



Appeal Decision

Inquiry held on 16 December 2025

Site visit made on 17 December 2025

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 January 2026

Appeal Ref: APP/J4423/C/25/3369982

Oak Lodge Farm, Thompson Hill, High Green, SHEFFIELD, S35 4JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Carl Collins against an enforcement notice issued by Sheffield City Council.
 - The notice was issued on 24 June 2025.
 - The breach of planning control as alleged in the notice is 'Without planning permission the carrying out of operational development on the Land comprising:
 - 1. the construction of a building, Building A,
 - 2. the construction of a building, Building B.'
 - The requirements of the notice are to:
 - i. Demolish/remove from the Land 'Building A' and 'Building B', including any foundations.
 - ii. Remove from the Land all the materials, resulting from compliance with step 5i.
 - The period for compliance with the requirements is: 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (d) 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 paragraphs 3.2.1 and 3.2.2 and their substitution with:
 - '3.2.1 the construction of a building, Building A, shown in the location identified in the Plan and the Appendix attached to this Notice,
 - 3.2.2 the construction of a building, Building B, shown in the location identified in the Plan and the Appendix attached to this Notice,'
2. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. At the Inquiry the main parties were invited to comment on the standing of the Notice. As the building marked 'Building B' in the aerial image in the appendix to the Notice is a previous structure, the main parties agreed that greater clarity could be provided by a minor re-wording of the allegation to clarify that the plan and appendix attached to the Notice only identify the locations of the buildings. It was also agreed that such a correction would not cause injustice to either of the main parties.

The Ground B Appeal

4. An appeal on this ground is that the alleged construction of the 'buildings' hasn't occurred. The burden of providing relevant facts rests with the appellant, and the test of the evidence is the balance of probability.
5. There is no dispute between the main parties that the structures described as 'Building A' and 'Building B' in the Notice were present in the identified locations on the date the Notice was served. Rather, it is asserted by the appellant that what are described as Buildings A and B are not 'development' for the purposes of s55 of the Act.
6. The s336 definition of a 'building' includes 'any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building'. In the established caselaw of *Skerritts*¹, the Court of Appeal endorsed the finding in *Cardiff Rating Authority*² that it is not possible to construct an exhaustive test of what 'is or is in the nature of a building or structure' – but the main characteristics of a building are:
 - that it is of a size that it would normally be constructed, as opposed to being brought ready-made onto the site;
 - it would cause a physical change of some permanence; and
 - there would be physical attachment to the ground.
7. For Building A (the carport) it is contended that the structure is demountable by unbolting the framework and removing it from its base. I heard that this would take 6 people less than 1 hour to carry out, and the frame could be constructed elsewhere on the site with similar ease. This description of the works necessary to assemble/disassemble the structure reflects the scenario considered in *James v MHLG & Brecon CC* [1963] 15 P&CR 20 where fairground swing boats that were capable of being removed by six men and dismantled in an hour were found not to amount to 'development'. The case established that for development to arise there must be some degree of permanency.
8. At the site visit, I saw that the carport remains in position, is open sided and without a roof covering. The upright stanchions supporting the roof were laterally held by a concrete plinth. I heard that this was poured to form a base on which the appellant's vehicles and a boat could be stored, allowing for their access and egress. The appellant's evidence indicates that the works to erect the frame and construct the plinth were carried out in August 2022.
9. I have little doubt that the existing framework could be unbolted and dismantled within a short space of time. However, removal from the concrete base would involve part destruction of the base. When constructed, it seems to me that the integration of the frame stanchions with the plinth were designed to be permanent. Together they would provide the elements needed to serve the purpose for which the building was intended. However, they could not be relocated as a whole and intact in the manner suggested because the base forms part of the building.

