



Appeal Decision

Site visit made on 6 October 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th October 2025

Appeal Ref: APP/C1435/C/23/3328925

Land at Sunnyvale Cottage, Lines Farm Estate, Parrock Lane, Colemans Hatch, Hartfield, East Sussex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr A Elliott against an enforcement notice issued by Wealden District Council on 2 August 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of a log cabin for use as a dwelling and the associated creation of a residential curtilage.
- The requirements of the notice are: (i) Demolish, dismantle and remove the Dwelling from the Land, including all fixtures and fittings and any related base or foundations. (ii) Remove all domestic paraphernalia from the Land including, but not limited to, paving slabs, decking, planters, external lighting, garden furniture, and gas cylinders. (iii) Infill any holes or depressions in the Land arising from compliance with the above requirements with soil from the Land to marry in with the contours of adjacent undisturbed land. (iv) Remove from the Land all materials, rubble, rubbish, plant, tools and equipment arising from compliance with the above requirements.
- The period for compliance with the requirements is six months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(d) and (f) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

The notice

1. The notice relates to the erection of a building. I am aware that the appellant has previously claimed that the log cabin is a caravan which does not comprise operational development. The Council previously accepted this claim; however, no such arguments have been put forward as part of the appeal and there is no appeal under grounds (b) or (c). Indeed, the appellant now states the log cabin is 'clearly not a caravan' and their case under ground (d) relates to operational development. None of the evidence leads me to find, as a matter of fact and degree, that the log cabin is a caravan, and I therefore see no reason to interfere with the description of the alleged breach of planning control in this regard.
2. The notice also alleges the creation of a residential curtilage in association with the log cabin. There is no allegation of a material change in the use of any land and 'residential curtilage' is not a use of land in any case. Moreover, the requirements of the notice do not refer to a residential curtilage or any use of the land. I shall therefore correct the description of the alleged breach by deleting reference to residential curtilage. This will not cause injustice to any parties, as it will remain open to the Council to take further enforcement action if an unauthorised material change of use of any land has taken place or takes place in the future.

Ground (d)

3. To succeed under this ground the appellant needs to show, on the balance of probabilities, that at the date when the notice was issued no enforcement action could be taken in respect of the log cabin.
4. Section 171B of the Act provides that where unauthorised operational development was substantially complete prior to 24 April 2024, no enforcement action may be taken after the end of the period of four years beginning with the date on which those operations were substantially completed. The notice was issued on 2 August 2023 and the relevant date for the purpose of the appeal under ground (d) is therefore 2 August 2019. It is the appellant's case that the log cabin was erected on a prepared area during July 2019.
5. Case law confirms that the onus is on the appellant to make out their case and that their evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
6. Copies of invoices have been provided by the appellant for: a mobile home from Hortons Portable Buildings; digger hire from J & J Mini Diggers; and the installation of 'final fix electrics' to a new log cabin by PDC Landscaping. The descriptions of the items listed in the Hortons Portable Buildings invoice are consistent with the log cabin, while the invoice also refers to the site and is signed and dated 7 July 2019, with a handwritten note stating 'customer requests delivery by July 14th'. The J & J Mini Diggers invoice is signed and dated 8 July 2019, refers to the site, and relates to a job description of 'digger hire' for the dates '7th – 8th'. The PDC Landscaping invoice is dated 23 July 2019 and refers to electrical works within the walls and roof cavity of 'the new Log Cabin currently being built' at the site.
7. Planning permission was sought by the appellant for development described as 'retrospective application for the change of use of land to ancillary residential use and the stationing of a timber framed caravan to be used as an annexe' in May 2021, with that wording claimed to have been suggested by the Council when it invited the application. At section 5 of the application form, the appellant stated the development started on 3 September 2019 and was completed on 1 November 2020.
8. A copy of a further invoice has been provided by the Council from Coppard Plant Hire Ltd, which is dated 23 August 2019 and refers to 'schwing mobile concrete pump with operator' and 5 cubic metres of concrete pump mix and water, relating to the site address for 20 August. That invoice is addressed to A.J. Barnes trading as Barnes Refurbishment from an address in Crawley. The Council has included a redacted email with that invoice, which states 'I can confirm that Mr Elliot's retrospective planning application would be correct and the log cabin wouldn't have been built until early September into October'. The email goes on to claim that the Coppard Plant Hire Ltd invoice relates to 'the concrete pads required to support the moveable steel base needed for the structure to be built off'. The appellant has disputed that concrete was delivered to the site for that purpose at that time, and has suggested the invoice may have related to a driveway, drainage, repairs and/or refurbishments undertaken by Barnes Refurbishment, as

there were several concrete deliveries and that company were undertaking various works around that time.

