

Planning legislation and small woodlands

Lucy Nichol offers a basic guide to the law relating to forestry buildings and other woodland development.



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Woodland Development: Clissett Wood's workshop and kitchen. Reproduced from the book Living Wood by Mike Abbott.

Planning controls over forestry are fairly simple on the face of it. Planning permission is not required for forestry work (except where there is a Tree Preservation Order) and may not be needed for buildings or uses of land necessary for forestry. However, planning permission is always required for non-forestry uses of land, buildings or any other form of development.

Sheds, workshops and tracks

A range of forest buildings can be erected without normal planning permission. This includes the erection, extension or alteration of a forestry building, such as a tool shed, store, office or shelter, or putting in a "private way" (access track). This is called **Permitted Development (PD)** and details are contained in Part 7 (Forestry Buildings and Operations) of the General Permitted Development Order 1995 (GPDO).

Any building or track must be used for the purposes of forestry and not, for example, primarily for leisure or educational activities. Unlike agricultural PD rights (Part 6), there are no restrictions on the size of the forestry building, no requirement that the forestry must be run as a trade or business (so hobby forestry is OK as long as it is forestry) and no stipulation that it must relate to forestry operations only on that unit. Full PD rights also apply to any size of forestry holding, whereas, for agriculture, there are reduced PD rights for holdings less than 5 hectares. A small anomaly is that osier growing counts as agriculture and therefore the two tier agricultural PD system applies, with less generous PD rights for holdings smaller than 5 hectares.

To qualify as Permitted Development, a building that is erected cannot be used as a dwelling, cannot be within 25 metres of a classified road, and must be "reasonably necessary" for the purposes of forestry. Also, any building must be designed for the purpose for which it is

intended, so a forestry hut that looks like a house, or even is capable of providing overnight shelter, is not allowed as PD.

A condition of Permitted Development rights for forestry is that you must give advance notice to the local planning authority of what you intend to do. This system is called the **Prior Notification Procedure** (or the Determination Procedure) and involves filling in a simple form and providing a map and drawing. The planners then have 28 days in which to notify you that your development should not begin without their prior approval of the siting, design and external appearance. At this point they could also reject the proposal as not "reasonably necessary" for the purposes of forestry.

A precedent set by the planning appeal, T/APP/V2255/A/97/286193/P7, provides a useful

guide to what can be erected in a woodland setting. In this case, the Inspector allowed a 6 by 18 metre wooden building for the storage of equipment, as a workspace for producing fence posts, and as an office with washroom facilities, all of which was deemed necessary for managing a 21 hectare coppice woodland in Kent.

Using a **caravan** for forestry purposes, such as storage, shelter for workers or as an office, is another matter. Provided the caravan is not for residential use, it falls completely outside planning controls, and you do not need to ask the planning authority in advance. According to the Caravan Sites Act 1968, the legal definition of a caravan includes mobile homes and self-built structures. Under this definition, there is no necessity for the caravan to have wheels, as long as it is under the size limit (60 feet long, 20 feet wide and 10 feet high), can be delivered in no more than two sections by lorry, and is capable of being moved in one piece along a road when assembled.

Residential use

You will not be surprised to hear that it is extremely unusual to get planning permission for a dwelling in a wood. There have been a few successful cases, for instance involving charcoal burners in West Sussex and Hertfordshire, where a full-time forester has been allowed to build a cabin or site a caravan. In such cases, there are stringent tests of business viability and functional need applied to an enterprise, so if you are managing your woodland for primarily recreational or conservation reasons, permission would almost certainly be denied.

Any building used as a dwelling requires planning permission. Even a structure which is not a building but is used for residential purposes requires permission (the planning system controls not only the erection of buildings, but also any change of use of land and buildings). For this reason, a vehicle, caravan, railway carriage, yurt or any form of temporary structure in which a person is living requires planning permission, wheels or no wheels.

However, there is an allowance for forestry workers to live in **caravans** in woods during a particular season while carrying out forestry work (see Part 5 of the General Permitted Development Order 1995). The forestry worker must use a caravan that fits the legal definition (see above) but there is no clear ruling on how long a season can go on for; in 1993, the High Court merely concluded that a season is "less than a year"!

Part 4 of the GPDO may be of interest to those not working in forestry but wanting occasionally to stay overnight in their woodland. According to this section, on a holding exceeding 5 acres, up to three caravans can be stationed for human habitation at any one time, provided that the site is not used for this purpose for more than 28 days in a year.

Crafts and processing of wood

The processing and finishing of wood is a grey area within planning law. There is no relevant definition of forestry in the Planning Acts, so it is unclear whether activities such as charcoal burning, greenwood turnery, planing or mushroom cultivation are to be regarded as ancillary uses to forestry, or as a material change of use.

On a very small scale, processing activities will be considered *de minimis* (trifling or legally insignificant). However, above this level, processing is more legally problematic. In 1986, a Judge found that converting trees to hewn poles or logs was "forestry", but that planing, shaping or sawing logs into specified dimensions was "carpentry". This tough line has been mirrored in cases of log-sawing, the manufacture of fire-lighters and making charcoal. However, an important precedent was set in 2000 (*Millington v Secretary of State for Environment*). In this case, a Judge found that processing which is "reasonably necessary to

make the product marketable or disposable for profit" (in this case making wine into grapes) was an ancillary use to growing the raw material, and would therefore not need permission.

Whatever your intention in a woodland, it is important that, before embarking on any development, you seek planning advice, liaise with the local planning authority (normally the District Council), and read up on the relevant literature yourself. This article is intended as a general guide only and the circumstances of individual situations may mean that specific restrictions apply.

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Further reading

Lucy Nichol, Simon Fairlie, Ben Law and Russell Rowley (2000) *Planning for sustainable woodlands* Chapter 7/Small Woods Association. Available on the Chapter 7 web site (www.tlio.org.uk) or from the Small Woods Association head office.

Town and Country Planning (General Permitted Development Order) 1995, SI No. 418.

Chapter 7 (2002) *DIY Planning Briefings*. Available from Chapter 7. Tel: 01460 249 204.

Victor Moore (2002) *A Practical Approach to Planning Law* Blackstone Press.

To find out more about planning for sustainable woodlands, turn to Simon Fairlie's opinion article on page 19.

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