

BOLSOVER DISTRICT COUNCIL

Meeting of the Planning Committee on 8th July 2026

Report: Appeal Decisions: January 2026 – June 2026

Report of the Development Management and Land Charges Planning Manager
(Prepared by Karen Wake)

Classification	This report is Public
Contact Officer	Karen Wake/Chris Whitmore

PURPOSE/SUMMARY OF REPORT

- To report the Planning Service’s performance against the Government’s quality of decision making targets.
- To report the appeal decisions made over the last reporting period and any issues arising / learning

REPORT DETAILS

1. Background

- 1.1 In November 2016 (updated December 2024) The Department for Communities and Local Government produced guidance entitled “Improving Planning Performance which included guidance on speed of Planning decisions and Quality of Planning Decisions. This report relates to the quality of decision-making targets.
- 1.2 The measure to be used is the percentage of the total number of decisions made by the authority on applications that are then subsequently overturned at appeal.
- 1.3 The threshold or designation on applications for both major and non-major development, above which a local planning authority is eligible for designation, is **10 per cent** of an authority’s total number of decisions on applications made during the assessment period being overturned at appeal.

During the Jan-June 2024 monitoring period the council had no appeals on major planning applications and three appeal decisions on non-major planning applications. All three of these appeals were dismissed. The council therefore successfully defended 100% of the appeals determined within that period. During the July-December 2024 monitoring period the council had no appeals on major planning applications and five appeal decisions on non-major planning applications. Two of these appeals were dismissed and three were allowed. However, this only equated to 1.66% of the number of non-major applications

determined within that period. During the July-December 2025 monitoring period the council had no appeal decisions on major planning applications and three appeal decisions on non-major planning applications. One of these appeals was dismissed and the other two were allowed. However, this only equated to 1.43% of the number of non-major applications determined within that period.

- 1.4 Following the first report of appeal decisions to Planning Committee in January 2019 it was agreed that appeal decisions continue to be reported to Committee members every 6 months.

2. Details of Appeal Performance within the Previous Six Months, Overall Performance and Reasons for Recommendation

- 2.1 The latest monitoring period is January – June 2026. During this period the council had no appeal decisions on major planning applications and three appeal decisions on non-major planning applications. Two of these appeals were dismissed and the other one was allowed. However, this only equates to 1.41% of the number of non-major applications determined within this period.
- 2.2 The council had one appeal decision against the refusal to grant prior approval for the conversion of barns to dwellings. That appeal was dismissed. The performance of Local Authorities in relation to the outcome of prior approval appeals is not being measured in the same way as planning appeals. However, it is considered useful to report these appeals within the same time period to address any issues or lessons learnt from these appeal decisions.
- 2.3 The council had two appeal decision against the issue of enforcement notices. The performance of Local Authorities in relation to the outcome of enforcement appeals is also not being measured in the same way as planning appeals. However, it is considered useful to report the enforcement appeals within the same time period to address any issues or lessons learnt from these appeal decisions. Two of these appeals were accompanied by an application for costs but in both cases the costs application was dismissed.
- 2.4 The assessment period for the quality of decisions is two years up to and including the most recent quarter for which data on planning application decisions are available. No appeals have been made in respect of applications for major development over this period and only six appeals against decisions to refuse planning permission for non-major development have been allowed. This comprises only 1.02% of the total number of decisions on applications for such development, far exceeding the government target for no more than 10% of decisions being allowed at appeal.
- 2.4 The lack of appeals generally against planning decisions taken indicates current decision making is sound and the Council's performance in successfully defending decisions at appeal is good, with 57% of the total number of appeals received in the two year assessment period being dismissed. It is recommended that the appeal performance and this report be noted and that members continue to be briefed on appeal decisions and performance on an ongoing 6 monthly basis to learn from the decisions made and ensure quality of decision-making meets and exceeds government targets.

