



Appeal Decision

Site visit made on 10 December 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2026

Appeal Ref: APP/M5450/W/25/3374164

147 Eastcote Lane, Harrow, HA2 8RR

- 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 Qasim Gulamhusein on behalf of Marlpark 71 HA4 Limited against the decision of the Council of the London Borough of Harrow.
 - The application Ref is PL/2025/25.
 - The development proposed is described as an Application for Outline Planning Consent (Access Reserved) for the erection of a 2 new detached single storey dwellings on the land adjoining the site at 147 Eastcote Lane. All matters reserved save for Scale, Layout, Appearance and Landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Qasim Gulamhusein on behalf of Marlpark 71 HA4 Limited against the Council of the London Borough of Harrow. This is the subject of a separate decision.

Preliminary Matters

3. The planning application was submitted in outline with approval sought for scale, layout, appearance and landscaping. Access is reserved for future consideration, and I have determined the appeal on this basis.
4. The appeal submission includes additional evidence which was not before the Council at the time of its decision. This includes a Supplementary Existing Landscape Plan and Small Sites Metric Tool. The Procedural Guide states that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
5. I have considered this additional information taking into consideration the principles established by the Courts in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin). In this case, the additional information provides further evidence in relation to the Council's reasons for refusal, rather than significant amendments to the proposal. For this reason, I consider that there would be no prejudice to any party, and I have therefore determined the appeal on the basis of this additional information.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

6. The appeal site has an extensive planning history, which includes a number of recent appeal decisions² and further schemes which currently have appeals pending consideration. The most recent of these decisions considered that BNG was not required. However, the date of the application falls within the transition period for BNG, meaning that statutory BNG was not required at this time. Therefore, any findings in relation to the requirement for statutory BNG are not relevant to this application which was submitted after 2 April 2024. Nonetheless, I have had regard to the planning history of the site and these recent appeal decisions.

Main Issue

7. The main issue is whether the proposed development would make appropriate provision for biodiversity net gain.

Reasons

8. The appeal site relates to a parcel of land situated to the side of 147 Eastcote Lane (No 147), which is a detached two-storey dwelling. It is located on the corner of Eastcote Lane and Alexandra Avenue. Eastcote Lane is primarily residential in character, containing a mix of one and two-storey properties. On the opposite side of Eastcote Lane, is a four-storey building, known as The Matrix and there is a range of mixed-use development at the crossroads and along Alexandra Lane.
9. The proposal seeks outline planning permission for the erection of two single storey bungalows, which would be accessed from and face onto Alexandra Lane.

Biodiversity Net Gain

10. Biodiversity Net Gain (BNG) is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (the TCP Act) (inserted by the Environment Act 2021 (the Environment Act)). Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met. For minor development, this applies for proposals submitted after 2 April 2024 and the date on the application form is 1 August 2025.
11. The PPG states that development subject to the de minimis exemption is development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m by 5m) of onsite habitat, and 5 metres of linear habitats such as hedgerows. The PPG further states that when providing reasons for the de minimis exemption, an applicant should provide sufficient evidence to support their justification.
12. The appellant states that the proposed development is exempt from providing BNG. The submitted application form indicates that the proposed development should be exempt on the basis that the current biodiversity value of the site is zero, due to it being an “artificial unvegetated non-sealed surface”. The appellant is not unwilling to provide BNG but maintains that the current ecological value of the land is negligible.

