



Appeal Decisions

Site visit made on 10 March 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2026

Appeal A Ref: APP/M3645/X/25/3358927

Land adjacent to 2 Carewell Cottages , St Piers Lane, Lingfield, Surrey, RH7 6PN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Ms Elizabeth Hadland against the decision of Tandridge District Council.
 - The application ref TA/2024/866, dated 11 August 2024, was refused by notice dated 19 December 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is forestry activities, including the processing, storing and drying of timber and the storage of associated equipment.
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Appeal B Ref: APP/M3645/W/25/3358925

2 Carewell Cottages, St Piers Lane, Lingfield, Surrey, RH7 6PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class E of the *Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)*.
 - The appeal is made by Ms Elizabeth Hadland against the decision of Tandridge District Council.
 - The application Ref is TA/2024/715/N.
 - The development proposed is described as '*Erection of Forestry Building – mono-pitch roof*'.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Application for Costs

3. An application for costs has been made by Ms Elizabeth Hadland against Tandridge District Council. This application is the subject of a separate decision.

Appeal A

Preliminary Matters

4. The application form, as originally submitted on 11 August 2024, and referred to above, indicated that the then existing use of the land involved forestry activities (including storing cords of timber, cutting these into logs, and the storage of processed wood), animal physiotherapy, and also equine activity. The application form was then amended twice, with versions dated 21 October and 29 October 2024.

5. As regards the equine related uses I note from the evidence that this has occurred on the land following the appellant moving there in 1999.
6. Nonetheless, the final version states the considered planning position on the land adjacent to 2 Carewell Cottages with its lawful use for *'forestry activities, including the processing, storing and drying of timber and the storage of associated equipment.'*
7. Accordingly, a LDC is requested for the same.
8. In the circumstances I am taking the application date as that of 29 October 2024.

The legal position

9. In an appeal under s195 of the Act, against the refusal of a LDC, the burden of proof is upon the appellant who will need to demonstrate that the use as claimed has occurred throughout in an unauthorised basis and enjoys immunity from planning enforcement action on the balance of probability due to the passage of time. Accordingly, the key is that the evidence should be precise and unambiguous to this end.
10. Where LDCs are involved the planning merits of the development applied for do not fall to be considered. Instead, the decision will be based strictly on evidential fact, planning legislation and, where relevant, case law.

Main Issue

11. The main issue in this appeal is whether, on the balance of probability, the land has been used for the purposes claimed and, if so, whether it was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990.

Reasons

12. S191(2) says that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them because the time for enforcement action has expired, and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
13. A ten year immunity bar applies for any material change in the use of the land. Accordingly, the appellant's case has to demonstrate that the said use was occurring on 29 October 2014, and had continued on an uninterrupted basis until at least 29 October 2024.
14. At this point, taking Appeals A and B together, the crux of the matter is whether the use(s) claimed constitute one of forestry so as to allow for the erection of the proposed building under Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). There is no statutory or judicial definition of 'forestry', but it may be reasonably assumed that, for the purpose of planning legislation, it involves the practice of planting, managing and caring for woodland generally.
15. More specifically, the processing, storage and drying of timber can perhaps be considered a forestry use, but only if these activities are strictly ancillary – directly related and subordinate – to the management of the woodland where the timber was grown.

16. The appellant has provided an unsigned statutory declaration to illustrate her case. This says that, from 2001, logs were delivered, stored at the site, and allowed to dry. It confirms that, in October 2018, planning permission was granted (ref TA/2018/1251) for the erection of a tractor and log store.
17. Turning to the above application I note the contents of its accompanying supporting statement, whereby it is stated:

'The purpose of the building is to provide a domestic store for the use of the dwelling's occupants, together with associated equipment...' (para 5.2)

'The design has been prepared around the domestic needs of the house and maintenance of garden land...' (para 5.5)
18. To illustrate that the building was reasonably required for household needs some technical information is then provided, summarising as follows:

'The wood would be sourced from close to the site itself and consist of damaged/felled trees/branches from the applicant's and other properties in the immediate locality which would otherwise go to waste. This system is designed around sustainable living and energy production in a rural dwelling occupied by residents engaged in domestic scale eco-friendly activities.' (para 5.5)
19. Supporting statements are also provided from Christopher Goard, Sandra Annett and Rosie Langbridge. The latter two are specifically concerned with equine activity previously undertaken at the site but Mr Goard says that he first met the appellant in 2000, when his cousin delivered logs to the site.
20. The appellant's submissions indicates that the timber is sourced from Buck Hurst Wood, an area of commercial woodland, which is currently under her ownership. Mr Goard says that the purchase was completed in 2023, and he mentions that timber has been brought from the wood to the appeal site. I note, though, that this is some distance from the appeal site. Further, I note from Elizabeth Lockwood's supporting statement – she is a local ward councillor and also sits on Dormansland Parish Council – that between 1999 and 2023, the timber was *'brought in from a range of sources'*. Indeed, insofar as the supporting material submitted for this appeal extends, no documented details have been provided to this end.
21. The covering letter for the subsequent LDC application indicates that, following the store's erection, the timber continued to be processed at the site, with various machinery and equipment purchased to aid the lifting, stacking, cutting, splitting and storing of timber. The letter goes on to say that the timber was sawn, split, seasoned and dried at the site. It also mentions that a significant amount of timber was and continues to be used by the applicant/appellant, with all excess timber sold and delivered to customers.
22. The above information gets to the heart of the main issue which is to examine whether the said activities can be reasonably seen to constitute a use in their own right; in other words a primary commercial use for forestry purposes, or whether they fall mainly within domestic activities relating to the adjoining residential use of 2 Carewell Cottages. The appeal site, the first section of which takes the form of a yard containing some functional buildings, lies immediately beyond the residential curtilage, bounded only by a small garden gate, and the land is within the ownership and control of the appellant. The yard transitions to a grassed area.

23. The land has seemingly been used by the appellant and her family for a variety of purposes during the relevant ten year period, including equine related activities, along with the processing, drying and storage of timber. Vehicular access is gained via gates off a track which runs to the side of no 2.
24. I note that the tractor and log store replaced a previous stable building, and at my visit I observed that, along with a limited amount of chopped timber openly stored in small piles, there were two tractors at the site, some machinery, and an assortment of articles such as pallets and tarpaulin.
25. The appellant refers to the planning unit. Given the physical arrangement and the fact that the appellant and her family appear to regularly access the yard from the garden gate at the rear of no 2's curtilage and utilise its buildings and equipment stored therein, I am of the view that there is a single unit of occupation here within which the occupiers carry out a variety of activities which are not necessarily incidental or ancillary to one another.
26. The appellant makes reference to the comments of a previous appeal Inspector in the decision letter (*APP/M3645/W/24/3339155*) which related to the use of an adjacent piece of land. The Inspector mentions that, at his site visit in June 2024, he observed a wood processing area within the rear garden of no 2. This might be the case, but it is hardly determinative given the degree of proof required of the appellant.
27. She also refers to the court judgement of *Farleyler v SoS Scotland* [1992] which established that stockpiling and transferring timber off-site qualifies as a 'forestry operation', even if the storage area is located a significant distance from the actual plantation. In the case of *Farleyler*, the distance was some 1,500m, but this is considerably less than is the case here as, by my estimations, Buck Hurst Wood, Markbeech, is approximately 7 miles or a drive of some 15 minutes from the appeal site.
28. Off-site stockpiling was functionally essential to manage the Farleyler plantations, which strongly indicates that scale is also an issue, and the judges ruled that 'forestry' includes all operations necessary to render timber marketable. This would obviously include extraction and stockpiling for onward removal. Although Scottish case law is not binding on English statute there can be an element of persuasive authority. Nonetheless, when drawing a comparison with the current case, the use of the appeal site is apparently low key to the point where it might not be reasonably essential to the wider commercial enterprise.
29. Conclusions drawn by Inspectors in other appeal decisions are site sensitive, relating to individual circumstances and, as such, parallels are not easily drawn. However, the Council has drawn my attention to past decisions relating to different sites where the issue of whether the particular activities undertaken constitute a forestry operation have been discussed.
30. In *APP/H2265/W/18/3218714* the Inspector mentioned that the trees, once felled, are removed and taken to the appeal site. He then comments as to the processing, cutting, drying and storage of the timber and says that these would represent 'a *follow up activity taking place after the actual forestry operations*', concluding that this would not be for the purposes of forestry, but rather as a timber processing facility. Other Inspectors have raised the issue of scale, in terms of relatively small sites and, realistically, their very limited role, if at all, in the wider forestry operation.

31. More specifically, in the current case, it would appear from the various evidence provided, and the appellant's previous representations, that the timber was used primarily for domestic purposes, with the remainder sold. As a commercial element, though, apart from an invoice from Kempner (Plant hire and groundwork) which merely refers to 'tipper load logs' I have seen no accounts or documentary evidence which would give some indication as to the ratio of split between the domestic use and otherwise. Accordingly, the evidence is neither precise nor unambiguous to confirm that definable forestry activities here constitute the primary use of the site which would require the benefit of planning permission.
32. This reinforces my view that 2 Carewell Cottages – the dwelling and its curtilage – along with the adjacent appeal site constitutes a single planning unit, due to its frequency of use and an apparent close connection with the occupiers' livelihoods.
33. I am not of the view, from the evidence before me, that the use of the land is particularly intensive nor, from my reading of the main parties' evidence in full, that there has been a material change in the use of the land to the point where the Council could have reasonably taken enforcement action during the relevant ten year period. The evidence does show, though, that there is now a clear connection between the site and Buck Hurst Wood, whereby both are said to constitute a single Forestry Unit, and that the Rural Payments Agency find the distance between the sites as satisfactory for registration.
34. The appellant indicates that this arrangement is necessary to implement the 2023 Woodland Management Plan. This, though, has not been provided as a complete document within the appeal papers, so I am unable to comment on this matter. However, there has seemingly been a change of circumstances brought about by the new arrangement which has implications for the use of the appeal site.
35. A further consideration, though, is that the woodland has an area of 10.79 hectares, but the appeal site measures only 0.56 hectares – of which only part is used for the timber related use – Given this, I am not convinced, from the evidence adduced, that the use of the appeal site can necessarily be an essential element of the 2023 Woodland Management Plan. For instance, I have not been made aware as to whether the timber might also be processed and stored at other sites. Such an issue was raised by a previous Inspector on a different site and, in his decision letter, when commenting on scale, he says that he finds it difficult to conceive of any circumstances where the management of a plot of only 0.56ha – an identical area to the current site – could reasonably considered to be forestry (*APP/X0360/C/19/3234843*).
36. Related to the above, my attention has been drawn to the fact that a building for forestry purposes was permitted under Schedule 2, Part 6, Class E, by Sevenoaks District Council in January 2025, to be erected on a piece of land close to Buck Hurst Wood. The approval was granted some seven months after the application, the subject of Appeal B, was refused. The applicant is Elizabeth Hadland, the current appellant. I am not aware of whether this approved development is/has been implemented.
37. That said, for the appellant, to say that the appeal can be allowed should the Inspector be satisfied that the functional link with Buck Hurst Wood began a new planning chapter is to misunderstand that immunity from planning control, due to the passage of time, needs to be demonstrated. In other words, the appellant is