3 Alternative Options and Reasons for Rejection

- 3.1 An alternative option would be to not publish appeal decisions to members. It is however considered useful to report decisions due to the threat of intervention if the council does not meet the nationally set targets. Members of Planning Committee should understand the soundness of decision making and soundness of Planning Policies.
- 3.2 In the June 2021 internal audit, the process of reporting appeal decisions to Planning Committee and reflecting on decisions taken was reported. The process supported the Planning Department achieving 'substantial' reassurance in the latest internal audit of 'Planning Processes and Appeals'.
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RECOMMENDATION(S)

1. That the quality of decision making / appeal performance and report be noted.
 2. That appeal decisions continue to be reported to Committee members every 6 months.
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IMPLICATIONS:

<u>Finance and Risk</u> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Details: Costs can be awarded against the council if an appeal is lost, and the council has acted unreasonably The council can be put into special measures if it does not meet its targets		
<u>Legal (including Data Protection)</u> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Details: Appeal documents are publicly available to view online. Responsibility for data is PINS during the appeal process. Decisions are open to challenge but only on procedural matters.		
<u>Staffing</u> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Details: Factored into normal officer workload and if original application report is thorough, it reduces the additional work created by a written representations appeal. Additional workload created if the appeal is a hearing or public enquiry.		

Equality and Diversity, and Consultation

Yes No

Details:

Consultation and publicity is carried out with each application and appeal. Consultations on this report of appeal decisions is not necessary.

By monitoring appeal decisions, it allows us to check that equality considerations are considered correctly in the assessment of planning applications. There have been no appeal decisions reporting equalities have been incorrectly addressed.

Environment Yes No

Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment.

Sound planning decision ensures the environmental objective of achieving sustainable development, namely to protect and enhance the natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy is met.

DECISION INFORMATION:

Please indicate which threshold applies:

Is the decision a Key Decision?

A Key Decision is an Executive decision which has a significant impact on two or more wards in the District or which results in income or expenditure to the Council above the following thresholds:

Yes No

Revenue (a) Results in the Council making Revenue Savings of £75,000 or more or **(b)** Results in the Council incurring Revenue Expenditure of £75,000 or more.

(a) (b)

Capital (a) Results in the Council making Capital Income of £150,000 or more or **(b)** Results in the Council incurring Capital Expenditure of £150,000 or more.

(a) (b)

District Wards Significantly Affected:

(to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District)

Please state below which wards are affected or tick **All** if all wards are affected:

All

Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If No, is the call-in period to be waived in respect of the decision(s) proposed within this report? <i>(decisions may only be classified as exempt from call-in with the agreement of the Monitoring Officer)</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Consultation carried out: <i>(this is any consultation carried out prior to the report being presented for approval)</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Leader <input type="checkbox"/> Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	

Links to Council Ambition: Customers, Economy, Environment, Housing

DOCUMENT INFORMATION:

Appendix No 1	<u>Planning Appeal Decisions Period January 2026 – June 2026</u>
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Appeal Ref: 6001694: Field at Mansfield Road/Main Street, Chesterfield S446LE

The application was in part retrospective for the change of use from agricultural land into a dog exercise field, the retrospective creation of an access, proposed hardstanding, fencing/gate. The application was refused.

Main Issues

The main issues were:

- The effects of the proposed development on highway safety along Main Street;
- Whether the site is in a suitable location for the proposed use, having regard to relevant development plan policies for development in the countryside, and the effects of the proposal on the character and appearance of the countryside;
- Whether the site is in a suitable location for the proposed use, having regard to the accessibility of the site; and
- The effects of the proposed development on biodiversity.

Conclusion

The Inspector considered that the visibility from the proposed access was restricted by hedgerows in both directions which lie outside of the land controlled by the appellant and were not to be removed. The change of use would result in a significant increase in vehicular activity and even if the new field entrance was in a safer position than the previous position, when linked with the proposed change of use, and the increase in vehicular movements, it would result in an increased risk of collisions overall. The potential consequences from such collisions would be significant and unacceptable.