² Appeal Refs: APP/M5450/W/22/3307397, APP/M5450/W/22/3307386, APP/M5450/W/24/3341507, APP/M5450/D/24/3354429, APP/M5450/X/23/3316617, APP/M5450/W/23/3318356 and APP/M5450/W/23/3331336

13. The appellant has drawn my attention to a number of recent appeal decisions which they state confirms that the appearance of the land as being gravelled since approximately 2023. The Council do not dispute that this has taken place. However, the Council state that when they visited the site it consisted of overgrown vegetation, which, they consider could clearly provide habitat to any number of flora or fauna. However, no ecological assessment has been provided
14. Based on the evidence provided on the 'Existing Block Plan' and my own observations at the site visit, this indicates the presence of other surfaces and potential habitats not just a gravelled surface as indicated by the appellant. Whilst I have had regard to the Supplementary Existing Landscape Plan submitted with the appeal, which sought to provide further clarity on the existing habitats, this is lacking in detail and is not supported by any robust ecological evidence. Furthermore, the inclusion of other types of habitats such as shrub planting, trees and grass contradicts the basis on which the proposal is claimed to be exempt.
15. My attention has been drawn to the exemption scenarios outlined in the PPG and in particular 'Scenario 1'. However, this exemption scenario relates to a sealed surface which is typically either a building or tarmac, rather than a gravelled surface which is an unsealed surface. Therefore, this is not comparable to the appeal site. Accordingly, the evidence provided by the appellant to demonstrate that the 'de minimus' exemption applies is lacking sufficient detail for me to be satisfied that the proposal would be exempt from providing BNG.
16. In such circumstances, the PPG states that if it is clear the development proposal is not exempt, the pre-development biodiversity value will need to be provided for the application, and, if planning permission is granted, a Biodiversity Gain Plan must be submitted and approved before commencement of the development.
17. Article 7(1A) of the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) (the DMPO) sets out the minimum information that should accompany applications that are subject to the BNG requirement. This includes, the completed biodiversity metric calculation tool, including the pre-development biodiversity value as of the application date (or proposed earlier date), any statements and evidence of prior activities causing biodiversity loss, and scaled plans showing existing onsite habitat (including any irreplaceable habitat) at the relevant date.
18. I accept that the PPG does set out that a proportionate approach should be taken in respect of small sites. However, this in relation to request for additional information, beyond that which is required under the DMPO.
19. Therefore, whilst I acknowledge that the appellant has sought to comply with the minimum BNG requirements through the submission of a Small Sites Metric, not all of the minimum information required has been provided. Furthermore, based on the evidence before me there are deficiencies in how the metric has been applied and the baseline position calculated.
20. The proposal is supported by a landscaping plan, which makes provision for the introduction of species-rich grassland, native hedgerows, multithemed shrubs, permeable surfacing and a structured tree planting strategy including hornbeam, oak, birch, laurel and cypress. However, in the absence of any robust ecological evidence relating to the existing site, I cannot be certain whether these proposals would be likely to deliver appropriate provision of BNG within the site.

21. Both the Council and the appellant have provided multiple photographs of the appeal site covering a range of dates. These images appear to show the site in different conditions, even since the gravelling took place. I am mindful of the difficulty in calculating pre-development habitat units once unauthorised development and habitat clearance has occurred, and that professional judgement must be exercised in the absence of physical, surveyable data. Nonetheless, I am not satisfied that the commentary provides certainty that habitat degradation has not occurred. Consequently, I am not satisfied that the biodiversity net gain calculation for habitats is based upon a sound baseline value. Therefore, I cannot be assured that the BNG requirement would be fulfilled.
22. Whilst I accept that the statutory framework for BNG is primarily designed to operate post-permission, the lack of clarity regarding both the baseline conditions and the proposed habitat enhancements means that the standard biodiversity gain condition could not be confidently discharged. In light of these shortcomings, I must adopt a precautionary approach. I cannot be satisfied that the proposal would deliver the required Biodiversity Net Gain.
23. For these reasons, I therefore find that it has not been demonstrated that the proposed development would comply with Schedule 7A of the Town and Country Planning Act 1990. The proposal would also fail to accord with Policy G6 of the London Plan (2021), CS1E of the Harrow Core Strategy (2012) and policies DM20 and DM21 of the Harrow Development Management Policies Local Plan (2013), which seek amongst other things the enhancement of biodiversity through the creation of appropriate new habitats.

Conclusion

24. For the above reasons, the proposed development conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR