



Appeal Decision

Site visit made on 10 March 2026

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2026

Appeal Ref: APP/G5180/C/24/3343405

Land rear of 50 to 54 Cudham Lane North, Cudham, Sevenoaks

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Roger Gluck (GPE Ltd) against an enforcement notice issued by the Council of the London Borough of Bromley.
 - The notice was issued on 27 March 2024.
 - The breach of planning control as alleged in the notice is without the required planning permission, the material change of use from agricultural Land to the mixed use of timber processing and storage.
 - The requirements of the notice are to:
 - (a) Cease the use of the land for storage.
 - (b) Remove from the Land all stored items.
 - (c) Cease the use of the Land for timber processing.
 - (d) Remove from the Land all timber processing equipment and timber processing associated vehicles.
 - (e) Remove any resulting debris from the Land.
 - (f) Discontinue any use of the Land.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - Deleting the alleged breach of planning control in section 3 and substituting with “Without planning permission, the material change of use from agricultural land to timber processing”.
 - Deleting requirements (a), (b) and (f) in section 5.
 - Deleting requirement (d) in section 5 and substituting with “Remove from the Land all timber processing equipment, associated timber processing vehicles and all timber stored in connection with the unauthorised use.”
 - Renumbering requirements (c) (d) and (e) in section 5 as (a), (b) and (c) respectively.
 - Deleting two months as the period for compliance in section 6 and its substitution with six months.
2. Subject to the corrections and variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The appeal was made on grounds (c), (f) and (g). However, the appellant has raised an issue which falls under ground (b). Although that was raised at final comments stage, I am satisfied that I'm able to determine the appeal with that additional ground for the reasons set out below.
4. For legal grounds (b) and (c), the onus lies with the appellant to make his case on the balance of probabilities.
5. The Council's case raises concerns on matters relating to the Green Belt, highway safety and living conditions, and makes reference to its development plan policies and the National Planning Policy Framework. The appellant also raises issues over the purported compatibility of the use within the Green Belt and countryside.
6. However, for the avoidance of doubt, I am unable to consider such matters, insofar as they relate to the planning merits, as the appellant has not made an application for planning permission through a ground (a) appeal. Nevertheless, the nature of any likely, or potential effects, is relevant to my consideration of the ground (c) appeal as to whether a material change of use has occurred.

The Appeal on Ground (b)

7. An appeal on ground (b) is that the matters stated in the enforcement notice have not occurred as a matter of fact.
8. The alleged breach in this case is the material change of use from agricultural land to the mixed use of timber processing and storage.
9. The concept of a mixed use is one of two or more primary (or main) uses existing within the same planning unit. One is not incidental to the other, although there may be incidental uses associated with each primary use.
10. There is no suggestion that timber processing has not occurred. However, the appellant has sought to strongly refute the suggestion that a material change of use has occurred to [Class] B8 [storage and distribution]; he says there is no evidence of this, and the Council have not explained how this has occurred.
11. The Council's case explains that a retrospective application for temporary planning permission for the use of existing open ground for the purpose of storing mobile freezer trailers was refused on 4 July 2023, and that a subsequent appeal against that decision was dismissed on 26 February 2024¹.
12. As part of its questionnaire documents, the Council has provided a delegated report from July 2023, seeking authorisation to take enforcement action in respect of a material change of use of existing open land for the purpose of storing of mobile freezer units. It has also produced with its case a Planning Contravention Notice (PCN), dated 23 October 2023, regarding the placement of freezer trailers on the land.
13. However, no reference is made in the allegation or in the reasons for issuing the enforcement notice to the storage of mobile freezer units. Nor is there reference in the Council's statement of case to such storage, save for that set out in the relevant planning history section.

