



Appeal Decision

Site visit made on 4 April 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 27th April 2026

Appeal Ref: APP/D3505/C/23/3331675

Land East of Brambles Rockalls Road Polstead Suffolk CO6 5AS¹

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- Appeal is made by Ms Julia McKay against an enforcement notice issued by the Babergh District Council.
- The enforcement notice was issued on 21 September 2023.
- The breach of planning control as alleged in the notice is the unauthorised operational development involving the erection of two buildings, in the approximate location edged in blue on the attached notice plan and the material change of use of the land for use as a Wellness Retreat Centre.
- The requirements of the enforcement notice are to:
 - (1) Demolish the buildings and any associated bases and remove from the land any and all materials and debris arising, and
 - (2) Cease the use of the land as a Wellness Retreat Centre and remove any unauthorised items, equipment and materials associated with or ancillary to the unauthorised use. Cease the use of the land for storage.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (d), (f) and (g) of the Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decision

1. It is directed that the enforcement notice be varied by the deletion of the text “3 months” in section 5 time for compliance and the substitution therefor by the following text “6 months”. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

Procedural matter and background information

2. The form selected grounds set out in section 174(2)(b), (c) and (g) of the Act, but the appellant’s scattergun approach includes hidden grounds of appeal (d) and (f). The Council has addressed matters raised by the appellant. No injustice is caused to any party if I am to address the appellant’s hidden grounds of appeal. I should say that, in what are commonly known as legal grounds of appeal, the burden of proof is on the appellant, with the relevant test of the evidence being on the balance of probability. Planning merits and arguments as to why planning permission should or should not be granted are irrelevant².
3. In 2022 the Council issued an enforcement notice alleging the change of use of the land for the siting of two cabin structures and was the subject of an appeal by the appellant. Unsurprisingly, that notice was quashed on appeal in July 2023³ because the notice was fundamentally flawed given the inherent error in describing the alleged breach as the siting of two cabins: these are buildings used in connection with the Wellness Retreat Centre.

¹ Taken from appeal form and enforcement notice.

² The appeal could have been determined on the papers nevertheless I conducted an unaccompanied site visit.

³ Appeal ref APP/D3505/C/22/3302813.

4. The authority issued a further notice which is the subject of this appeal, but it seems to me that the second notice is wider in extent and scope because it alleges operations and a material change in the use of the land outlined on the site plan attached to the issued notice, which I will refer to as “the site”. For clarity’s sake, I do not proceed on the basis the latter is a second bite notice because it alleges significantly different development to that described in the previous enforcement notice.

Ground (b) - *has the alleged breach occurred?*

5. The period leading up to the issuing of the notice and at the date of issue is relevant. The appellant’s own case advanced demonstrates to me that, before the notice was issued, two flat-pack buildings were delivered to the site and building operations involved in their erection were carried out. Subsequently, the buildings were used in connection with the site’s use as a wellness retreat centre and the notice correctly identifies both operational development and a change in the use of land. My deduction and analysis of the written submissions is consistent the previous Inspector’s findings. On the balance of probability, the Council’s description of the alleged breach, namely, the erection of two buildings and use of land as a Wellness Retreat Centre is correct and the alleged matters had in fact occurred at the date of issue. Ground (b) therefore must fail.

Ground (c) – *do the alleged matters constitute a breach of planning controls?*

6. The argument is twofold, notably, the alleged use does not amount to a material change in the use of the land, and the buildings are permitted development.
7. There is no dispute the area identified on the site plan issued with the notice is the relevant planning unit: I have no reason to take a different approach. It is also broadly agreed that the previous lawful use of that unit of occupation is agricultural or woodland. The appellant explains that the two buildings and woodland facilitate the use of the site as a retreat. Visitors’ activities include the upkeep and maintenance of trees with the assistance of local tree surgeons, and the aim is to ensure woodland management is sustainable and maintains a low carbon footprint. The site’s use also includes forestry bathing, nature watching and mindfulness, woodland working parties, healing, alternative therapies like meditation, nature immersion for digital detox, relaxation and spiritual development. The nub of the appellant’s main argument is that all these activities, individually or collectively, are ancillary to the site’s lawful use as woodland and are linked to forestry.
8. The planning acts do not set out a definition of forestry. Section 336(1) of the Act defines the word “agriculture”, and this includes the use of land for woodland where that use is ancillary to the farming of land for other agricultural purposes, effectively treating forestry as a separate land-use. The latter could be said to be the growing, management, and harvesting of trees for timber or woodland management. In contrast, the activities held at the site as part of the appellant’s wellness retreat centre are different and more akin to leisure, recreation or tourism. Although outdoor activities are nature based focused on woodland, and there might be some kind of tree management assisted by experts in the field, the main purpose of the site’s use is wellness. These types of activities are not normally integral, or part and parcel of woodland use and the retreat centre is, essentially, a place where guests or visitors can relax, enjoy and connect with nature in a rural setting. That activity starkly contrasts with forestry operations like the growing, management or harvesting trees for timber.
9. Contrary to the appellant’s arguments, in my planning judgment, given the nature of woodland-based meditation, forest bathing or exercises aimed at delivering a digital detox, I do not consider the use as a wellness retreat centre can reasonably be described as functionally linked or part and parcel of forestry operations. In comparison to the activities described by the

appellant in the written submissions, I consider that the lawful woodland use is, essentially, significantly different to the leisure, recreation or tourism activities, which characterise the wellness retreat centre. The latter is not ancillary to the former.