The Inspector concluded the proposed development would have an unacceptable effect on highway safety along Main Street, in conflict with the requirements of Policies ITCR10 and ITCR11 of the Local Plan and paragraphs 115 and 116 of the National Planning Policy Framework

The Inspector concluded that the site was located in open countryside but there would likely be limited availability of such land in an urban area and this would need to involve a field in a countryside location. As such, he concluded that the proposal would amount to a small-scale employment use related to a recreational use in accordance with criterion C) of Policy SS9 of the Local Plan and that this type of recreational use would not be unusual in a countryside location and did not have an unacceptably urbanising effect on the rural area in accordance with policies SS3, SS9, SC2 and SC3 of the Local Plan.

The Inspector considered the site could not be reached by a footpath or public transport connections and there was no opportunity to improve the scope for access on foot, by cycling or by public transport such that there would be a reliance on private vehicles to access the facility. However, trips from these settlements would be short and dogs that use these types of facilities are generally not able or suitable to walk in public places and would not therefore use public transport. This meant even if alternative sustainable transport options were available, users would still arrive by private vehicle, but many dog walkers would regularly drive into the countryside to exercise their dogs with or without such a facility.

In this regard, paragraph 89 of the Framework recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The Inspector concluded that, given this type of use is typically found in a rural location, the short distances to settlements, the modest scale of the operations, and user preferences, the environmental effects of private car travel arising from the scheme would be limited. On this basis the Inspector concluded that the proposal would not be supported by Policies SS1 and ITCR10 of the Local Plan, however, given the particular circumstances of this use and location, the site was in a suitable location for the proposed use, having regard to the accessibility of the site.

The Inspector agreed that the scheme was retrospective and therefore did not need to be assessed against the Statutory BNG requirements and there was no indication that biodiversity enhancements could not be achieved. The Inspector considered a scheme of biodiversity enhancements could be required by condition in accordance with the requirements of Policy SC9 of the Local Plan.

The Inspector concluded that the development would have an unacceptable effect on highway safety along Main Street, which conflicted with the development plan and that

the other material considerations were not sufficient to indicate that the appeal should be decided other than in accordance with it.

The appeal was dismissed.

Recommendation

None

Whilst the Inspector considered the proposal complied with policies SS1, SS3, SS9, SC2 SC3 and SC9 of the Local Plan, it did not comply with policies ITCR10 and ITCR11. The Inspector afforded this more weight and the decision was made in accordance with Local plan policies ITCR10 and ITCR11. The Inspector agreed with the interpretation of these policies.

Appeal Ref: 6002116: Castle Hill Farm, Walls Lane, Whitwell Common, S80 3HE

The application was for the erection of a stable block. The application was refused.

Main Issues

The main issue for consideration was:

- The main issue was the effect of the proposed development upon the character and appearance of the appeal site and the wider landscape.

Conclusion

The Inspector considered that although the proposed stable block is located away from the existing house and outbuildings, the positioning would not result in a material harm to the character or appearance of either the site or the wider landscape. This was because the wider setting comprises rolling agricultural fields within which farmsteads of varying sizes and configurations, often with buildings in relatively close proximity to each other to promote a functional farmstead. The Inspector considered this site to be different because the residential property on site provided a central focal point, with its substantial, imposing form at the heart of the site contributing to a distinctly developed and managed character. Consequently, he considered the site to be defined by the presence of large, visually prominent structures, distinguishing it from the simpler, more agrarian appearance of other farmsteads in the surrounding area. In this context, the Inspector considered that the siting of a smaller building away from the dominant central dwelling and its peripheral structures would not appear incongruous and would not be perceived as unusual within this particular and specific setting.