¹ *Skerritts of Nottingham Ltd v SSETR & Harrow LBC* (No. 2) [2000] EWCA Civ 5569; [2000] JPL 1025

² *Cardiff Rating Authority v Guest Keens* [1949] 1 KB 385

10. Furthermore, while I recognise that further anchorage might be required if the roof were to be installed because of the open location, I find the existing structure has a significant degree of permanence. The appellant's stated intention to complete the works in the same location reaffirms that view.
11. As a structure of some size constructed on the site, being integrated with a floor slab, and creating a physical change with a significant degree of actual permanence, I find the structure is a 'building' (or part of one) for the purposes of the Act. Accordingly, I find the allegation with reference to Building A as operational development is correct.
12. The appellant contends that Building B, a prefabricated unit, is a temporary building capable of being moved about the site as an ancillary chattel used in conjunction with an established equine use on the land.
13. At the Inquiry I heard that the prefabricated unit was delivered to site. It was installed by a crane and was observed at the site visit to be levelled by integrated adjustable height stanchions. The unit accommodated teaching space with stepped access via one of two doorways and has high-level windows.
14. The large unit rests on the sloping ground and is not fixed to it. According to the appellant it is mounted on skis/skids which could facilitate its towing by a tractor (or similar). At the time of my site visit, two longitudinal metal beams with a cross-member integral to the floor of the structure were visible under the unit. However, given the scale of the unit, the absence of any obvious towing points and the arrangement of beams such that their edges would catch on any uneven ground, it seems to me that towing the unit would likely be very difficult.
15. Even if it could be towed in that manner or relocated by crane, the evidence is clear that the unit has not been moved since it arrived on the site in September 2023. Furthermore, it was confirmed by the appellant that it replaced a previous structure in the same location which was used for similar purposes for a period of some 6 years. The degree of permanence is therefore substantial. It far exceeds the period of 8 months for the marquee considered in the *Skerritts* case to be a 'building', for example.
16. At the Inquiry, the appellant highlighted his intention to provide teaching space within one of the existing buildings on the site as an alternative. Subject to funding, I heard that this might be within the next five years. As an anticipated timescale well beyond the four-year period for operational development previously set out in s171B, the appellant's anticipated length of siting also suggests a high degree of permanency.
17. For the above reasons and following the established caselaw, I find the development alleged in the Notice are 'buildings' as defined by the Act and had occurred at the date the Notice was served. The appeal on ground (b) fails.

The Ground C Appeal

18. An appeal on this ground is that the matters stated in the Notice do not constitute a breach of planning control.
19. Pursuant to my finding that the classroom is a 'building' for the purposes of the Act, in the absence of demonstration that it benefits from planning permission or any

exemption for that requirement, I find Building B constitutes a breach of planning control.

20. The appellant asserts that Building A benefits from planning permission consequent to the provisions of Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). In conjunction with s3(1), Class E grants planning permission for 'the provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such'. The provision is subject to a number of limitations.
21. To benefit from the Class E provisions, the land must be within the curtilage of a dwellinghouse. This is also a matter for the appellant to prove on the balance of probability. I must also be mindful that s3(5) of the GPDO states that permission granted by Schedule 2 does not apply if - (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful; and, (b) in the case of permission granted in connection with an existing use, that use is unlawful.
22. The site planning history includes reference to a caravan used for residential purposes. An enforcement notice was served on 16 April 2014 seeking its removal; however, the notice was subsequently withdrawn pending further investigation.
23. An Enforcement Report³, dated 16 June 2014, referred to the accommodation as a 'dwelling' and having attained lawful status through the passage of time. However, the report suggests that that status was drawn on application of a 4-year time period for immunity. This period would only apply if an existing building had been converted to residential use. This is because s171B then imposed a 10-year period for all other uses.
24. In 2016 another caravan, described as a 'wooden lodge type structure' was alleged to have been brought on to the site. However, no further action was taken at that time by the Council.
25. There is little evidence to demonstrate whether or not the caravan located within a fenced garden to the south of Building A remains within the definition as set out in Section 29 (1) to the Caravan Sites and Control of Development Act 1960 (the 1960 Act) or has attributes that would otherwise define it as a 'building'.
26. At the Inquiry, the appellant asserted that a caravan has been on the land for residential use since he acquired the site in 2012. He explained that the accommodation consists of a static caravan which has been altered by external cladding and the addition of a porch, extensions and decking. In addition, he described that the unit had had substantial floor reinforcement adding significant weight to the structure in 2013 and that an original towing frame had been removed such that it could no longer be towed.
27. There was no dispute between the main parties that service connections could be disconnected in a straightforward manner. However, I heard little evidence to demonstrate that the unit could not be decoupled from the additive structures about the caravan body without significant difficulty or destruction of the original unit.