9. The full extent of the works involved in the erection of the log cabin remain unclear and there is a lack of clear evidence to support the claims made by the appellant. The invoices provided are helpful, but the claims are not supported by any dated photographs, statutory declarations, further dated receipts/invoices/correspondence, or detailed descriptions of the specific dates on which specific operations were undertaken. For example, the Hortons Portable Buildings invoice provides little to convince me that the log cabin was actually delivered by 14 July 2019 as requested by the appellant; there is no confirmation of what the mini digger may have been used for; and the PDC Landscaping invoice refers to a log cabin in the process of being built on 23 July 2019, less than two weeks before the relevant date. Overall, there is very limited precise and unambiguous evidence to support the appellant's claims.
10. The email and invoice provided by the Council contradict the appellant's claims, but these are also undetailed. The appellant has provided credible explanations for the claims made in those documents, and the source of that email and the circumstances under which the documents were provided remains unknown.
11. The dates provided by the appellant at section 5 of the planning application form somewhat contradict the appellant's claims in the appeal, but they were provided in response to generic questions with a change of use in mind. Furthermore, there is no evidence that the appellant was assisted in the completion of the application form by a person with expertise in such matters. I do not, therefore, take the answers in the application form as reliable proof that works on the erection of the log cabin did not commence until September 2019.
12. Notwithstanding the lack of reliable and detailed contradictory evidence from the Council, I find that the appellant has not provided sufficiently precise and unambiguous evidence to support their claims. It has not been shown, on the balance of probabilities, that the log cabin was substantially complete at least four years before the notice was issued.
13. The appeal under ground (d) therefore fails.

Ground (f)

14. To succeed under this ground of appeal the appellant needs to show that the steps required to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused.
15. The notice requires the demolition of the log cabin along with any related base or foundations and the removal of all domestic paraphernalia, along with the infilling of any holes or depressions in the land and the removal of all waste and equipment arising from the demolition and removal of those items. The purpose of the notice is therefore to remedy the breach of planning control by restoring the land to its former condition, rather than to remedy any injury to amenity which may have been caused. It is necessary for me to consider whether the purpose of the notice can be achieved with less cost and disruption.

16. It has been suggested that the log cabin could be retained and used for agricultural/equestrian storage purposes, which could be secured by a condition attached to a planning permission, but there is no planning application before me and the notice cannot be varied to require the submission of a planning application. Moreover, retention of the log cabin on the basis that it would only be used for agricultural/equestrian storage would not remedy the breach and achieve the purpose of the notice. Therefore, even if the Council had previously suggested that the log cabin could remain on the land provided it was used for alternative purposes, I am unable to vary the requirements of the notice in that manner.
17. As set out at the beginning of this decision, the breach specified in the notice is the erection of the log cabin, rather than any material change of use. The placing of any domestic paraphernalia on the land did not facilitate the erection of the log cabin and is not part and parcel of that breach. For these reasons, Step (ii) of the notice is excessive to achieve the purpose of the notice.
18. I therefore find that other than Step (ii), the steps required to be taken do not exceed what is necessary to remedy the breach, and the purpose of the notice could not be achieved by alternative steps with less cost and disruption. I shall correct the notice accordingly, by deleting Step (ii).
19. The appeal succeeds in part under ground (f) insofar as I shall delete Step (ii) of the notice, but otherwise the appeal fails.

Conclusion

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

Formal Decision

21. It is directed that the enforcement notice is corrected by:
 - The deletion of the text 'and the associated creation of a residential curtilage' at section 3 of the enforcement notice; and
 - The deletion of the text '(ii) Remove all domestic paraphernalia from the Land including, but not limited to, paving slabs, decking, planters, external lighting, garden furniture, and gas cylinders' at section 5 of the enforcement notice.
22. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

L Douglas

INSPECTOR