The Inspector also considered that the distance between the proposed stable and the existing dwelling would not appear unusually large, due to the presence of connecting infrastructure in the form of a horse paddock in between them. The Inspector considered the paddock added to the developed and managed appearance of the appeal site, even if it didn't constitute as a typical built form. In addition, the Inspector considered the existing stables and workshop were of a similar size and materials, making the proposal characteristic of this specific location when viewed across the landscape.

The Inspector concluded that the proposed development would not conflict with Policies SS9, SC3 and SC2 of the Local Plan as collectively, these policies seek for

development to respect the form, scale and character of the landscape, which also responds to the established character and local distinctiveness.

The appeal was allowed, and planning permission was granted subject to conditions requiring compliance with the approved plans, details of materials and the stables to be for private use incidental to the occupation of the dwelling on site.

Recommendation

None.

Consideration should be given to the wording of Policy SS9 when the Local Plan is reviewed to consider giving further definition to what is appropriate for development in the countryside.

The decision was made in accordance with Local plan policies SS9, SC3 and SC2. The Inspector took a different view on the interpretation of these policies. The existing policies relating to development in the countryside are generally in line with the National Planning Policy Framework.

Appeal Ref: 6001960 The Dove Loft, Astwith Lane, Astwith, Derbyshire S45 8AN

The application was for a single storey extension to a dwelling which had previously been converted from an agricultural outbuilding. The application was refused.

Main Issues

The main issue for consideration was whether the proposed development would preserve or enhance the character or appearance of the Astwith Conservation Area (ACA).

Conclusion

The Inspector considered that the property retained the defining characteristics of the ACA including its stone construction and gabled, slate roof and although both it, and other buildings in this group had been extended and altered over time, their agricultural origins remained legible. Consequently, these buildings made a positive contribution to the historic rural character of the area and, in doing so, to the significance of the ACA.

The Inspector considered that the proposed extension, due to its scale and siting on the front elevation of the property, would form a visually dominant addition that would detract from the simple and traditional form of The Dove Loft. Even accounting for the previous extension to the property, the proposal would erode the ability to understand and appreciate the building's previous use as an agricultural building. He also considered that its crenelated roof design would appear particularly incongruous and would jar with the traditional form of the host building, that of neighbouring properties, and the prevailing form of development in the wider ACA.

The Inspector acknowledged that the site occupied a secluded with only partial views from outside the site but considered a lack of visibility does not negate the need for good design that responds to its surroundings. He considered the proposed extension by virtue of its siting, scale, and design would represent a harmful addition to the existing dwelling that would fail to preserve or enhance the character and appearance of the ACA.

The Inspector considered the development would result in the lower end of less than substantial harm and this harm should be weighed against any public benefits deriving from the proposal. In this instance the Inspector recognised the economic benefit associated with construction and the social benefit of providing accessible accommodation but felt these benefits would be modest and insufficient to outweigh the harm to the heritage asset.

The Inspector concluded that the development would neither preserve or enhance the character or appearance of the ACA and it would therefore conflict with policies SS9, SC3, SC16 and SC21 of the Local Plan for Bolsover District

The Inspector gave due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, as the proposal has been designed to provide an accessible ground floor washroom facility for the owner, who is disabled. Whilst this was considered a matter of importance which I afforded considerable weight, the development would be permanent regardless of the needs of future occupiers and it was unclear as to whether the same outcome could not be met by other, less harmful, means. Therefore, the Inspector concluded that the harms to heritage assets identified are such that a dismissal of the appeal would be a proportionate and necessary response that would not be outweighed by the requirements of the PSED.

The Inspector concluded that The Framework confirms, amongst other things, that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The proposal would be contrary to the development plan and the material considerations in this instance did not justify a decision other than in accordance with it.

The appeal was dismissed.

Recommendation

None.

The Inspector agreed with the council’s recommendation to refuse the application and the interpretation of policies SS9, SC3, SC16 and SC21 of the Local Plan for Bolsover District. The policies relating to the development are generally in line with the National Planning Policy Framework.