first required to demonstrate that a breach of planning control has occurred continuously for a period of at least ten years, during which time the Council would have been able to take enforcement action, yet chose not to, or were unaware as to the contravention. Here, the connection with Buck Hurst Wood only seemingly commenced some time following its purchase in 2023, and this s195 appeal cannot, therefore, turn on such.

38. In the above regard, I note that planning enforcement officers have visited the site, on previous occasions, yet no action was taken as they considered that the use of the land was primarily domestic related. Aerial photographic evidence does suggest that there has been an increase in the amount of timber being brought to the appeal site since 2013, and further still since 2023. As I have mentioned, the openly stored stockpiles were not considerable, but timber may be stored under cover. Further, the Council do not appear to suggest that there has been a definable change in the character of the use of the land in terms of both on-site and off-site effects. Significant intensification is not apparent and, as mentioned, the appellant is required to demonstrate that the use claimed, and its significance, has carried on continuously for a period of at least ten years.
39. That aside, I note the appellant's comments that a change of use to forestry does not amount to development requiring planning permission. In this regard I am wondering whether a s191 application was the correct vehicle for the appellant's case. Alternatively, an application for the same, made under s192, would have asked the Council whether, in its opinion, the use of the land for forestry purposes would require the benefit of planning permission. If not, then a LDC would be issued. Admittedly, the appellant is of the view that a forestry activity use is already occurring, but such an application would have still required a determination by the Council.
40. I have had regard to all the material supplied by the appellant, whether or not I have specifically referred to it. I have particularly concentrated on the evidence central to the main issue I have identified and, with this in mind, I have found that some of the information supplied is peripheral at best and is not determinative as to the planning position and the lawful use of the land.

Conclusions

41. Whilst I accept that the land has been used for the processing, storage and drying of timber, the crucial issue is whether this can be defined as a 'forestry activity'. I would suggest that, given all the factors involved in this case, reference to 'forestry', at least prior to the changed operations in 2023 – and for which the details provided are somewhat limited - goes beyond the actuality of the use which was occurring and is a somewhat tenuous connection. The domestic/commercial split has not been detailed, nor relative quantities, except that the appellant's previous comments suggested that the timber was used mainly for domestic purposes, with the excess sold.
42. On the balance of probabilities, therefore, I must conclude that the use, as claimed on the application form, has not occurred over the relevant ten year period, and the appellant has not discharged the burden of proof required.
43. As it stands, therefore, from the evidence available to me, I am of the opinion, that there has likely been no significant change in the planning position during this period and, considering that timber has been brought to the site since 1999/2000,

it would appear that there has been no material change in the use of the land that would have necessitated the benefit of planning permission throughout this period.

44. For the reasons given above I conclude that, on the evidence available, the Council's refusal to grant a certificate of lawful use or development in respect of the use claimed was well founded, and that the appeal should be dismissed. I shall exercise the powers transferred to me under section 195(3) of the 1990 Act, as amended.

Appeal B

45. Schedule 2, Part 6, Class E of the GPDO allows development reasonably necessary for the purposes of forestry, including the erection of a building. Given my findings, and the fact that, despite the 2023 purchase, I have no details of the actual arrangement as it stood on 28 June 2024 (the date of the application), and the quantity of timber being regularly brought to the appeal site. Things may have since moved on, but a reassessment would now be required with the factors I have highlighted properly addressed to allow for such.
46. Currently, the evidence available is not so compelling as to reach the conclusion that the use of the appeal site is primarily and essentially a forestry activity. It must then follow that the erection of a building on the land would not satisfy the requirements and limitations of Class E.
47. I have had regard to the various evidence provided by the appellant in relation to this appeal, including the legal opinion provided by a firm of solicitors, however these representations and the points raised within have not affected my conclusions.
48. The erection of any such building would require the benefit of planning permission and, as such, it is not necessary that I assess the proposal, nor the building's dimensions, design and external appearance, further.
49. Accordingly, the appeal is dismissed.

TC King

INSPECTOR