



Appeal Decisions

Site visit made on 25 February 2026

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th March 2026

Appeal A Ref: APP/Q9495/C/25/3362947

Low Wood Cottage, Wasdale, SEASCALE, CA20 1ET

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Glen Race against an enforcement notice issued by Lake District National Park Authority.
- The notice (Notice A) was issued on 26 February 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, operational development consisting of building operations to erect a summer house with associated patio and a timber car port with associated concrete base in the approximate position marked on the attached plan'.
- The requirements of the notice are to: Restore the Land to its condition before the breach took place by: (1) Removing the summer house and associated patio, as shown in Photograph A, from the Land; and (2) Removing the timber car port and associated concrete base, as shown in Photograph B, from the Land.
- The period for compliance with the requirements is: three months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Appeal B Ref: APP/Q9495/C/25/3362949

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Glen Race against an enforcement notice issued by Lake District National Park Authority.
- The notice (Notice B) was issued on 26 February 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the making of a material change of use of the Land from managed woodland to use as garden in association with the residential use of Low Wood Cottage as a dwelling'.
- The requirements of the notice are to: Discontinuing the use of the Land as garden.
- The period for compliance with the requirement is: three months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Appeal C Ref: APP/Q9495/W/25/3362944

- 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 Glen Race against the decision of Lake District National Park Authority.
- The application Ref is 7/2024/4085.
- The development proposed is 'Erection of fish pond; summerhouse and car port and change of use of woodland to garden area - all retrospective'.

Appeal D Ref: APP/Q9495/W/25/3373784

- 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 Glen Race against the decision of Lake District National Park Authority.
- The application Ref is 7/2025/4038.
- The development proposed is 'Retention of existing fish pond, summerhouse and car port, and change of use of land to garden area'.

Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of three months and its substitution with four months as the time for compliance. Subject to the variation, the enforcement notice is upheld.

Appeal B

2. It is directed that section 5 of the enforcement notice is corrected by the deletion of the word 'Discontinuing' and its replacement with 'Discontinue'; the words 'in association with the residential use of Low Wood Cottage as a dwelling.' shall be added at the end of the requirement.
3. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Appeal C

4. The appeal is dismissed.

Appeal D

5. The appeal is dismissed.

Preliminary Matters

6. As set out above, there are four appeals relating to the site. Appeals A and B relate to enforcement notices served against the erection of two domestic outbuildings (Notice A) and a change of use of land to garden (Notice B) respectively. Appeals C and D relate to retrospective planning applications refused by the Authority for the same development. In addition, permission was sought for a fish pond constructed on the site.
7. The appellant has submitted combined statements for the grounds of appeal in Appeals A and B. Accordingly, I have dealt with those matters together to avoid repetition unless otherwise stated. Similarly, I have dealt with the common issues in Appeals C and D together. As the appeals are linked, I deal with Appeals C and D first as these may influence the outcome of Appeals A and B.

Appeals C and D

Main Issue

8. The main issue is the effect of the development on Ancient Semi-Natural Woodland.

Reasons

9. The development subject of the planning applications lies within a designated area of Ancient Semi-Natural Woodland, an irreplaceable habitat. Following the initial decision to refuse planning permission (Ref. 7/2024/4085), Tree Preservation Order (No.482 [2025]) has been made on the predominantly deciduous woodland, a habitat of principal importance.
10. For the purposes of Appeal D, the appellant commissioned an ecological assessment¹ of the site. The report concludes that the long-standing nature of the

¹ Ecological Assessment Low Wood Cottage Envirotech Report 9784

woodland is not disputed, such that it falls within the National Planning Policy Framework's definition of ancient woodland. However, it highlights the effects of relatively recent and short-term human actions prior to the appellant's ownership which have probably caused significant ecological change, principally through the establishment of invasive and ornamental species preventing natural regeneration and potentially altering the soil chemistry. The report finds that a dearth of ancient woodland indicator species brings into question whether the area should retain continued ancient woodland status. I acknowledge that the appellant has applied directly to Natural England (NE) in that regard.