Appendix No 2	<u>Prior Approval Application Appeal Decisions Period Jan 2026 – June 2026</u>
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Appeal Ref: 6006564: Stockley Farm, Palterton, Chesterfield, S44 6UY

The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning General Permitted Development Order (GPDO) for the conversion of four agricultural buildings to dwellings and creation of a new access. The application was refused as it did not have a suitable access.

Main Issues

The main issue for consideration was whether the development would be permitted under paragraph Q.1 of Class Q GPDO.

Conclusion

The Inspector concluded that the existing site access was unsafe and as such the site didn't currently have a suitable access for the proposed development and therefore did not comply with the requirements set out in Schedule 2, Part 3, Class Q paragraph Q1(p) of the GPDO and so would not constitute permitted development.

The appeal was dismissed.

Recommendation

None.

The Inspector agreed with the council's recommendation to refuse the application and the council's interpretation of the requirements of Schedule 2, Part 3, Class Q paragraph Q1(p) of the GPDO.

Appendix No 3	<u>Enforcement Notice Appeal Decisions Period January 2026 – June 2026</u>
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Appeal Ref: APP/R1010/C/25/3360850: Land to 3 Park Street (also known as South Lodge), Barlborough, Chesterfield S43 4ES

An appeal was submitted against an enforcement notice issued by the council requiring the permanent removal of 2 unauthorised freestanding pergola structures and the permanent removal of unauthorised timber boundary fencing to the northern and eastern boundaries within 3 months of the date of the notice.

The appeal was proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since the appeal was brought on ground (a), an application for planning permission was deemed to have been made under section 177(5) of the Act. Appeals on ground (a) are made on the basis that planning permission should be granted for the development alleged in the notice.

Main Issues

The main issues were:

- whether the development preserved the Grade II listed South Lodge and its setting;
- the effect of the development on the significance of the Grade II Registered Park and Garden (RPG) and the setting and significance of the Grade I listed Hall; and
- whether the development preserves the character or appearance of the Conservation Area (CA.)

Conclusions

The Inspector acknowledged that pergolas are typical garden features, and that there are stone columns at the Hall but considered the use of timber and stone columns in the pergola bore little relationship with the design of South Lodge and appeared as uncharacteristic additions within its setting. The Inspector felt they drew attention away from the Lodge's high-quality architectural features and intruded into the open garden area thereby diminishing the way that this listed building was experienced and as a result the pergolas had a harmful effect on the setting, and the significance, of the Grade II listed building.

The Inspector considered that although the historic fabric of the listed building had not

been affected, and the pergolas were reversible additions, such factors do not materially reduce the harm identified. In addition, the intention was to retain these structures in the long-term, such that the harm would be long lasting.

The Inspector considered that the trellis roof of the pergolas and the top of the columns were visible from outside of the site and due to their disproportionate scale and use of inappropriate materials they appeared incongruous within the immediate setting of South Lodge. Consequently, they had a harmful effect the significance of the Grade II Registered Park and Garden(RPG), and thereby the wider setting of the Hall, and, additionally, harmed the character and appearance of the Conservation Area.

The Inspector considered by reason of its height, materials and design, the largely solid, vertical timber boarded fence that had been erected on the northern and eastern boundary had an overtly urban appearance in stark contrast with the open, pastoral character of the RPG. Despite the hedge planted next to the fence, the fence enclosed the property in a way which severed the historical visual relationship between South Lodge and South Park, thereby harming the significance of the RPG, and, in turn, the significance of the Hall. In doing so it also adversely affected the character and appearance of the Conservation Area.

