



Appeal Decisions

No site visit made

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2026

Appeal A Ref: APP/R1038/C/25/3362300

Appeal B Ref: APP/R1038/C/25/3362301

Carr Barn Farm, Moorwood Moor Lane, Wessington DE55 6DU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”).
 - Appeal A is made by Mrs Amanda Smith and Appeal B is made by Mr Jonathan Smith against an enforcement notice (“EN”) issued by North East Derbyshire District Council.
 - The EN was issued on 3 February 2025.
 - The breach of planning control as alleged in the EN is:
 1. Without planning permission, building operations comprising the erection of an implement store (annotated for the purposes of identification hatched black on the attached plan 21/00055/OD_EN-Plan and 21/00055/OD_EN-Plan 2).
 2. Without planning permission, building operations comprising the erection of a log store/kennel (annotated for the purposes of identification hatched blue on the attached plan 21/00055/OD_EN-Plan and 21/00055/OD_EN-Plan 2).
 - The requirements of the EN are to:
 - a) Demolish the implement store (hatched black) and remove all resultant materials from the Land.
 - b) Demolish the log store/kennel building (hatched blue) and remove all resultant materials from the Land.
 - c) Restore the Land to its former condition before the breach took place.
 - The periods for compliance with the requirements are: a) and b) Two months; c) Three months.
 - The appeals are proceeding on the ground set out in section 174(2)(g) of the 1990 Act.
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Decision

1. The appeals are dismissed and the EN is upheld.

Preliminary Matters

2. The planning merits of the development are irrelevant to an appeal under ground (g). As such, a site visit would not help me reach a decision. I therefore advised the main parties of my intention to determine the appeals without a site visit.
3. I acknowledge the comments of the Parish Council. However, the matters raised concern the planning merits of the development which I am unable to consider in a ground (g) appeal.

Appeals A and B on Ground (g)

4. An appeal under ground (g) is that the period specified for compliance within the EN falls short of what should reasonably be allowed. The periods for compliance are two months to demolish the unauthorised implement store and log store/kennel (“the buildings”) and remove all resultant materials from the Land, and three months to restore the Land to its former condition.

5. The appellant has had a Preliminary Roost Assessment¹ ("PRA") conducted on the buildings. The PRA concludes that the buildings have a low roost value for bats. However, it advises that a bat emergence survey ("BES") is undertaken during the active bat season (optimal May to August, sub-optimal September) to confirm the presence or likely absence of a bat roost in the buildings.
6. The PRA also identifies two swallow's nests within the implement store and concludes that the buildings are suitable for nesting birds. Consequently, the PRA recommends that the buildings' demolition be undertaken outside the period 1 March to 31 August in any year. If this is not possible, then an ecologist must inspect the buildings prior to their demolition to confirm an absence of active nests.
7. The appellants assert that the compliance periods are insufficient for a BES to be undertaken during the active bat season. The appellants have not suggested an alternative timeframe, as it will be dependent on when the appeals are determined.
8. The appellants appealed solely under ground (g). Therefore, they have known since they submitted their appeals that they would have to comply with the requirements of the EN. The appeals were lodged on 13 March 2025. As such, the appellants have had significant time in the intervening period to undertake the BES. Furthermore, in determining the appeals, the two month compliance period for the demolition of the buildings would extend beyond the bird nesting period of 1 March to 31 August.
9. For these reasons, I do not find that the compliance period afforded by the EN falls short of what is reasonable. Therefore, the appeals on ground (g) fail.

Conclusion

10. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the EN.

A Berry

INSPECTOR

¹ Preliminary Roost Assessment, Arbtech, 12 March 2025