11. However, the Planning Practice Guidance² (PPG) states that the existing condition of ancient woodland is not something that ought to affect the local planning authority's consideration of avoiding or mitigating adverse impacts of development proposals (and it should be borne in mind that woodland condition can usually be improved with good management).
12. The report identifies the causes of interruption to the woodlands natural ecological progression. The introduction and retention of rhododendron and other ornate species is recognised as causing shadowing of the woodland floor, potential changes to soil chemistry – including adverse effects on the ability of trees to take up nutrients, and out-competing native wildflowers. However, this is a matter of current condition as opposed to qualification under the Framework's definition. Accordingly, until such a time the site may be removed from NE's Inventory of Ancient Woodland, those relevant local and national planning policies apply.
13. Paragraph 193 c) of the Framework is clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient and veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. This is reflected in policy 05 of the Lake District National Park Local Plan 2020-2035 (the LDNPLP) recognising woodlands as one of the Lake District's most valuable scenic and wildlife assets.
14. The structures lie close to trees within the woodland. In part, their footprints and/or adjacent patio surfaces lie below tree canopies and almost certainly within the rooting areas of some established trees. I have little doubt that the levelling and covering of those areas with impermeable roofs, tanking and/or surfacing will have altered soil drainage and structure, compaction and gaseous exchange or aeration capabilities, for example.
15. In addition, the functional use of the carport – potentially frequently drawing vehicles over rooting areas due to its position, would also likely cause impacts to rooting zones and soils in the approach and turning areas. The expansion of the built area and encroachment of regular activity and disturbance could undermine the continuity and ecological value of the woodland block over time with the linkage between the northwestern and southeastern parts of the local woodland block being largely undermined.
16. The appellant's evidence shows that the location of the summerhouse was previously covered with artificial grass installed by the former owner. However, there is little to demonstrate that, or a seemingly bare area formerly in the location of the carport, were subject to equivalent loading, activity, or were impermeable.

² Reference ID: 8-033-20190721

17. In the absence of any detailed arboricultural assessment of the effects on nearby individual trees, there is little to demonstrate that the habitat harm identified by the Lake District National Park Authority has not occurred. The appellant's conclusion that the buildings and material change of use of the land are 'unlikely' to increase additional stress to the retained woodland is not, in my view, duly substantiated. Accordingly, I find that the appellant has failed to demonstrate that the alleged harm has not occurred and it is the appellant's burden to demonstrate that 'wholly exceptional' reasons exist to justify the development in its location.
18. Footnote 70 of the Framework gives limited examples of what might constitute 'wholly exceptional'. It refers to infrastructure schemes delivering public benefits which clearly outweigh any loss or deterioration.
19. The appellant asserts that much of the damage to the woodland ecosystem occurred under the tenure of previous owners. It is suggested that storm damage resulted in some loss of trees, that artificial turf was installed, hardstandings were created, and earlier landscaping with adverse effects on the woodland ecosystem were introduced. According to the appellant's assessment, the carport and summerhouse locations were previously stressed or impacted. However, none of those matters provide justification for further harm resulting from additional development.
20. The report highlights that the only means of compensation for past loss of woodland caused under the previous ownership is restoration / enhancement of the remaining ancient woodland. However, the PPG is clear that 'When assessing whether 'wholly exceptional reasons' exist that may justify a loss or deterioration of ancient woodland, ...it will not be appropriate to take any compensation measures into account. These should be considered only once the existence of 'wholly exceptional circumstances' has been ascertained'.
21. There is no dispute that proposed management measures could improve the condition of the woodland elsewhere. It could revitalise a dormant ancient woodland seedbank. While I recognise the doubts raised by a third party as to whether the requirements of a woodland management scheme would be implemented, as this could be secured through an enforceable planning obligation, I am satisfied that such benefits could be realised.
22. However, notwithstanding that those measures could enhance the remaining woodland, I am mindful that if an approach potentially promoting irreparable damage in lieu of improvements to a reduced area was supported, then that would endorse potential incremental loss of the irreplaceable habitat which the policies seek to prevent. Accordingly, I find the preservation of existing elements must be prioritised over mitigation as the policies require.
23. In accordance with Paragraph 189 of the Framework, that conservation of an irreplaceable habitat as part of the woodland forming a distinctive characteristic of Wasdale also attracts great weight in conserving the landscape and scenic beauty of the Lake District National Park. For those reasons, I conclude that the appellant has not substantively demonstrated that any wholly exceptional circumstances exist to justify development causing additional harm to designated ancient woodland. The development conflicts with the Framework and policy 05 of the LDNPLP as they seek to protect irreplaceable ancient woodland habitat and there are no material considerations to outweigh this conflict.

Other Matters

24. I note third-party letters of support for the development, however, these are not benefits in its favour.
25. Due to the distance and intervening screening, I find no adverse effect on neighbouring living conditions arises from the use of the summerhouse or extension of the residential area.

Conclusion on Appeals C and D

26. For the reasons given above, Appeals C and D should be dismissed.

Appeals A and B - The Notices

27. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
28. The appellant asserts that the requirements in Notice A to 'Restore the Land to its condition before the breach took place' and the requirement in Notice B to 'Discontinuing the use of the Land as garden' are hopelessly ambiguous.
29. The appellant confirms that he has occupied the property since 2021 and does not contest that the erection of the buildings and laying of surfaces took place within the 4-year period prior to the issue of Notice A. It is well established³ that a requirement to restore a site to its previous condition is a valid requirement and is not bad in law. As the person responsible for carrying out the unauthorised works, the appellant would be aware of the starting position. Accordingly, I find that requirement in Notice A is reasonable and clear.
30. Section 3 of Notice B tells the recipient with *reasonable certainty*⁴ what they have done wrong. However, in isolation, the requirement to 'Discontinuing the use of the Land as garden' may cause some ambiguity through the construct of the phrasing and as to what may and may not constitute 'use as a garden'. However, the case of *Oates*⁵ established that where an enforcement notice is found to be uncertain, it is for the Inspector to judge whether that uncertainty or defect renders the notice a nullity.
31. Section 5 is not read in isolation. Within the four corners of the Notice, I find the requirement to remedy the breach of planning control is not hopelessly ambiguous to render Notice B a nullity. Furthermore, when read as a whole, a correction to section 5 to avoid any uncertainty by matching the requirement with the allegation would not, to my mind, result in injustice to either party. Subject to correction, I find Notice B would be neither a nullity, nor be invalid.
32. The appellant states that some uses of the Land commenced prior to his occupation. However, in the absence of any contention that those uses benefitted

³ See *Lipson & Lipson v SSE & Salford MBC* [1976] 33 P&CR 95, [1977] JPL 33

⁴ See *Miller-Mead v MHLG* [1963] 2 WLR 225

⁵ *Oates v SSCLG* [2017] EWHC 2716 (Admin)

from planning permission, or had become lawful prior to the issue of Notice B, then there is no basis to question the validity of the requirement.

33. The appellant refers me to the case of *Hounslow LBC v SSE* [1981]. However, that case involved an enforcement notice using the phrasing 'comply or **seek to** comply with' a condition of a planning permission. A correction here to 'Discontinue the use..' does not cause any such uncertainty or concern as to enforceability. The circumstances are not therefore comparable to the cases before me.

Appeals A and B – Ground (f)

34. Appeals on ground (f) are 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 which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
35. In this case, Notice A alleges the erection of buildings and requires that they are removed. Notice B alleges that there has been a material change of use, and it requires the unauthorised use to cease. The notices do not 'under-enforce' and the purpose of the notices must be to remedy the breaches.
36. For that reason, and because consequently I have no scope to consider whether the requirements of the notice are excessive to remedy any injury to amenity, the only case the appellant can make for ground (f) is that lesser steps would suffice to remedy the breach.
37. The appellant highlights that the Council conclude that the buildings cause no visual harm from public vantage points and that the principle of a garden extension does not necessarily conflict with the development plan. It is asserted that the harm to the Ancient Semi-Natural Woodland could be overcome through securing the implementation of a detailed Habitat/Woodland Restoration and Management Plan. However, even if that were the case, those steps would not remedy the breaches of planning control. Accordingly, the ground (f) appeals must fail.

Appeals A and B – Ground (g)

38. This ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The appellant suggests that the periods should be extended to 12 months.
39. My role here is to balance the public interest in securing expeditious compliance with the enforcement notice against the private interest bound up in the development subject to the notices. In so doing, I must assume that the use of the land subject to Notice B and the erection of the buildings subject to Notice A cause the harm alleged in the reasons for issuing the notice.
40. The appellant asserts that the physical removal of the buildings and restoration of the Land would take time to plan and implement. On the other hand, their expeditious removal would remove any adverse effects caused to nearby trees forming part of the protected woodland. It would reinstate more favourable ground conditions during the next growing season.

41. However, as the requirements of Notice A may have potential to cause additional adverse effects on the protected woodland, I agree that additional time to consider the detail of safe removal without further damage would be reasonable in the case circumstances. Appeal A succeeds to the extent that the time for compliance with Notice A is extended to four months to allow the appellant to take advice on the issue.
42. In the absence of justification as to why the cessation of the use of the additional areas might require a longer period, I find the time specified in Notice B is reasonable. Appeal B on ground (g) therefore fails.

Conclusions on Appeals A and B

43. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notices with a variation to Notice A and a correction to Notice B.

R Hitchcock

INSPECTOR