The Inspector found the harm to the significance of the designated heritage assets to be less than substantial but was nevertheless of considerable importance and weight. Under such circumstances, this harm should be weighed against the public benefits of the proposal. Any benefits found in this instance, the Inspector found to be primarily private benefits not public. The only public benefits arising from the development was considered to be the contribution they made to the continued residential occupation of South Lodge which adds to the housing supply and secures the optimal use of a listed building. Accordingly, they were not sufficient to outweigh the identified harm to the listed buildings, the RPG and the Conservation Area.

The Inspector concluded that the development harmed the Grade II listed South Lodge and its setting, the significance of the Grade II RPG and thereby the setting and significance of the Grade I listed Barlborough Hall, and the character and appearance of the Conservation Area. Consequently, it was contrary to policies SS1, SC2, SC3, SC17 and SC20 of the Local Plan.

The appellant under the Human Rights Act 1998 (HRA) their rights would be violated if the appeal were dismissed. However, the Inspector attached substantial weight to the identified harm to heritage assets and the appellant's needs for privacy and shade only moderate weight that did not clearly outweigh that harm.

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

A costs application was made with this appeal, but that application was refused. The Inspector acknowledged that prior to taking action, the Council are required to have due regard to the PSED. Having 'due regard' is understood to mean consciously thinking about the three aims of the Equality Duty as part of the decision-making process. There was no reference to PSED in the officer report that gave notice of the delegated decision to take enforcement action, or within the Council's statement of case and as such the Inspector felt there was no indication that the Council had a proper

appreciation of the potential impact of the decision to take enforcement action on equality objectives and the desirability of promote them. The Inspector considered that this amounted to unreasonable behaviour. However, the Inspector concluded that even if the Council carried out its duty this would not have changed its decision to issue the enforcement notice and avoided an appeal. Therefore, this hadn't caused the appellant unnecessary expense in the appeal process.

Recommendation

Officers must ensure that the regard given to PSED when considering planning applications and when considering whether to take enforcement action is evidenced by reference in delegated reports, reports to committee and in appeal statements.

The decision was made in accordance with policies SS1, SC2, SC3, SC17 and SC20 of the Local Plan the relevant paragraphs in the NPPF. The Inspector agreed with the interpretation of these policies.

The requirements and time periods set out in the enforcement notice were considered reasonable and appropriate by the Inspector.

Appeal A Ref: APP/R1010/C/24/3345082 Appeal B Ref: APP/R1010/C/24/3345083: Land Southwest of Beaumont Cottage, Hilcote Lane, Hilcote, Alfreton DE55 5HR

The appeals were made under section 174 of the Town and Country Planning Act 1990 (as amended).

Appeal A was made against an enforcement notice issued by the Council alleging that without planning permission:

- (a) the change of use of The Land from agricultural use to a dog training and exercise facility (sui generis) and the siting of an associated caravan, and;
- (b) unauthorised building and operational development comprising the erection of associated 1.8m high metal perimeter fencing,

The requirements of the notice were to:

- Cease the use of the land as a dog training and exercise facility.
- Permanently remove the caravan used in associated with the dog training and exercising facility from the land.
- Permanently remove the 1.8m high metal perimeter fencing from the land.
- Permanently remove the unauthorised storage buildings from the land.
- The periods for compliance with the requirements were:
 - Requirements a) and b), 1 month
 - Requirements c) and d), 3 months.

Appeal A and Appeal B on ground (b)

The issue in the ground (b) appeals was whether as a matter of fact the breach of planning control alleged in the enforcement notice (EN) has occurred.

The appellants' case was, that whilst the Land has been used for dog training and exercising in the past, that use ceased in December 2022 and with that being the case, the caravan can no longer be associated with that use. The Inspector concluded that the wording in S174(2)(b) of the Act is "that those matters have not occurred". It is worded in the past tense. The breach had occurred by the date of issue of the EN and the caravan was initially brought onto the Land to support and in association with the

dog walking and exercising use. The matters alleged in the notice therefore had occurred as a matter of fact. The appeals on ground (b) therefore failed.

Appeal A and Appeal B on ground (c)

The issue in the appeals on ground (c) was that those matters do not constitute a breach of planning control. On this legal ground of appeal, the burden of proof falls on the appellants to make out their case.

10. It is the appellants' case that the perimeter fencing is permitted development arising from Article 3, Schedule 2, Part 2, Class A.1 (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO). Furthermore, they do not consider that the siting of the caravan is a use of land and assert that the siting of the metal storage container is not operational development.

The Inspector concluded that the siting of the caravan was a breach of planning control but the erection of the 1.8m high fence was not. The appeals on ground (c) therefore succeeded to the extent that it relate to the erection of the 1.8m high fence.

Appeal on ground (a), deemed planning application

The appellant advised that the dog training and dog exercise use had ceased and the Land was now being used for the keeping of farm animals, sheep and goats, for which planning permission had been granted. The appeal on ground (a) therefore did not seek planning permission for the material change of use to a dog training and dog exercise facility, only for the operational development, which was the perimeter fencing and timber storage buildings on the Land. The appellant was also seeking to retain the caravan on the Land for use in association with the keeping of farm animals.

As set out above, the Inspector found that the perimeter fencing was lawful, therefore in regard to the appeal on ground (a) the perimeter fencing, did not need to be considered.

The Inspector considered the main issue for consideration for the timber buildings was the effect of the buildings on the character and appearance of the area. The Inspector agreed with the council that the buildings were of suitable scale, appearance and materials for rural buildings but that the siting made them visually prominent and they should be located closer to the site entrance in the position they had previously been approved where they would have a less harmful effect on the open character of the countryside. The Inspector therefore concluded that the timber building would be acceptable for the use in connection with agriculture subject to a condition requiring the large timber building to be re-sited to the position previously approved and subject to such a condition it would comply with the provisions of the development plan, including Policies SS9 and SC3 of the Local Plan.

The appeal on ground (a) succeeded in part and to the extent that it related to the two timber buildings, one being re-positioned.

Appeal A and Appeal B on ground (f)

An appeal on ground (f) is made on the basis 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.

The purpose of the notice was to remedy the breach of planning control since the use was to cease and the operational development referred to was to be removed in its entirety. The Inspector considered that, given the above findings, the appeals on ground

(f) do not need to be considered in so far as they relate to the fencing and timber buildings. However, the Inspector found that the requirement to remove the caravan used in association with the dog training, etc, was not excessive and the appeal on ground (f) which relates to the caravan failed.

Overall Conclusion on Appeal A

The Inspector concluded that Appeal A should succeed in part only and granted planning permission for the timber storage buildings but otherwise upheld the notice with corrections and variations and refused to grant planning permission in respect of the other part of the matters.

Overall Conclusion on Appeal B

The Inspector concluded that the appeal on ground (b) failed, but it succeeded in part on ground (c), and in so far as it related to the perimeter fencing. The notice was upheld with corrections and variations.

A costs application was made with this appeal, but that application was refused.

The Inspector considered the enforcement notice clearly set out why the Council considered it expedient to issue the notice and included all the policies in the development plan which were relevant to the decision to issue an enforcement notice. The Inspector found that the harm identified to the character and appearance of the countryside from the timber building could be mitigated by a condition. However, that decision was a matter of professional judgement, and the Inspector was satisfied that the Council adequately substantiated its reasons for issuing the notice in the statement of case and the appeal could not have been avoided.

The Inspector therefore concluded unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and an award of costs was not justified.

Recommendation

Officers must carefully consider each element of a proposed development and the specific wording used to describe a development when issuing an enforcements notice.

The decision was made in accordance with policies SS9 and SC3 of the Local Plan and the relevant paragraphs in the NPPF. The Inspector agreed with the interpretation of these policies.

The requirements and time periods set out in the enforcement notice were considered reasonable and appropriate by the Inspector in relation to the parts of the notice which were upheld.

Background Papers
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i>