¹ Appeal Ref: APP/G5180/W/23/3325830

14. Around the same time as issuing the PCN, the Council says it received a retrospective planning application for the use of the land for timber processing for up to four days a week. That was refused on 23 February 2024².
15. The Council's case discusses that use, which is specifically referred to as part of the alleged breach, but also to logs being stored on site in builders' bags on pallets. That is evidently the storage aspect forming part of the alleged, single mixed use, rather than mobile freezer units. The appellant's evidence similarly refers to the storage of machinery and bags of pre-cut logs and explains that the logs are only on site for a small period of time following delivery before being moved off site again for delivery to customers.
16. The Council asserts that the storage of logs on site constitutes development, and that may well be the case if it were a conventional storage and distribution use, without a timber processing use. However, in this case, it is likely that the logs kept on site are those which are firstly there to be split into smaller logs, using log splitting machinery, and secondly to be bagged and then taken off-site for delivery as pre-cut timber fuel for heating. Such storage is therefore likely functionally related to the primary timber processing use, so is incidental in nature, rather than a conventional primary storage use in its own right. Keeping machinery on site for timber processing is also likely part and parcel of that use.
17. It follows, that the single mixed use alleged in the notice has not occurred, on the balance of probabilities. The allegation should therefore be corrected to "Without planning permission, the material change of use from agricultural land to timber processing". It logically follows that the requirement to cease the land for storage should also be deleted.
18. Even though the appellant did not specifically refute the storage use of the site until final comments stage, I would have arrived at the same conclusion having regard to the evidence and my ground (c) considerations set out below. It would therefore serve no purpose to revert to the parties on the hidden ground (b) appeal, which succeeds to the extent explained.

The Appeal on Ground (c)

19. A ground (c) appeal is that the matters do not constitute a breach of planning control.
20. For a material change of use to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree.
21. The appellant states that the land was used for dumping waste by the previous owner but does not seek to argue that the lawful use of the land is anything other than agricultural. That is therefore the baseline for assessing whether the use of the land for timber processing amounts to a material change of use.
22. The appellant seeks to highlight that there is no operational development on the site, no physical changes to the land and only occasional use of machinery for small periods of the day for up to four days a week. He says the only change in the character of the land is the occasional storage of one or two items of machinery and bags of pre-cut logs. As noted, he says that the logs are only on site for a

² Ref: 23/04113/FULL1

small period of time. The appellant thus argues that the activity is not of sufficient scale or intensity to amount to a material change of use of the land.

23. However, the alleged activity occurs on most days of a normal working week, which is significant compared to what can reasonably be expected through the conventional use of land for agricultural purposes.
24. The Council states that the appellant has indicated that logs are delivered to the site, cut and taken off site for delivery and the only vehicles used are a Ford Transit and a Ford Ranger and an 8' x 4' (2.4m x 1.2m) trailer, with only one vehicle delivering/collecting at any one time. Although I've not been provided with that specific information, it is agreed that the use represents a relatively low use of the site in terms of vehicle movements.
25. Nevertheless, the frequency, type and nature of the movements to and within the site would likely be different to that which would normally occur if the land were to be used for agricultural purposes. As the main part of the appeal site is situated to the rear of the residential properties at Nos 50 to 54 Cudham Lane North and is accessed via the drive alongside No 50, it is likely that the change in movements would be perceived by the occupants of those dwellings both in a visual sense and through additional noise. The same is likely to apply to the occupants of residential properties at the end of Spinney Way, given their proximity.
26. The Council also refer to the use of a forklift for loading the vehicles, a petrol log splitter and a log processor and the associated noise nuisance together with the discharge of fumes.
27. The appellant does not dispute the use of such plant but says the log splitter is used for no more than a "few hours" every week on a "handful of days" and amounts to a low-key operation. Nevertheless, in the absence of evidence to the contrary, the use of a petrol log splitter is likely to be a noisy operation.
28. The appellant states that the occasional use of agricultural machinery is not unusual within a rural area and refers to examples such as hedge trimming, ploughing, harvesting and general tree maintenance. He says that occasional log cutting is wholly compatible and consistent with these kinds of typical rural uses and would not result in harmful levels of noise generation. The appellant further argues that log processing as an ancillary agricultural operation would be virtually indistinguishable from what is occurring and could even be carried out more frequently.
29. I do not agree; if logs are brought onto the site for processing and then taken off site for sale, then it is unlikely to be an agricultural use. Moreover, a four day week commercial log processing operation is unlikely to be reasonably comparable in terms of the nature, frequency and duration of the use, compared to ancillary woodland management on farmland or the processing of timber for use within an agricultural unit.
30. Indeed, an agricultural field, for the most part, generates limited activity and very low levels of noise. As the notice in this case is concerned with a relatively small parcel of agricultural land, both aspects are likely to be restricted accordingly.
31. Consequently, given the proximity of neighbouring homes and the likely low levels of background noise, residents are likely to experience greater noise impacts, in

terms of noise levels, frequency and duration, than would normally arise from an agricultural use of the land.

