



Appeal Decision

Site visit made on 29 October 2025

by **Sarah Dyer BA BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th November 2025

Appeal Ref: APP/Y2620/C/23/3335629

Land at Dam Hill Plantation, Holt Road, Edgefield, Norfolk, NR24 2RR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Nigel Marsh against an enforcement notice issued by North Norfolk District Council.
 - The notice was issued on 7 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission:
 - (i) The material change of use of the land from woodland to a mixed use for woodland and for commercial camping.
 - (ii) The construction of 3 shepherd's huts with supporting wooden stilts
 - (iii) The siting of two clad shipping containers for use as a toilet/shower block.
 - The requirements of the notice are to:
 - (i) Permanently cease the camping and glamping use on the Land.
 - (ii) Permanently remove all shepherd's huts and the attached wooden stilts from the Land.
 - (iii) Permanently remove the two shipping containers used as the toilet and shower block from the Land.
 - (iv) Restore the land to its condition before the breach took place.
 - (v) Remove all waste resulting from compliance with this notice.
 - The periods for compliance with the requirements are:
 - (i) 28 days from the date of the notice comes into effect
 - (ii) 56 days from the date of the notice comes into effect
 - (iii) 56 days from the date of the notice comes into effect
 - (iv) 3 months from the date of the notice comes into effect
 - (v) 3 months from the date of the notice comes into effect
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of Requirement 5(i) and its substitution with 'Permanently cease the mixed use for woodland and for commercial camping'.
2. Subject to the correction the appeal is dismissed, and the enforcement notice is upheld.

Applications for costs

3. An application for costs has been made by the appellant against the Council. This is the subject of a separate decision.

Preliminary Matters

4. The appellant contends, under his appeal on ground (d), that the use of the site as described in the enforcement notice was not occurring when the enforcement notice was issued. However, this is a matter which falls to be considered on

ground (b) and no other arguments have been made in respect of ground (d). I have determined the appeal accordingly.

5. The site visit was arranged as an accompanied site visit with the Council in attendance. The appellant did not attend the site visit or arrange for someone else to attend in his place. Following a telephone conversation between the appellant and the Council Officer in attendance, the appellant confirmed that he was content for the site visit to continue as an 'access required site visit'. The Council Officer then left the site, and I conducted the site visit unaccompanied by either party.

The Notice

6. The allegation relates to a mixed use of the land for woodland and commercial camping, but the first requirement refers to the cessation of 'the camping and glamping'. The requirements need to align with the allegation; therefore the first requirement needs to be corrected to refer to the cessation of the mixed use. This would not prevent use of the land as woodland if this was its previous lawful use. Making this correction would not give rise to prejudice to either the appellant or the Council and I shall do so.

Ground (b)

7. An appeal on ground (b) is on the basis that the matters which are stated in the enforcement notice have not occurred.
8. The appellant considers that the reference to 'commercial camping' in the enforcement notice is imprecise and vague as in his view this could cover a wide range of camping activities. The evidence provided by the Council in the form of reviews from users of the site indicates that it has been used for camping and that charges have been made for this. Consequently the description of the development as 'commercial camping' is clear and precise in terms of the activities which have taken place.
9. The appellant suggests that the land has undergone a different change of use from woodland to a mixed use for woodland and recreational campsite, used by members of a recreational organisation, and that this includes the stationing of caravans on the land. Part of the basis for this argument is that the shepherd's huts constitute caravans.
10. The stationing of a caravan is a material change of use of land, not operational development. The Council does not define the use of the shepherd's huts but as it is not regarding them as caravans and thus that a change of use of land to a caravan site has not occurred it does not need to do so. The use of the shepherd's huts, if they do not constitute caravans, would be allied to the overall mixed use of the site.
11. The appellant considers that the shepherd's huts are caravans because they were assembled off site and transported in one piece before being craned onto the land. He states that the shepherd's huts are on stilts, all services are above ground and fixed in a way that they can be removed without operational development taking place. The appellant says that the shepherd's huts were internally decorated on site.
12. The Council considers that the shepherd's huts are not caravans because they are fixed to a platform which is in turn fixed to the ground by wooden stilts.

Furthermore, the Council points to evidence that the shepherd's huts were constructed on the site. This is in the form of a description of the shepherd's huts on the camping website which refers to them being 'handcrafted by a team of skilled craftsmen'. However, it is not clear from this reference that the craftsmen were working on the site.