³ Enforcement Report to North Area Team Manager 16 June 2014 (appendix 2 of K Mahmood proof of evidence)

- Although the appellant highlighted that the extensions were mounted on concrete bases, the method of attachment of the porch, extension and decking are unclear.
28. It is therefore also unclear whether the original caravan unit could still be transported intact by means other than towing, including crane lifting or winching, for example, to maintain the degree of mobility described in the 1960 Act.
 29. Furthermore, notwithstanding the Council's stated opinion in 2014, there was little detail to demonstrate that continuous residential use of the structure – whether a caravan or a building, was lawful on the date the Notice was served. I recognise the appellant's statement that the unit was registered for Council Tax and Electoral Roll purposes and his claim that it had been continuously occupied since 2012, however, that was not supported by documentary or other evidence to the Inquiry. While I have little reason to doubt the appellant's contention, I find the evidence to support his case is far from precise or unambiguous.
 30. For the reasons above, I find the appellant has not discharged the burden of proof to demonstrate that the accommodation is a dwellinghouse benefitting from established lawful use such that the provisions of the GPDO apply to it.
 31. Additionally, there is dispute between the main parties as to whether the area of land on which the carport is sited falls within the curtilage of the accommodation. The GPDO does not define the term 'curtilage', however, the Technical Guidance: Permitted development rights for householders (2019) advises it is 'land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area.
 32. The location of the carport lies outside of a fenced area enclosing the residential unit and a garden area. It lies on the opposite side of a track running from the site entrance, past the accommodation and continues to serve other parts of the wider site. The land between the track and the rear boundaries of neighbouring properties to the northeast is used for various purposes including the classroom, a stable, domestic storage, canine facilities, the carport and outside storage. The Council's aerial images from 2017 up to 2022 appear to show the location of the carport used for outside storage of largely undiscernible items. In 2017, photographs show a bowser and plant items to be stored there.
 33. Because of its detachment across the service track and position amongst various uses, albeit including some residential storage, I find the position of the carport lies outside of the well-defined curtilage of the accommodation. Accordingly, the provisions in Class E did not apply to the land in question at the time the Notice was served.
 34. Moreover, even if the accommodation was shown to be a lawful dwelling and the site falls within its curtilage, there was little to demonstrate compliance with the limitations in Class E for the scale of the development. Height measurements taken by the Council range from 2.3m to 2.8m. The carport is also said to be within 2m of a boundary; this was not disputed by the appellant. If any part of the building exceeds 2.5m in height, the building would conflict with Paragraph E.1(e)(ii) of Class E.
 35. In this respect I am mindful that it is unclear where the height measurements of the unfinished structure were taken from. Although they suggest that the building's size

may fall within the Class E limits when accounting for the advice in the Technical Guidance⁴, there is little before me to demonstrate that is the case. The appellant's supporting statement (3/11/25) suggests a 3.8m ridge height.

