



Appeal Decision

Site visit made on 7 October 2025

by Chris Preston BA(Hons), BPI, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2025

Appeal Ref: APP/B1415/C/24/3348260

Flat 1, 1 Emmanuel Road, HASTINGS, TN34 3LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Steve Holden against an enforcement notice issued by Hastings Borough Council.
 - The notice was issued on 20 June 2024.
 - The breach of planning control as alleged in the notice is the erection of a garden shed.
 - The requirements of the notice are to:
 - i) Demolish the unauthorised garden shed in its entirety, the location of which is marked with an 'x' on the attached plan; and
 - ii) Following the demolition of the unauthorised garden shed in its entirety remove all resulting structure, rubbish and debris from the land.
 - The period for compliance with the requirements is 3 months from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Applications for costs

2. An application for an award of costs has been made by Mr Steve Holden against Hastings Borough Council. That application is the subject of a separate decision.

Preliminary Matter

3. Representations have been received from an interested party who has commented on the planning merits of the structure in question. Those issues have been considered previously in the appeal made against the Council's decision to refuse to grant planning permission for the structure. The present appeal is made only on grounds (b) and (c) of section 174 of the Town and Country Planning Act 1990 (the Act) which relate to whether the alleged breach has occurred, as a matter of fact and, if it has, whether it amounts to a breach of planning control. Those are the only matters I can consider in my decision.

The Appeal on Ground (b)

4. In summary, the appellant's ground (b) appeal is based on the contention that he has not erected a garden shed, as alleged, but that the structure is a caravan falling within the definition set out within section 29(1) of the Caravan Sites and Control of Development Act 1960 (CSCDA).
5. Under that section "caravan" means any structure designed or adapted for human habitation, which is capable of being moved from one place to another (whether by

- being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, not including any railway rolling stock or a tent.
6. It is patently the case that the structure is not designed or adapted for human habitation. It is the size of a modest garden shed with a single room, no plumbing or running water, no sleeping area, no kitchen or cooking facilities, no bathroom and nothing that one would describe as a living room. It is used to store domestic tools and equipment. It does have an electricity supply with lighting and sockets for a computer, but it lacks all of the basic facilities required for day to day living.
 7. The appellant maintains that the “Jointkit” structure used in the construction process is a patented design primarily used in the United Nations High Commission for Refugees programme. However, refugees and displaced people are no doubt required to be housed temporarily in many types of accommodation that would not otherwise be considered to be habitable spaces. Thus, it does not follow that it is designed or adapted for human habitation in the sense of the CSCDA. Given the lack of basic amenities, it is clear that it is not the case.
 8. Accordingly, there is no need to consider the three tests of construction, mobility and size referred to by the appellant. Those tests are often applied when seeking to determine whether a structure that is designed or adapted for human habitation falls within the definition of a caravan. Given that the structure in this case is not designed or adapted for human habitation, it does not pass first base. Put simply, it is not a caravan it is a shed, as described in the enforcement notice.
 9. Like many sheds it appears to have been constructed from pre-cut kit timbers which made the frame, to which internal studwork and external cladding was attached. Once built, the structure is capable of being lifted from the ground in one piece, as demonstrated on the photographs provided. Nonetheless, it still represents operational development in my view, having regard to recognised tests of size, physical attachment to the ground and the degree of permanence.
 10. Caselaw has held that no one of those elements will be decisive and whether something amounts to a building will be a matter of fact and degree in any given case. The structure is not large but similar to a typical garden shed and substantial enough to sit under its own weight. Although it may be lifted in one piece it is not intended to be moved on any regular basis, having been in the same spot since 2019. There is nothing to indicate that the appellant has any intention of moving the structure and doing so wouldn’t be straightforward, given the connection to the electricity supply and need for a crane and lifting equipment. It has a substantial degree of permanence, akin to any other garden shed or outbuilding.
 11. Having regard to the above, the structure clearly falls within the definition of a building operation having regard to section 55(1) of the Act. It follows that a shed has been erected and that the matters alleged in the enforcement notice have occurred as a matter of fact. My conclusions relate very specifically to the structure in question and its characteristics. Consequently, reference to other appeal decisions does not lead me to alter my assessment because it is not clear that the circumstances are directly comparable.
 12. Therefore, the appeal on ground (b) must fail.

The Appeal on Ground (c)

13. As set out at section 57(1) of the Act planning permission is required for the carrying out of any development of land. Given that the shed amounts to development, planning permission was required for its erection. The Council refused a retrospective application for permission and an appeal against that decision was dismissed. Unless the shed amounts to “permitted development”, granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), it will amount to a breach of planning control.
14. The appellant’s case in respect of ground (c) is largely predicated on his assertion that the structure amounts to a caravan. It has not directly been put to me that the shed would amount to permitted development if I were to find that it was, in fact, a building. Under Class E, Part 1 of Schedule 2 of the GPDO the provision within the curtilage of a dwellinghouse of a building required for a purpose incidental to the enjoyment of that dwellinghouse would amount to permitted development.
15. However, for the purposes of interpretation, Article 2 of the GPDO identifies that a dwellinghouse will not include a building containing one or more flats, except in respect of certain classes of permitted development which does not include Class E of Part 1. The building in this case has been erected in the rear garden of a ground floor/ lower floor flat which makes up part of a larger building. As such, it cannot benefit from permitted development rights.
16. Thus, in the absence of planning permission, the shed amounts to a breach of planning control and the appeal on ground (c) must fail.

Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed and I shall uphold the enforcement notice.

Chris Preston

INSPECTOR