



Appeal Decision

Site visit made on 8 July 2025

by **Thomas Courtney BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th July 2025

Appeal Ref: APP/M2270/W/24/3357317

Brokeswood and lake, Powdermill Lane, Southborough TN4 9EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Calvin Marchant against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 24/02867/AGRIC.
 - The development proposed is the formation, alteration or maintenance of private ways for agricultural or forestry use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted an amended plan showing a reduced track alignment, narrower width (from 4m to 2m), and shorter overall length (from 350m to 200m). However, the revised plan was not part of the application as originally submitted and determined by the Council, and it introduces a materially different scheme.
3. Given that the revised plan was submitted during the course of the appeal, no opportunity has been afforded for further consultation or comment from interested parties, including the Council. Accepting such an amendment at appeal stage would risk causing procedural unfairness. I have therefore determined the appeal on the basis of the original application documents as submitted to and determined by the Council.

Main Issue

4. The main issue is whether the proposed development would constitute permitted development under Class E of Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), having regard to whether the works are reasonably necessary for the purposes of forestry.

Reasons

5. Class E of Part 6 of the GPDO permits the formation, alteration or maintenance of private ways as well as other operations on land used for forestry, provided they are reasonably necessary for the purposes of forestry. The assessment is therefore a functional one, focusing on whether the proposed development is genuinely required to carry out forestry operations on the land.

6. The appellant states that the proposed roadway is required to enable the felling and removal of dangerous or fallen trees and to allow machinery to be brought onto the land. I accept that a track may be necessary in some cases to facilitate access for forest management, particularly in ancient or unmanaged woodland.
7. The appellant also refers to the management of a lake situated within the forest. It is acknowledged that forestry and lake management can at times be linked- particularly where watercourses form part of a wider woodland ecosystem. However, forestry is primarily concerned with the management of forests, including activities such as tree planting, felling, maintenance and woodland conservation. On the evidence before me, I am not persuaded that lake dredging and other water management tasks fall clearly within the scope of forestry. No compelling information has been provided to demonstrate that such works are functionally integral to the management of the woodland in a way that would bring them within Class E. While there may be overlap in some contexts, I cannot conclude that lake management, in this case, forms part of a forestry operation for the purposes of permitted development.
8. The proposed track is also substantial in scale, extending some 350 metres in length and 4 metres in width. Based on the evidence before me, including the designation of the site as protected ancient woodland subject to a Tree Preservation Order (TPO), the nature and extent of forestry activity described by the appellant does not justify the scale of the proposed track.
9. The proposed route appears arbitrary, and not entirely linked to the existing unmade track or other historic access routes through the woodland. The plans lack sufficient detail to assess the likely impact of the works. In particular, there is no information about the number, size, or species of any trees that may need to be felled, nor is there a clear description of how the track would be constructed in a way that avoids harm to the woodland environment.
10. The appellant has indicated that uncontaminated local natural stone would be used in constructing the track, with the intention of minimising environmental harm. While this material choice is noted, there remains insufficient information regarding the method of construction, root protection, and potential drainage effects. Furthermore, it has not been clearly demonstrated that a surfaced track of this nature and scale is necessary to carry out forestry operations. In the context of a woodland environment, it is unclear why a less intensive solution- such as a cleared or unsurfaced route- would not suffice. Without such justification, the need for a hardstanding surface remains unproven.
11. In addition, part of the proposed track appears to fall outside the red line boundary of the application site. This adds to the uncertainty as to whether the proposal, as submitted, could lawfully be implemented.
12. The proposal also includes a new gate, replacement fencing, and the removal of existing barbed wire. These works are described as facilitating access to the lake and improving safety for the appellant and others carrying out dredging and maintenance tasks. The appellant also refers to improving conditions along the nearby footpaths and removing hazardous barbed wire for the benefit of other users. While those objectives may be relevant to site access and personal safety, in the absence of a clear link to necessary forestry operations, they are not sufficient to bring the works within the scope of Class E. Moreover, the proposal

lacks sufficient precision. The exact location of the gate is not clearly shown, and there is no explanation as to why a permanent structure of this nature is required. Nor is it clear whether the fencing is essential to forestry operations or primarily serves broader amenity or access control purposes.

13. The appellant also refers to the desirability of enabling access to the woodland for members of the public, students, fishermen, archaeologists, and conservation groups. While such aspirations may have wider community or educational value, they are not directly related to forestry operations. Development intended primarily to support public access, education, or recreation falls outside the functional scope of Class E, which is limited to development reasonably necessary for the purposes of forestry.
14. A third-party representation was submitted in support of enabling responsible woodland management at Brokeswood. Whilst the concerns raised reflect wider frustrations regarding planning restrictions and comparative treatment of nearby council owned land, they do not alter the legal framework under which this appeal must be determined. The relevant test under Class E of Part 6 of the GPDO is whether the proposed development would be reasonably necessary for the purposes of forestry. Broader issues of fairness, planning enforcement, or past permissions granted elsewhere fall outside the scope of this assessment.
15. For these reasons, the proposed development would not constitute permitted development under Class E, Part 6 of Schedule 2 of the GPDO.

Conclusion

16. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR