
11. **PLANNING APPEALS MONTHLY REPORT (A.1536/BJT)**

1. **APPEALS LODGED**

The following appeals have been lodged during this month.

<u>Reference</u>	<u>Details</u>	<u>Method of Appeal</u>	<u>Committee/ Delegated</u>
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None

2. **APPEALS WITHDRAWN**

There have been no appeals withdrawn during this month.

None

3. **APPEALS DECIDED**

The following appeals have been decided during this month.

<u>Reference</u>	<u>Details</u>	<u>Method of Appeal</u>	<u>Decision</u>	<u>Committee/ Delegated</u>
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6005596 NP/DDD/0725/0683	For the development of land without complying with conditions subject to which a previous planning permission was granted at Newhaven Caravan Park, Newhaven.	Written Representation	Dismissed	Delegated
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The **main issues** were described as the effect of varying the condition on holiday accommodation within the National Park; and whether the variation accords with the National Park's strategy for the location of development.

The Inspector first explored the intent of the condition controlling occupation and found that the intent was not solely to limit the occupation by an individual family but, more significantly, to drive the second purpose of the National Park (promoting the understanding and enjoyment of the special qualities of the area by the public) and enable greater opportunity by more people to enjoy the area, as opposed the exclusivity to one owner that would otherwise come about.

The second area of assessment related to the locational strategy for permanent residential housing. The Inspector is clear that without a condition restricting occupancy, the proposal would effectively result in permanent residential accommodation.

The proposed condition would restrict the use of the caravans to holiday purposes only, preventing their use as a person's sole, or main place of residence. Plus the Inspector felt that a register of the names of all occupiers and of their main home addresses would assist in the enforceability of the proposed condition. The appellant contended that Condition 3 would prevent the static caravans being privately sold to individuals, having a significant impact on the viability and deliverability of the development. However no financial evidence to support this claim was provided and so the Inspector ascribed this issue limited weight.

As such the appeal was dismissed.

3367251 NP/DDD/0125/0048	Lawful Development certificate for a proposed siting of caravan to provide additional accommodation for family of homeowners at 13 Sherwood Road, Tideswell.	Written Representation	Dismissed	Delegated
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In this case the Inspector considered **two main issues**. Firstly, whether the proposed caravan would meet the definition of a 'caravan' pursuant to section 29 of the Caravan Sites and Control of Development Act 1960 as qualified by Section 13(1) of the Caravan Sites Act 1968; and secondly whether the caravan would be for a purpose incidental to the enjoyment of the dwelling known as Wellyarde and that the proposed use would not create a separate dwelling independent of the existing residential unit.

In these cases the onus of proving the relevant facts rests with the appellant, and the standard of evidence is the balance of probabilities.

With respect to whether the proposed caravan met the definition of a caravan case law has established that it is necessary for it to be demonstrated that a 'caravan' can be moved without damaging its structural integrity. In Brightlingsea Haven the key test of mobility when assembled is that the structure must be capable of being towed on a road or being carried on a road sufficiently to ascertain that it can be moved from one place to another.

In this case the Inspector considered that the evidence fell short of demonstrating that the 'caravan' the subject of the current appeal can successfully be moved from one place to another without its structure being significantly affected.

Moreover the Inspector understood that the structure is designed to rest on a steel chassis with lifting eyelets which allow it to be craned and transported without being taken apart and that no permanent foundations are required. However, these factors did not sufficiently persuade the Inspector that the 'caravan' in question met the mobility test. Therefore, the proposed 'caravan' fails to meet the definition of a 'caravan' pursuant to section 29 of the 'Caravan Sites and Control of Development Act 1960 as qualified by Section 13(1) of the Caravan Sites Act 1968.

In terms of whether the caravan would be incidental to the enjoyment of the dwellinghouse the Inspector considered that from the evidence submitted the 'caravan' would be occupied as a separate independent residential unit when the main dwelling was being let out as holiday accommodation to unrelated people. This may take place for a significant part of the year.

To meet with the requirements of s55(2)(d) of the 1990 Act, the activity taking place in the 'caravan' must be reasonably incidental to the normal use of the dwellinghouse as a dwellinghouse. The Inspector felt that, as a consequence of the specific interchangeable nature of different types of occupation and uses that were proposed in this case, that could not be said.

The Inspector therefore concluded that the Authority's refusal to grant a certificate of lawful use or development in respect of the siting of a caravan to provide additional accommodation for the family of homeowners was well-founded and that the appeal should fail.

3364767 Enforcement Notice	Enforcement notice against the siting of a former mobile library and other buildings, agricultural field situated immediately adjacent to the highway B6054 to the East of Owler Bar, Holmesfield	Written Representation	Dismissed	Delegated
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This appeal is made under 3 different grounds.

A ground (c) appeal was made on the misunderstanding that an element of the building group was permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended with respect to agricultural and forestry in Part 6 of Schedule 2. However, this is not the case. Development is permitted under Class E (forestry developments) subject to conditions, including E.2 – (1) (a) which states that development consisting of the erection of a building is permitted subject to “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”. Unfortunately, in this case the applicant did not apply for a determination of prior approval and therefore **the appeal failed on this ground.**

A ground (d) appeal was made in relation to the “compost toilet” element. To succeed on this ground, it would be necessary to show that it had been substantially completed four years before the notice was issued. Evidence produced indicated to the inspector that the building was only “substantially completed between July 2021 and April 2023 when a roof and door were added to some existing fence structures. Since those works were carried out after 9 July 2021, the building was not substantially complete before that date, which is less than four years prior to the enforcement notice being served. As such **the appeal failed on this ground.**

A ground (a) appeal was made in connection with the main planning issues relating to landscape impacts and consideration of whether it had been demonstrated that the development was functionally required for the purposes of its current use.

In these respects the Inspector first considered that the development group was scattered and related poorly to the local landscape character. Moreover it was argued that the development including “the New Building” and “the Compost Toilet” are functionally required as part of the afforestation and farming activities, including weatherproof space for storing seeds, plants, tools, equipment, carrying out research, providing shelter for workers and rainwater collection.

The overall appeal site is relatively small and for the agricultural and forestry operations carried out there is insufficient evidence why tools, equipment, seeds and other items cannot be brought to the site when needed rather than being stored there permanently. I understand that the building is also used for some research purposes but there remains a lack of evidence relating to the overall extent and scale of development carried out in relation to the scale of those activities.

No formal functional test had been carried out, and the appellant’s submissions fell short of the detailed requirements of DME1 to demonstrate that the development is functionally required for the purposes of the current use of the land. The Inspector accepted it may be desirable for there to be a building on site to serve a range of purposes but that falls short of the development plan requirements. Therefore, the development conflicts with Policy DME1 of the DM Policies.

As such the appeal failed on ground (a) and therefore the appeal was dismissed and the enforcement notice upheld.

6006028 NP/CEC/1025/1086	The proposed replacement dwelling at Keepers Cottage, Moorside Lane, Pott Shrigley	Written Representation	Dismissed	Committee
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The main issue was described as the effect of the proposal on the character and appearance of the area having regard to whether the appeal property is a non-designated heritage asset and bearing in mind it is within the Peak District National Park and within the settings of the Lyme Park grade II* listed registered park and garden and the Lyme Park Conservation Area.

The appeal property is a modest detached dwelling with limited built form around it. It sits prominently, set into a hillside overlooking a valley and the boundaries of the Lyme Park grade II* listed registered park and garden (RPG) and the Lyme Park Conservation Area (CA). Keepers Cottage is an early C19 gamekeeper's cottage built from stone and timber framing. It has been extended and significantly altered, including the installation of plastic windows set in enlarged openings and a large side extension. Through its low height, it retains its modest appearance and through its isolated hillside position, its obvious historical relationship with the landscape is evident.

The National Park Authority had considered the property to be a non-designated heritage asset. However, following evidence from a structural report and consideration of later changes to the building the Inspector states that "visually, the side extension and modern replacement windows set in enlarged openings have already eroded the traditional character of the prominent main front elevation facing the valley." "Moreover, whilst the historic roof structure and some remaining timber framing is evident, the work detailed in the structural evidence would leave very limited intact traditional architectural detailing and the rebuilding of the front wall and re-roofing would further erode the traditional appearance of the dwelling."

As a result the Inspector disagreed with the Authority view that the building be regarded as a non-designated heritage asset. Nevertheless, the Inspector continued to consider the effect of the proposal on the National Park, along with the Lyme Park Registered Park and Garden and the Lyme Park Conservation Area. With the weight of heritage and landscape interest the impact of the proposal is considered to be adverse. The proposed main front elevation facing the valley, with formally and largely symmetrical fenestration, incorporating large window openings with prominent stone heads and cills would give the appearance of a substantial modern dwelling.

In the view of the Inspector, the proposed dwelling would be far more visually prominent from the west than the building it would replace. The large areas of formally arranged glazing would be particularly conspicuous when illuminated after dark, increasing the visual presence of the proposed building within the landscape.

In principle, a larger building could be acceptable, however **"the proposal would replace a building that appears humble, quaint and subordinate to its surroundings with one that draws attention to itself as a substantial modern executive style dwelling"**. This change would be prominent in the landscape setting of the CA and the RPG harming the setting and significance of these designated heritage assets. For the same reasons it would also fail to preserve the natural beauty of the Peak District National Park in conflict with its statutory purposes.

As such the appeal was dismissed.

4. **RECOMMENDATION:**

To note the report.