



Appeal Decisions

Site visit made on 10 November 2025

Hearing held on 11 November 2025

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2025

Appeal A Ref: APP/A5840/W/25/3361085

Land at the corner of Mandela Way and Pages Walk, London, SE1 4HD

- The appeal is made under section 78 of the Town Country Planning Act 1990 (as amended) against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for outline planning permission following the failure to respond to notice served under Article 12(1) of the Town and Country Planning (Development Management Procedure (England) Order 2015 (as amended).
 - The appeal is made by Shiva Ltd against the Council of the London Borough of Southwark.
 - The application Ref is 24/AP/3842.
 - The development proposed is Outline planning permission (with matter of Landscaping Reserved) for construction of 3x1 bedroom terrace houses.
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Appeal B Ref: APP/A5840/W/25/3361771

Land at the corner of Mandela Way and Pages Walk, London, SE1 4HD

- The appeal is made under section 78 of the Town Country Planning Act 1990 (as amended) against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for [outline] planning permission following the failure to respond to notice served under Article 12(1) of the Town and Country Planning (Development Management Procedure (England) Order 2015 (as amended).
 - The appeal is made by Shiva Ltd against the Council of the London Borough of Southwark.
 - The application Ref is 25/AP/0168.
 - The development proposed is Outline planning permission (with matter of Landscaping Reserved) for construction of a 4 bedroom terrace house.
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Appeal C Ref: APP/A5840/W/25/3368058

Land at the corner of Mandela Way and Pages Walk, 105 Pages Walk, London, SE1 4HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Shiva Ltd against the Council of the London Borough of Southwark.
 - The application Ref is 25/AP/1145.
 - The development proposed is Outline planning permission (all matters to be determined: scale, access, landscaping, layout and appearance) for construction of a part two-part single storey commercial building; a detached single storey annexe building at rear of 103 Pages Walk, erection of new site boundary enclosure, soft landscaping and parking of a T-34 tank vehicle.
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Decision

1. Appeals A, B and C are invalid and no further action can be taken on these appeals.

Applications for costs

2. Applications for costs were made by Shiva Ltd against the decision of the London Borough of Southwark in respect of Appeal A, B and C. These applications are the subject of a separate Decision.

Preliminary Matters

3. A pre-hearing site visit was carried out on 10 November 2025 whereby the site could be viewed from the public highway, with an open mesh fence affording views through into the site. The hearing closed on 11 November, after the hours of daylight, however the parties agreed that it was not necessary for a further unaccompanied visit to be carried out.
4. Appeal A and B were considered to be invalid by the Council, due to the lack of an ecological impact assessment. However, at the hearing the Council confirmed that an ecological impact assessment does not form part of the list of requirements it publishes on its website for the purposes of Article 11 (2E) of the Town and Country Planning (Development Management Procedure) Order 2015 ('the DMPO'). Therefore, the Council should not have requested this information as part of its validation requirements.
5. However, for all three appeals I am required to consider the requirements of Article 7(1A) of the DMPO and this was a matter that was discussed with the parties as part of the hearing.

Reasons for Invalidity

6. On 2 April 2024, the provisions of the Environment Act 2021 relating to biodiversity net gain (BNG) came into force for small sites. Under Article 7(1A) of the DMPO, applications for planning permission submitted after those dates are required to be accompanied by certain information relating to BNG.
7. The mandatory information required includes a plan showing on-site habitat existing on the date of the application (or earlier proposed date), including any irreplaceable habitat (if applicable), and various other related details which are listed in full in sub-paragraph (c) of the above Article.
8. In particular with regard to these appeals the following requirements are of importance, a statement whether activities have been carried out prior to the date of application (or earlier proposed date), that result in loss of onsite biodiversity value (degradation), and where they have a statement to the effect that these activities have been carried out, the date immediately before these activities were carried out, the pre-development biodiversity value of the onsite habitat on this date, the completed metric calculation tool showing the calculations, and any available supporting evidence of this.
9. All of the mandatory information is required to be submitted with a proposal where the general Biodiversity Gain Condition (BGC) as set out in paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) applies.
10. This requirement applies to all planning applications, except where one of the exemptions specified in the legislation applies. The appellant has ticked the relevant box on the planning application forms advising that if the development is granted planning permission BGC would apply.

11. In doing so, they have confirmed that no exemptions apply to any of the appeals and I have no reason from the evidence before me to take a different view.
12. I am aware that Appeal C was accepted and validated by the Council. However, the Council's opinion as to validity is not binding on the Secretary of State.
13. The appellant has provided copies of emails between the Council and the appellant, with regard to Appeal C, which indicate that the Council made them aware on 22 May 2025, that further information was required due to activities having been carried out on site prior to the date of the application, resulting in loss of onsite biodiversity. This highlighted that the standard metric would be required, instead of the small sites metric that had been submitted.
14. For all three of the appeals the appellant submitted a small site metric and indicated that degradation of the site had not occurred. However, on the basis that there can be no dispute that the eucalyptus tree has been removed, as it is subject to a tree replacement notice, the submitted small site metric, whilst providing baseline habitat data, cannot account for the degradation and this could lead to a misleading net gain calculation. Whilst the appellant has provided, for Appeal C, a preliminary ecological assessment, it does not also account for the removal of the eucalyptus tree and therefore is insufficient for the requirements of Article 7.
15. There is therefore a clear deficiency with the BNG information as submitted which would affect the reliability of the BNG calculations needed to demonstrate a minimum 10% gain.
16. The appellant's have submitted unilateral undertakings in respect of all three appeals, which include obligations relating to biodiversity net gain, in effect allowing for these matters to be resolved prior to development commencing on site. However, the unilateral undertakings are not sufficient to overcome the need to comply with Article 7 of the DMPO which requires the information to be submitted upfront with the applications.
17. On the evidence before me, I am not satisfied that the minimum information requirements for BNG required as part of the initial application have been met. The absence of the minimum requirements for BNG means that the planning applications as submitted to the Council were invalid. An invalid application may not lawfully be determined. It follows that any appeal relating to such an application, is also invalid. Consequently, I am unable to consider the substantive matters of the appeals before me. It would be open to the appellant to submit a revised valid application to the Council for determination if they wish to pursue these proposals further.
18. Whilst I appreciate that this may be frustrating for the appellant, the legislation is very clear regarding the minimum requirements for BNG information.

Conclusion

19. I have concluded that Appeal A, B and C are invalid and in these circumstances the appeal does not fall to be considered.

G Pannell

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/A5840/W/25/3361085	Shiva Ltd
Appeal B	APP/A5840/W/25/3361771	Shiva Ltd
Appeal C	APP/A5840/W/25/3368058	Shiva Ltd

APPEARANCES

FOR THE APPELLANT:

Russell Gray – Shiva Limited

Ravi Bhaskaran – Shiva Limited

FOR THE LOCAL PLANNING AUTHORITY:

Sara Morris BSc (Hons), Senior Ecologist

Sandy Ng BA (Hons) MSc, Planner – Design and Conservation

Liam Bullen BA Hons, Senior Planner-Urban Forester,

Dr Chris Constable BA (Hons) Archaeology, MA Medieval Archaeology, PhD Archaeology, PG Dip Historic Building Conservation, Member of the Chartered Institute for Archaeologists and Fellow of the Society of Antiquaries, MIfA FSA, Borough Archaeologist

Paul Ricketts MRTPI, Interim team Leader, Old Kent Road

INTERESTED PARTIES:

Lucy Salisbury

Herbert Saller