13. It has been established by caselaw that three primary factors are decisive in establishing what is a building. These are size, permanence and physical attachment.
14. During my site visit I observed that there are a number of features on the land which resemble shepherd's huts. The enforcement notice refers to 'the construction of 3 shepherd's huts with supporting wooden stilts' but the enforcement notice plan does not specify the location of them.
15. The evidence from the appellant regarding how the shepherd's huts arrived at the site is limited to written statements and a single image which is described as showing one of the shepherd's huts being moved from an offsite storage compound/area and being transported. However, the shepherd's hut which is shown on the photograph does not appear to be on the site even taking account of the wheels having been removed. This undermines this evidence and in the absence of any other photographs or other records to support the appellant's comments he has not demonstrated that the shepherd's huts were brought onto the site as opposed to having been constructed there.
16. The shepherd's huts are not substantial objects. Nevertheless, regardless of their size it has not been clearly demonstrated that they were fabricated off-site, brought onto the site in one piece and that thereafter there were limited further works to them such as the removal of wheels. Consequently, there is insufficient information before me to enable me to conclude that the shepherd's huts do not constitute buildings by virtue of their size.
17. Turning to the matter of permanence, there is no evidence that the shepherd's huts have been moved since they were brought onto site. The appellant contends that he brought the shepherd's huts onto the site in accordance with a certificate which he obtained under the Caravan Sites and Control of Developments Act and Section 269 of the Public Health Act 1936 (the Exemption Certificate). He argues that the terms of the Exemption Certificate do not require the shepherd's huts to be moved. Furthermore, he says that in the light of the Council's investigations he has not taken any further bookings for the shepherd's huts.
18. Notwithstanding the context described by the appellant, the shepherd's huts have been on the site for a considerable length of time, and they have not been moved. The appellant refers to the wheels, which are shown as attached to the shepherd's huts in his photograph, having been removed. He also refers to the shepherd's huts being craned into position as opposed to being wheeled onto the site. Given the shortcomings of the evidence as described above, there is limited supporting evidence for this assertion.
19. Even if it was shown that the shepherd's huts could be repositioned by use of a crane, the removal of the wheels suggests an intention for them to remain in their original positions. Thus, they have a level of permanence which points towards them constituting buildings and not caravans.

20. In terms of their physical attachment to the ground, the shepherd's huts are positioned on wooden platforms. The appellant says that they are not fixed to the platform and that the platforms are not fixed into the ground. During my site visit I observed that the stilts appear to be resting on bricks or concrete pads which is consistent with the appellant's description. However it was not clear whether or not the shepherd's huts were fixed to the platforms. There was no evidence on the underside of the shepherd's huts of them having had wheels, but their removal would have been necessary to facilitate them being placed on the platforms if that is what has taken place.
21. The land rises steeply away from the ponds towards Holt Road and this change in level needed to be addressed to facilitate the introduction of the shepherd's huts. Thus, the platforms are an integral and necessary part of the development. Even if they are not attached to the platforms as described by the appellant, the shepherd's huts are mounted on a permanent base, and this results in a physical change in the characteristics of the land. That the service connections are above ground and can be easily disconnected, does not undermine this factor. Furthermore, it is noted in caselaw that the absence of a physical attachment is not in itself decisive.
22. The evidence is limited in respect of whether on the basis of their size the shepherd's huts can be regarded as buildings or not. Nevertheless, taken together, by virtue of their degree of permanence and to a lesser extent their physical attachment, the shepherd's huts constitute buildings. Consequently they have been correctly described in the enforcement notice as operational development.
23. The appellant considers that the Council should have gone on to consider whether each shepherd's hut was 'a moveable dwelling' for the purposes of the Public Health Act 1936. This is a consideration when development is permitted under an Exemption Certificate which is referred to in the Council's reasons for serving the enforcement notice. The reference is made in the respect of the Council's contention that the shepherd's huts are not permitted under the Exemption Certificate which has been granted. It is not necessary to consider whether the shepherd's huts are 'moveable dwellings' for the purposes of establishing whether they amount to buildings for planning purposes.
24. The appellant also contends that the enforcement notice is flawed because it does not identify the purpose of the toilet/shower block in the allegation. But in common with the lack of reference to the use of the shepherd's huts, it is not necessary for the enforcement notice to specify the purpose of operational development as it could be regarded as part and parcel of the mixed use of the site. To that extent the enforcement notice does not require any correction.
25. The appellant also contends that the use of the site as described in the enforcement notice was not occurring when the enforcement notice was issued. He says that he had given the Council a commitment that no guests would be booked and that the use would not commence or would cease. Evidence provided by the Council in the form of reviews from visitors to the site, which is not disputed by the appellant, indicates that it was being used in advance of the enforcement notice being served. Similarly there is evidence from interested parties of camping taking place on the site.

26. Even if the use had ceased Section 174(2)(b) of the Town and Country Planning Act 1990 (the Act) is worded in the past tense, and the question is whether the breach had occurred by the date of issue of the enforcement notice. The alleged use for camping has taken place and an appeal on ground (b) cannot succeed simply on the basis that that activity has ceased.
27. The appellant contends that the enforcement notice might have been served as a breach of condition enforcement notice as the Council refers to a condition of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GDPO) having not been complied with in its reasons for issuing the enforcement notice. In that scenario the reference to paragraph (a) of section 171A(1) of the Act in the enforcement notice would be incorrect. However, there is no inconsistency between the breach of planning control as set out, which has been properly described and the reference to the relevant part of The Act.
28. In conclusion on the appeal on ground (b), the appellant has argued that the allegation should include the use as a caravan site but given my findings in respect of the shepherd's huts this would not be an accurate description of the development which has been carried out. The allegation is not in need of correction.
29. The material change of use and the operational development as set out in the allegation have occurred, therefore, the appeal on ground (b) does not succeed.