10. In contrast to an agricultural or woodland use, the nature and scale of the wellness retreat centre is likely to attract specific guests or visitors though the appellant maintains activities are low key and seasonal. Nonetheless, the site's use as a wellness retreat is likely to have observable on and off-site planning effects or consequences requiring assessment. For example, the site's wellness retreat use is likely to have a visual effect upon the surrounding area and, potentially, have an impact from vehicular movements especially during high-peak season. The retreat has resulted in a physical change to the land, due to the layout and makeup of the site and the existence of two sizeable buildings, which have been erected and used in connection with the wellness retreat centre. As a matter of fact and degree, I find that the introduction of the wellness retreat centre represents a significant and definable change in the character of the site's lawful use from woodland or agriculture to wellness retreat centre.
11. Turning to the operational development, I disagree the work is permitted development by virtue of article 3, schedule 2, part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Apart from generalised statements, there is nothing before me to support the contention the buildings were erected for the purposes of agriculture, or for forestry or afforestation. In fact, the evidence points in the opposite direction in that the buildings were erected to facilitate the site's use as a wellness retreat centre.
12. The appellant vehemently denies any use of the buildings as dwellings. They are off-grid and the buildings do not have utilities like electricity or water. They maintain that overnight stays are limited to less than 6 weekends in the height of the summer. The 2023 Decision notes one of the cabins had a double bed with some kitchen accessories and a barbeque. The other had various seating and large floor cushions. Close to the buildings there was a small touring caravan, which alongside the largest cabin is used for overnight stays and staff facilities. To my mind, the available evidence seems to point in the likelihood the residential use is infrequent and limited in scale and linked to the use as a wellness retreat centre. Nevertheless, the former cannot be functionally linked to forestry operations and the operational development involved in the erection of the two buildings requires planning permission, which has not been obtained.
13. Drawing all the above threads together, I find that the appeal on ground (c) must also fail.

Ground (d) – *is it too late to act?*

14. The appellant claims use as wellness retreat began in 2009 when they acquired the site, which is before the relevant date – 21 September 2013. An existing use lawful development certificate application was also submitted by the appellant and subsequently refused because of a lack of evidence⁴.
15. In my experience, supporting documentary evidence is submitted for or against immunity claims. For example, aerial images, although a snapshot, might have shown a timeline and changes to the site, and helped assess the scale of activities over a period. In addition, the appellant has not submitted detailed statement nor evidence from users. The absence of this kind of evidence makes comparisons between the immunity claim and nature and scale of the site's use difficult to make. Apart from generalised statements that the alleged use commenced in 2009, there is very little, if any, unambiguous and precise detailed evidence showing when the change of use occurred or started. The appellant's submitted evidence does not support the claim that the wellness retreat centre, either as a primary or ancillary use, began on or before

⁴ Council ref DC/22/03466.

the relevant date and continued thereafter for a period of 10 years without significant interruption.

16. In a similar vein, the appellant maintains that the two buildings were erected around 2019 and 2020. However, there is a lack of detailed evidence, including supporting documentary evidence, showing how and when the buildings were erected and by whom. The quantum of the evidence presented does not clearly show that the operational development was substantially completed on or before 21 September 2019.
17. The appellant says there is a network of supporters and provides a list yet the evidence that has been presented is imprecise and unclear as to timelines, nature and scale of the use as a retreat. Again, apart from general supporting comments, there is no firm evidence from interested parties which leads me to favourable outcome on the appellant's immunity claims.
18. I have carefully reviewed all the information presented with the appeal. However, I find that the onus of proof has not been discharged by the appellant. I am afraid that the appellant's evidence alone is, on the balance of probability, insufficiently precise, it is ambiguous and inconclusive. The implied appeal on ground (d) also fails.

Ground (f) – are the requirements excessive?

19. The notice requires the demolition of the buildings and any associated bases and cessation of the unauthorised use. It seems to me the notice seeks to remedy the breach of planning controls, which falls within s173(4)(a). The appellant says the requirement to cease the use is excessive and refers to the previous Inspector who said to order the wellbeing use to cease would be an injustice. However, the inference drawn by the appellant is incorrect because the 2023 Decision quashed the previous enforcement notice on the basis that it was fundamentally flawed as it sought to attack the change of use of the land for the siting of two cabin structures.
20. The notice seeks to remedy the breach of material change of use by requiring the cessation of the use of the site as a wellness retreat centre. The contravener is best placed to know the condition of the land prior to the breach of planning controls and the appellant is likely to possess full knowledge of which items sustain the unauthorised use. To me, step 2) is sufficiently precise and clear and does not give rise to misinterpretation or confusion. I therefore conclude that nothing short of full compliance would remedy the breach and the requirements are proportionate and not excessive. Implied appeal on ground (f) fails.

Ground (g) – is the period of compliance reasonable?

21. The breach of planning controls should not be allowed to continue more than necessary given the harm caused by the development. That said, I disagree with the Council's argument and find 3 months to be unreasonable given the nature of the work required by the notice. An extended period of 6 months would address the appellant's concern about adverse weather conditions and is a reasonable period to make alternative arrangements without causing hardship and, potentially, affect human rights, which I have considered. Ground (g) succeeds to this extent.

Conclusion

22. For all the above reasons and having considered all other matters raised, I conclude that the appeal against the enforcement notice should fail on ground (b), (c), (d), and (f). As I have varied the period of compliance, ground (g) succeeds to that extent.

A U Ghaffoor

INSPECTOR