusion on the part of the Local Planning Authority, which went on to determine the application anyway.

7. The appellant has attempted to address the matter at appeal by submitting the information previously missing. However, this cannot in itself render the application retrospectively valid. The information is otherwise inadequate. In the first instance the metric is based on an earlier Preliminary Ecological Appraisal undertaken in midwinter, which is not an appropriate time of the year for such an assessment. There are further inconsistencies in the way that on-site habitats are described between the two documents, and there is a failure to properly take account of degradation, despite this being applicable to the site. These shortcomings are not satisfactorily explained. Consequently, even were I to accept the late submission of such information, it too fails to fulfil the requirements set out in Article 7(1A).
8. Section 79(6) of The Town and County Planning Act 1990 (as amended) provides discretion for me to decline to determine an appeal or to proceed with its determination, if it emerges during the appeal process that planning permission could not have been granted by the Local Planning Authority. My findings above indicate that this is the case. That being so, I shall proceed no further with my consideration of this appeal.

Benjamin Webb

INSPECTOR