36. At the Inquiry, there was also some dispute as to whether the location of the carport is not situated on land forward of a wall forming the principal elevation of the original dwellinghouse, as required by limitation E.1.(c) of Class E. The appellant's evidence supporting that proposition is conflicting. At the Inquiry, he variously referred to extensions to the caravan as being on the front and rear. The appellant's written description of the 'dwelling' refers to the addition of the larger extension to the 'side' (south-west) of the 'rear bedroom' of the unit, with a 'front' porch that albeit located on the same side opens to the north-east.
37. Because the unit is isolated, set away from a highway, and has limited architectural detailing, the features on each elevation provide little clue as to what might be regarded as the principal elevation. The appellant's reference to Building A's location on his 'side garden' does not assist. In the absence of more, I find the appellant's evidence insufficiently precise and unambiguous to demonstrate that the limitation in paragraph E.1.(c) of Class E has been met.
38. For the reasons above, I find that the appellant has not discharged the burden of proof to demonstrate that the accommodation is a lawful dwelling benefitting from permitted development rights; that the carport lies within its curtilage; or that the development otherwise complies with the limitations specified in Class E of Part 1 of Schedule 2 to the GPDO. Accordingly, the appeal on ground (c) should fail.

The Ground D Appeal

39. An appeal on ground (d) is that, at the date when the notice was issued, no enforcement action could be taken in respect of any such breach. To be successful on this ground it would be necessary for the appellant to demonstrate that any relevant period of immunity has been achieved. The test is on the balance of probability – whether the claim is more likely than not to have occurred.
40. The service of the Notice post-dated changes to s171B of the Act. However, there is no dispute between the parties that for operational development substantially complete before 25 April 2024, the saving provisions in the Planning Act 2008⁵ retain a 4-year time limit for enforcement action.
41. There is also no dispute between the main parties that Building A remains incomplete such that the clock on the time limit for enforcement specified in s171B has not yet begun. However, the appellant contends that Building A is constructed on a pre-existing hardstanding said to have been in place for over 9 years. It is contended that works which took place in August 2022 merely included a resurfacing operation to the existing hardstanding.
42. As identified above, the aerial photographs provided in evidence show the area to be used for storage of various items. It is unclear from photographic evidence whether or not an existing hardstanding lay underneath them.

⁴ Permitted Development Rights for Householders - Technical Guidance [Sept 2019] states that height is the height measured from ground level... (the surface of the ground immediately adjacent to the building in question, and would not include any addition laid on top of the ground....Where the ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building.)

⁵ Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024/452

43. A rubble surface does appear in photographs of the site taken once the framework of the carport had been constructed. This appeared in a short video clip screened at the Inquiry too. As the works to erect the frame and pour the concrete base were said by the appellant to have both taken place in August 2022, these must reflect the situation around that time of construction.
44. However, the area between and around the stanchion legs of the frame was completely covered with a new sealed and levelled concrete surface. It has a chamfered edge to facilitate vehicular access from the track. As a new type of surface constructed as an element integral to the intended use of the carport, I find this is neither repair or maintenance of the underlying rubble surface but part and parcel of the development. As such, the concrete slab created in August 2022 forms part of the incomplete building and was not therefore immune from enforcement on the date the Notice was served.
45. The appellant's evidence highlights that a gazebo structure was in place prior to the siting of the educational building⁶. However, as a different structure/building, that does not establish a lawful status for any structure/building replacing it. Once removed, the time limits for enforcement would commence on substantial completion of that replacement. Here, as Building B was only installed in September 2023, the 4-year period for immunity had not accrued by the date of issue of the Notice on 24 June 2025.
46. The appeal made on ground (d) in relation to the hardstanding and Building B fails.

Other Matters

47. The appellant highlighted educational and other social benefits provided by Building B. However, as no ground (a) appeal was lodged, the planning merits of the development do not fall to be considered. I acknowledge that any outcome to this appeal may have implications for business operators active on the site, but these are not relevant considerations in the ground (b), (c) and (d) appeals.
48. Concerns were expressed by the appellant with regard to the Council's determination of the expediency to pursue enforcement action against the development and the level of communication in the run up to the appeal. These are not matters relevant to the determination of the appeal.

Conclusion

49. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

R Hitchcock

INSPECTOR

⁶ The structure visible in the appendix to the Notice

