
Appeal Decisions

Site visit made on 10 March 2026

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2026

Appeal A Ref: APP/W1145/W/25/3376857

Moorhayes, Broadwoodwidge, Lifton PL16 0JH

- 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 Mr Mark Osborne against the decision of Torridge District Council.
- The application Ref is 1/0217/2025/FUL.
- The development proposed is lake, solar PV array, storage shed and change of use for caravan pitches.

Appeal B Ref: 6002760

Moorhayes, Broadwoodwidge, Lifton PL16 0JH

- 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 Mr Mark Osborne against the decision of Torridge District Council.
 - The application Ref is 1/0610/2025/FUL.
 - The development proposed is solar PV array, storage shed & Devon bank.
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Decision

1. The appeals are invalid, and I am therefore unable to determine them.

Preliminary matter

2. Appeal A relates to a refusal of a lake, solar PV array, storage shed and a use of land for caravan pitches. Appeal B is concerned with a solar PV array, storage shed and Devon bank. Both appeals raise similar issues in respect of biodiversity net gain requirements. I have therefore combined them into a single decision letter.

Procedural matters

3. 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.
4. 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.
5. 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.

6. With Appeal A, the appellant has submitted a revised plan, amongst other things, to attempt to bring the development under 25sqm, and thus exempting it from the aforementioned condition. These revisions include the removal of a solar PV array and shed which are expressly applied for in the application. I consider these amendments to be a fundamental change to the original proposal. They are inconsistent with it and form a matter that those originally 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.
7. Even in the event I were to accept the revised plan, the application form states that Appeal A's site area is 5835sqm, which greatly exceeds any de minimis exemptions. The site area for Appeal B is stated as being 0.0975ha, which is also substantially above any de minimis exemption. At my visit, I observed a watercourse consistent with the plans and hedgerows within both appeal sites. In that respect, there is little substantive evidence before me to demonstrate that any part of either appeal site area is not subject to the biodiversity gain requirements.
8. I have paid regard to the comments made by the appellant in respect of the processing of the applications, with particular regard to the question of whether or not they should have been validated in the first place. However, it was claimed in both application forms that the proposals were exempt from the net gain requirements, which could have affected the Council's validation process. This does not however mean that the applications would be automatically exempt from the mandatory requirements. With Appeal A there is, by implication, an acceptance that without amending the plans, the scheme would be subject to the biodiversity gain requirements. Similarly, with Appeal B, additional information is provided in an attempt to demonstrate compliance with the statutory test.
9. At the date of application, the proposals must be accompanied by a minimum amount of information, as set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. From the available evidence it is not clear that either appeal includes all the necessary minimum information. Therefore, in the absence of this information, including that required at the date of the application, I am, as a consequence, unable to determine the overall biodiversity value of the appeal sites.
10. For these reasons, I have no option but to conclude that the appeals are invalid, and I shall take no further action upon them. Therefore, I am not able to consider the planning merits of the cases 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