Planning Inspectorate

Appeal Decision

Site visit made on 8 July 2026

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2026

Appeal Ref: APP/F1040/C/25/3364229

Morcar Wood, Grangewood, Netherseal, Swadlincote DE12 8BH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Samuel Foord against an enforcement notice issued by South Derbyshire District Council.
- The notice was issued on 17 March 2025.
- The breach of planning control as alleged in the notice is 'the erection of a timber cabin and porch, along with the laying of pallet decking within the woodland in the approximate position marked with a cross on the attached plan. Also, the formation of a soundproof storage unit for services to support the timber cabin and temporary siting of a touring caravan during the period of construction'.
- The requirement of the notice is to permanently remove the timber cabin and porch, pallet decking, soundproof storage unit and touring caravan from the land.
- The period for compliance with the requirement is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

The ground (b) appeal

2. A ground (b) appeal is made when the Appellant claims that the breach of planning control alleged in the enforcement notice has not occurred as a matter of fact. The timber cabin and pallet decking, and the soundproof storage unit, were seen at the site visit and no claim is made that they were not on site on the date of issue of the notice. The Appellant also accepts that the touring caravan was on site on that date, though it was subsequently removed. The breach of planning control as alleged in the notice has therefore occurred as a matter of fact. The ground (b) appeal thus fails.

The grounds (c) appeal

3. A ground (c) appeal is made when the Appellant claims that there has not been a breach of planning control, usually because planning permission has been granted or it is development permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Planning permission has not been granted for any element of the breach of planning control. The Appellant, however, maintains that the development is permitted under Class E of Part 6 of the GPDO.

4. Development is permitted under Class E for the erection of a building on land used for forestry. The cabin and the storage unit are on forestry land of about two hectares

owned by the Appellant. Development under Class E is conditional; condition E.2(1)(a) requires that the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building. No such application was made to the authority before the development was begun. The development is not therefore development permitted under Class E of Part 6 of the GPDO. The ground (c) appeal thus fails.

The ground (a) appeal

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The application in this case is that deemed to have been made pursuant to the ground (a) appeal. The development plan in this case includes the South Derbyshire Local Plan (SDLP).

6. The forested appeal site is about two hectares and is within a wider forested area that is part of the National Forest. The site is, in policy terms, in a rural area.

7. The main issue in the ground (a) appeal is whether the development complies with SDLP policy that seeks to protect rural areas from unnecessary development.

8. SDLP policy BNE5 states that within rural areas of the district planning permission will be granted where the development is allowed for by other specified policies, is otherwise essential to a rural based activity, is unavoidable outside settlement boundaries, or is considered to be infill development, and will not unduly impact on, amongst other things, landscape character. No claim is made that the development is allowed for by other SDLP policies, is infill development, or was unavoidable.

9. The Appellant maintains his area of forest and other areas in the vicinity of about 20 hectares, though he stated in an email dated 4 June 2026 that "…I have not visited the site for a considerable period…" so it is not clear what maintenance responsibilities he carries out for his and other forested land. Nevertheless, the Appellant claims that the forestry buildings are "…intended to support and facilitate…forestry work by the provision of a tool/equipment sheds, store, work space, office and shelter…".

10. The Appellant has not challenged the Council's description of the cabin in the enforcement notice; "A site visit found that a timber cabin, consisting of two bedrooms, a shower room, an open plan kitchen and living area, with an open side timber porch, has been built in the woodland". The Appellant claims that he "…does not intend to locate a permanent residential dwelling outside of the settlement boundary". However, based on the Council's unchallenged description, the timber cabin is a two bedroom dwelling. It could be repurposed to provide support accommodation for forestry work but it is far too large for such a purpose on a site of only about 2 hectares even if the Appellant is genuinely responsible for the maintenance of other land.

11. The timber cabin, given its size and residential accommodation, is not essential for a rural based activity and the Appellant has provided no justification for the siting of a soundproof storage unit on the land (the touring caravan that is referred to in the breach of planning control can be disregarded as it has been removed from the land). The development that remains on the site of only about two hectares is, given its size and domestic appearance, incongruous and intrusive in its woodland setting. The development has an unduly detrimental impact on the landscape character of the area.

12. The remaining elements of the development that is the breach of planning control are not essential to a rural based activity, were not unavoidable outside a settlement boundary, are not infill development, and have an unduly detrimental impact on the landscape character of the area. The development conflicts with SDLP policy BNE5.

13. Evidence indicates that the Appellant has unspecified health issues but neither this matter nor any others mentioned in support of the ground (a) appeal, either individually or collectively, constitute the material considerations that would be required to justify a conclusion other than in accordance with the development plan.

14. The development conflicts with the development plan and there are no material considerations to justify a conclusion other than in accordance with the development plan. The ground (a) appeal thus fails.

The ground (f) appeal

15. The ground (f) appeal is unsubstantiated and the only remedy to the breach of planning control is the removal of the timber cabin and porch, its surrounding pallet decking and the soundproof storage unit. This is required by the enforcement notice and is not excessive. The ground (f) appeal thus fails.

The ground (g) appeal

16. The Appellant maintains that the compliance period of six months is too short but has not indicated what would be a reasonable period, and why. Without any reasoned justification to consider it would not be reasonable to vary the compliance period, which is, in any event, a reasonable period to comply with the requirement of the enforcement notice. The ground (g) appeal thus fails.

John Braithwaite

Inspector