Ground (c)

30. An appeal on ground (c) is on the basis that the matters set out in the notice, if they occurred, do not constitute a breach of planning control.
31. The enforcement notice was issued on 7 November 2023, and it took effect on 19 December 2023. At the time when the enforcement notice was issued the Exemption Certificate had also been issued. The view of the appellant is that the Exemption Certificate allows him to rely on Schedule 2, Part 5, Class C of the GDPO. This establishes that the use of land as a caravan site and recreational campsite by members of a recreational organisation for the purposes of recreation or instruction and the erection or placing of tents on the land for the purposes of the use constitutes 'permitted development'. A 'recreational organisation' is defined by the GDPO as an organisation holding a certificate of exemption under section 269 of the Public Health Act 1936 which is the Exemption Certificate which has been obtained by the appellant.
32. The Exemption Certificate states that no more than five caravans or motorhomes can be stationed on the land plus not more than ten tents. My findings on the shepherd's huts exclude them from the definition of a caravan and they do not constitute tents. Therefore the shepherd's huts are not permitted development under the GDPO.
33. Turning to the use of the site for camping, this could be covered by an Exemption Certificate and thus amount to permitted development under Schedule 2, Part 5, Class C of the GPDO.
34. Article 3(1) of the GDPO grants planning permission for classes of development subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). That means, in effect, that there is a

condition to prohibit commencement of any 'permitted development' that would affect a European Site until such time that a local planning authority provides a written notification of approval of a Regulation 77 application.

35. The appellant submits that if a proposed development is not likely to have a significant effect on a European Site, then the Habitats Regulations are not engaged. He refers to an independent ecological report which he commissioned. He says that the report concluded that there was no realistic potential impact at the construction stage and that until the site was occupied it was not possible to assess the impact of the operational phase. This evidence is limited because it does not address the active use of the site as described in the enforcement notice. Therefore, it does not show, adopting the precautionary approach, that the use would not have an adverse effect on European Sites either on its own or in combination with other plans and projects.
36. The Council refers to the Norfolk Green Infrastructure and Recreational Disturbance Avoidance and Mitigation Strategy (GIRAMS) in the enforcement notice. This document, which was available to the appellant when the enforcement notice was issued, is a reliable source of information regarding the impact of development on European Sites. In that context it has not been established by the appellant that the requirements of the Habitats Regulations were not engaged.
37. Section 174(2)(c) of the Town and Country Planning Act 1990 is worded in the present tense. An appellant can rely on matters occurring since the date of issue of the enforcement notice to show that that which was alleged does not amount to a breach of planning control. However, where it is claimed that the alleged development is 'permitted development' this must have been the case when the enforcement notice was issued because the GPDO does not grant retrospective permission. Furthermore, the development must have complied with the conditions and limitations which relate to permitted development.
38. Under the terms of the Habitats Regulations it is a condition of any planning permission granted by a general development order that before the development is begun the approval of the Council is received. The appellant made a payment to the Council of £502.83 on 26 January 2024 which he describes as a 'Norfolk GIRAMs payment'. This payment was intended to enable the Council to be satisfied that the requirements of the Habitats Regulations have been met. However, notwithstanding the Council's decision on that matter, at the time when the notice was issued the payment had not been made, the written approval of the Council had not been obtained and at that point the use of the site for camping did not constitute permitted development.
39. The appellant has failed to demonstrate that at the time when the enforcement notice was issued the alleged breach of planning control constituted permitted development under Schedule 2, Part 5, Class C of the GPDO. Therefore, the appeal on ground (c) does not succeed.

Ground (f)

40. In this case the appeal on ground (f) is on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control.

41. The appellant considers that the requirement to permanently cease the camping use is excessive because it would prevent any future use of the land for camping under permitted development rights. I have corrected the first requirement to secure the cessation of a single mixed use. The appellant would be entitled to return to the last lawful use by reason of section 57(4) of the Act or to use the land for a use for which planning permission is not required or is permitted by the GPDO. Consequently, it is not necessary to remove the word 'permanently' from the requirement.
42. In respect of the requirement to remove the shepherd's huts and the attached wooden stilts, the appellant states that this requirement is excessive but does not explain why this is the case. He also considers that this requirement is inconsistent with the allegation as it suggests that they can be removed without demolition. It is not necessary to specify the means by which the shepherd's huts are removed from the land, therefore any lack of reference to 'demolition' does not render the requirement unclear or in need of correction.
43. The appellant considers the requirement to remove the two shipping containers from the land to be excessive because they could remain on the land in connection with its lawful use and in association with the felling licence which has been granted. However, there is no evidence that planning permission has been granted for the shipping containers in association with any lawful use as woodland or that these features could remain as permitted development associated with any such use.
44. The requirements as set out in the enforcement notice do not exceed what is necessary to remedy any breach of planning control. Therefore, the appeal on ground (f) does not succeed.

Conclusion

45. For the reasons set out above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Sarah Dyer

INSPECTOR