32. The appellant argues that the suggestion of noise nuisance and fumes from machinery is not based in reality, and the Council has other statutory powers to control nuisance if it were to occur. However, that misses the point within the context of the ground (c) appeal, which is concerned with whether there has been a change in the character of the use; not whether it constitutes a statutory nuisance. To that end, the appellant has not provided information on the specific machinery used and why those purported effects are not real, despite the onus lying with him to make his case.
33. I note the appellant's view that the site is sufficiently spaced to carry out activities away from neighbouring properties, with only a small corner required, so there is no change in the character of the land as a whole. However, it is not shown how the use could be arranged which would avoid the change in the use of the land being perceived by the occupants of properties on Cudham Lane North and Spinney Way, given their proximity and the fairly limited size of the site.
34. Whilst the land may remain free or largely free of operational development, it is likely, based on the evidence before me, that the character of the activities carried out on the land, resulted in a material change of use, as a matter of fact and degree. Accordingly, the use of the land for timber processing constitutes a breach of planning control, on the balance of probabilities. The appeal on ground (c) fails.

The Appeal on Ground (f)

35. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or, as the case may be, the injury to amenity caused by the breach.
36. In this case, the breach as corrected is the material change of use of agricultural land to timber processing, whilst the corrected requirements are to cease that use and remove from the land all timber processing equipment, associated vehicles and stored timber, and any resultant debris. The notice also requires the discontinuance of any use of the land. The purpose of the notice must therefore be to remedy the breach of planning control.
37. I note that the appellant argues under ground (f), that it is not unreasonable to store some logs on the land, as on any site of this nature, trees would be cut down as part of ongoing land management, and logs would be stored until used, retained for ecological purposes or disposed of. However, as I have not found that a primary storage use has occurred under ground (b), I have deleted the corresponding requirement to cease the use of the land for that purpose. Moreover, I shall correct requirement (d) to specifically remove only the timber associated with the unauthorised use, rather than, for example, that arising from land management.
38. Notwithstanding the above, as part of his case the appellant argues that limited log storage would not harm the openness of the Green Belt so the steps required in the notice exceed what is reasonable in this respect. The appellant has also sought to highlight the ecological habitat benefits of storing logs on site. However, for the avoidance of doubt, since an appeal has not been made on ground (a), it is not open to me to consider matters relating to the planning merits under ground (f).

The only point at issue is whether the requirements exceed those necessary to remedy the alleged breach of planning control.

39. In that regard, requirement (f) is clearly excessive in that it would prevent the appellant from using the land in a way in which he would be entitled to do without planning permission, by relying on existing lawful use rights, including right of reversion under s57(4) of the 1990 Act, as well as rights under the GPDO³, and rights to carry out anything exempted from the definition of development under s55(2). I shall therefore correct the notice by deleting that requirement.
40. The appellant states that the notice should be quashed on that basis alone but that isn't substantiated further. In any case, I do not agree. The inclusion of that requirement does not render the notice hopelessly ambiguous and uncertain so as to render it a nullity. Nor is it a defect which renders it invalid. Rather, I am satisfied that I am able to correct the notice under the powers transferred to me by s176(1)(a) of the 1990 Act, without injustice to any party.
41. I find that the remainder of the corrected requirements tally with the corrected breach of planning control and are not excessive for the purposes of remedying the same.
42. The appeal on ground (f) succeeds to the extent explained.

The Appeal on Ground (g)

43. The ground (g) appeal is that the two months given to comply with the notice is too short.
44. The appellant says he owns no other land to which his business could be relocated, so would have to source and acquire a new site with the required permissions, then relocate the business and deal with all of the logistical issues arising. A period of 12 months is requested.
45. The appellant also states that without having new land to relocate the business to, he would be faced with having to close the business until new premises could be found, resulting in severe financial difficulties through loss of livelihood.
46. Moreover, he says that the demand for cut logs increases particularly towards the onset of autumn and winter and at the very least a period of 8 - 12 months would enable the appellant to see out the winter season and make arrangements to relocate the business.
47. On the basis of the purported infrequency of use and lack of planning harms, he does not consider that to be an unreasonable request, but in the absence of a ground (a) appeal, I have not considered the acceptability of the effects of the development; only whether they, in the context of the ground (c) appeal, result in or contribute to a significant difference in the character of the activities on the land from what has gone on previously, as a matter of fact and degree.
48. Although I agree that two months is too short, it is not shown that 12 months would be reasonably required to source and acquire an alternative site. Such a period is therefore excessive and tantamount to the timescales of a temporary planning

³ The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

permission. A period of eight months would also be excessive given the timing of my decision at the beginning of spring.

49. A period of six months would therefore strike a reasonable and proportionate balance between any difficulties the appellant may encounter and the public interest in this case.

50. The appeal on ground (g) succeeds to that extent.

Richard S Jones

INSPECTOR