



Appeal Decision

Site visit made 8 November 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 18th November 2025

Appeal Ref: APP/C1435/C/22/3310518

Land at Old Tiles East, Hempstead Lane, Uckfield TN22 1DZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “1990 Act”).
- The appeal is made by Mr Maurice Lilley against an enforcement notice issued by the Wealden District Council.
- The enforcement notice was issued on 28 October 2022.
- The breach of planning control as alleged is the erection of a timber building.
- The requirements of the enforcement notice are to:
 - 1) Demolish, dismantle and remove the building.
 - 2) Break up and remove any compacted material and slabs/pad stones forming the foundation upon which the building is sited.
 - 3) Remove all raised on compacted ground around the TPO tree buttress by hand, avoiding damage to any stem bark.
 - 4) Remove and make safe all service connections to the building, including but not limited to, or plumbing, drainage and electrical connections, and
 - 5) remove from the land all materials, rubbish, rubble, debris, tools and equipment arising from compliance with the above requirements.
- The period for compliance is four months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the 1990 Act.

Summary of Decision: The enforcement notice is quashed, and planning permission is granted in the terms set out below in the formal decision.

Reasons

1. The **main issue** is the effect of the development upon the character and appearance of the street scene.
2. The appeal building is incomplete and is situated in the rear garden to Old Tiles East. The Council’s statement indicates that the timber building is intended for ancillary residential use, because it would provide bedrooms, bathroom and living accommodation. The building is 12.45 metres long, 6.8 m wide and 4.9 m high. It has a pitched roof and is elevated towards the southern end. Although it is offset from the boundaries, it is 1.15 m from the eastern boundary and 2.1 m from the rear boundary. In my assessment, given the nature, scale and type of structure erected, it is affixed to the ground by its own weight and cannot be moved. The structure does not fall within the statutory definition of a caravan or twin-unit mobile home.
3. The building is a large structure but the rear garden to Old Tiles East is not totally covered by the building and there is sufficient amenity space for the occupiers of the dwellinghouse. The building does not have an overbearing, awkward or disproportionate effect or relationship with the host or neighbouring dwellings.
4. The site is situated within a mainly residential area, and the street is characterised by mix of dwelling types located in large and landscaped plots. Established greenery, trees and

vegetation reinforce the leafy suburban quality of the street scene. The topography is such that the building is likely to be noticeable in views from within the adjacent streets and dwellings surrounding the site. The building does not have an overpowering visual impact, and it is seen in suburban and leafy context. Given the use of timber in its construction, I consider that, in its complete form, the structure is likely to visually integrate with its immediate surroundings.

5. The Council's statement of case, and interested parties, raise concerns about the proximity of the appeal building to a protected tree root zone. It appears pruning has been done to the tree's crown and deadwood removed. Representations submitted with the Council's bundle indicate that remedial work could be done to address these concerns. For example, removing soil or aggregate by hand tools to minimise damage to shallow roots. Stripping the soil should not occur below the original ground level: leave the ground level beneath the soil higher than the original level to minimise damage to feeder roots. Where soil has been piled around or behind tree buttresses this should also be removed by hand to minimise damage to stem bark, which can allow decay causing pathogens. A suitable light mulch layer should be applied on top of the soil.
6. Interested parties have also raised concerns about the loss in privacy by reason of overlooking, due to the location of openings. The dwellings to the rear, especially those in Spring Meadow, are unlikely to be adversely affected given the distance and existing boundary treatments. However, the topography and location suggest to me that future users of the appeal building are likely to have unimpeded and direct views of the rear garden to Red Tiles. This is because of the location of window openings in the elevation facing that property. Even with obscure glazing, the perception of being overlooked is likely to reduce the amenity value of the rear garden to Red Tiles. That feeling is likely to be exacerbated should the appeal building be occupied for the intended ancillary residential purposes.
7. The issues raised above need addressing to make the development acceptable in planning terms. I will consider whether suitable conditions can be imposed otherwise planning permission will have to be refused. A condition requiring remediation to the soil or aggregate within the root zone is feasible subject to the submission of a detailed scheme. Such a condition would address concerns about the effect of the development on the longevity of the protected tree. In addition, given the building is yet to be substantially completed, I consider that the windows overlooking the neighbour's property, Red Tiles, could be blocked up as part of that scheme thus address potential loss of privacy.
8. In situations where the development has already taken place, it is not feasible to impose a condition precedent or to require that outstanding details be agreed prior to the commencement or occupation of the development, regardless of the importance of those details. Therefore, when a condition is imposed that requires the submission and approval of details or a scheme for development which already exists, it is essential that the condition incorporates a sanction or enforcement mechanism. This is necessary to ensure compliance if the required details are not submitted or approved as stipulated.
9. The key feature of the retrospective condition is that the operational development permitted must be removed if the required detail or scheme is not implemented in accordance with the submitted details within the prescribed timescale. Alternatively, it is submitted on time but not approved and an appeal against the Council's refusal to approve the details submitted pursuant to the condition is not made on time or an appeal is dismissed, or the scheme is submitted and approved but not implemented within the prescribed timescale. In addition to a stipulation functionally linking the residential use of the building to the use of the main dwellinghouse, I consider a suitably worded condition requiring the submission and

implementation of details of work to the tree root zone and removal of windows facing Red Tiles, which meet the six tests, can be imposed.

10. Subject to the imposition of a suitably worded condition, and contrary to the Council's arguments, in my planning judgment, I find that the development does not have a materially harmful visual effect on the character and appearance of the street scene or locality. Accordingly, the development complies with saved policies GD1, EN12, EN27 and HG10 of the Wealden Local Plan 1998, and meets with policies SPO13 and WCS14 of the Wealden Core Strategy Local Plan 2013, which are broadly consistent with paragraph 8, 59 and 130 of the National Planning Policy Framework.

Formal decision

11. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, for the development already carried out, namely, the erection of a timber building, subject to the following conditions:
- 1) The building hereby approved shall not be used other than as part of the dwelling known as Old Tiles East.
 - 2) The building shall be demolished and all materials resulting from the demolition shall be removed within 4 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 6 months of the date of this decision details of remedial work, as specified in the Council's tree and landscape officer consultation response dated 21 April 2022, exhibited as appendix C to the Council's statement of case for these proceedings, and details of the removal of frames and complete blocking up of opening to the elevation facing the adjoining property, known as Red Tiles, hereinafter called "the scheme", shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been implemented and the development completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained and retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

A U Ghafoor

INSPECTOR