



Appeal Decisions

Site visit made on 24 August 2022

by Jean Russell MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal A: APP/G1630/C/20/3260558

Plot 1CB, Severnside Farm, Walham, Gloucester (Part of Land Registry Title: GR356602)

- Appeal A is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 1a issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control alleged in Notice 1a is: without planning permission; (1) The raising of land levels through the importation of spoil and waste material.
- The requirements of Notice 1a are to (1) Remove all imported spoil, hardcore, and waste material and restore the levels of the ground to the levels prior to the unauthorised development taking place, lay topsoil and re-seed with grass so it can return in time to grassland.
- The period for compliance with the requirements is two (2) months.
- Appeal A is proceeding on the grounds set out in s174(2)(e) and (f) of the Town and Country Planning Act 1990.

Appeals B-J

- Details are summarised in paragraphs 1 and 6 of this Decision Letter and set out in full in Appendix 1.

Summary of Decisions

- Enforcement Notices 1b and 6 are quashed.
- Appeals A, C, D, E, F, G, I and J are dismissed and Enforcement Notices 1a, 2, 3, 4a, 4b, 5, 7 and 8 are upheld with corrections as set out below in the Formal Decisions and Appendices 4-11.

PRELIMINARY MATTERS

The 'Farm', 'Site', 'Land under the A40' and Plots

1. Appeals A-J are made against ten enforcement notices which relate to various plots of land and tracks at Severnside Farm. Mr Gorman owns the freehold of 'the farm' and is the sole appellant.
2. The farm is shown on the Title Plan¹ as including land to the north and south of, and underneath the A40 flyover. The plots and tracks subject to Appeals A-J are within the northern part of the farm and I shall describe that area as 'the site'. It is bound by trees and fields to the north and east, and by the Severn to the west². The southern boundary of the site follows that of the flyover so that the site includes 'land under the A40'.
3. The appellant has divided the site into around 26 'numbered plots' as shown on the 'Ruxton Surveys plan' reproduced in Appendix 2 to this decision letter³.

¹ Appendix 1 to Tewkesbury Borough Council's statement of case.

² The site is therefore traversed by the Severn Way or public footpath alongside the river.

³ See also Appendix 13 to Tewkesbury Borough Council's statement of case

Appeals A-H concern seven numbered plots although Plots 1MA and 1MB are subject to the same enforcement notice as discussed below⁴. Appeal I concerns an 'Unnumbered Plot' not identified on the Ruxton Surveys plan and Appeal J concerns tracks that were formed through the site for access to the plots.

The Local Planning Authorities (LPAs) and Appeals

4. Each notice subject to this decision letter was issued by Tewkesbury Borough Council (TBC) and Gloucester City Council (GCC), who I shall refer to together as 'the Councils'. However, only some of the notices relate to land within the GCC administrative area. The boundary follows the northern side of the flyover⁵ and the land under the A40 is the only part of the site within Gloucester City.
5. Plots 1CB, 1MA and 1MB, the Unnumbered Plot and the access tracks fall within the jurisdiction of both GCC and TBC because they include but are not confined to land under the A40. The other plots lie wholly within Tewkesbury. This table summarises the appeals, notices and land subject to each notice:

APPEALS	NOTICE	LAND	DEVELOPMENT	NOTES
Appeal A	Notice 1a	Plot 1CB	Operations – raising land levels	Land crossed by the TBC/GCC boundary
Appeal B	Notice 1b		Material change of use (MCU) – mobile home with fencing	
Appeal C	Notice 2	Plot 1CA	MCU – depositing of materials with fencing and site cabin	
Appeal D	Notice 3	Plots 1MA and 1MB	Operations – hoarding and raising land levels	Land crossed by the TBC/GCC boundary
Appeal E	Notice 4a	Plot 1L	Operations – raising land levels, prefab building	
Appeal F	Notice 4b		MCU – mobile homes for residential use	
Appeal G	Notice 5	Plot 1AP	MCU – depositing of materials	
Appeal H	Notice 6	Plot 1AN	MCU – mobile home	
Appeal I	Notice 7	Unnumbered Plot	Operations – raising land levels, hard surfacing.	Land crossed by the TBC/GCC boundary
Appeal J	Notice 8	Access tracks	Operations – formation of two access tracks	Land crossed by the TBC/GCC boundary

6. TBC has submitted representations in respect of Appeals A-J. Their evidence includes a witness statement from MK⁶ who was engaged to serve the notices. MK stated that Notices 1a, 1b, 3, 7 and 8 were served with copies of letters from GCC 'authorising' the issue of the notices⁷. I do not have copies of those letters myself but the appellant does not dispute that GCC gave such approval.

⁴ Plots 1MA and 1MB are divided for ownership purposes but not on the ground.

⁵ Appendix 9 to TBC's statement of case

⁶ I shall refer to all persons named in evidence by their initials for reasons of privacy and brevity.

⁷ Appendix 29 to TBC's statement of case; MK's statement is dated 23 September 2020

The Planning Contravention Notice, Court Orders and 'Gloucester Appeal'

7. TBC served a Planning Contravention Notice (PCN) on 3 January 2020⁸ in respect of 'parcel no. 4081', which comprises the site minus the land under the A40/within the GCC administrative area. The appellant's response to the PCN was dated 16 January 2020.
8. TBC made a claim in respect of parcel no. 4081 which was heard by the High Court of Justice, Queen's Bench Division (as was) in Birmingham⁹. The court:
 - Made an interim injunction order on 7 July 2020 against the appellant and others to prohibit the undertaking of specified development on the land without planning permission¹⁰.
 - Made an injunction on 20 July 2020, extending the interim order until 19 July 2022 and also recording undertakings by the appellant and others¹¹.
 - On 21 October 2020, recorded further undertakings by the appellant and another to comply with Notices 3 and 7; and adjourned a trial to evict the occupiers IM and RM from Plot 1L¹².
 - Ordered that eviction within 21 days on 5 January 2021¹³.
9. The PCN and orders do not bear on land in the GCC administrative area but still apply wholly or partly to all of the appeal plots and tracks. The PCN and court documents contain relevant evidence but do not bind my decisions.
10. GCC has issued an enforcement notice relating to a different site within the farm. Mr Gorman has made an appeal against that notice and, so that his cases are decided consistently, I am appointed to determine the 'Gloucester appeal'¹⁴. It will, however, be subject to a separate and later decision letter.

The Leaseholders

11. The appellant's evidence includes that he has sold the numbered appeal plots. The Land Registry's Official Copy of the Register of Title dated 28 June 2019 shows that the appellant acquired the freehold of the farm (GR356602) on 16 February 2012. He originally intended to develop this riverside land for use as a marina but could not get planning permission. Rather than re-sell the farm as a whole, he divided it into more affordable plots as per the Ruxton Surveys plan.
12. The Register of Title shows that leaseholds for fourteen plots were transferred from the appellant to others between 10 August 2017 and 24 June 2019. The Land Registry used a different numbering system but, when the Title Plan is compared with the plans attached to the notices, as shown in Appendix 2 to this decision letter, it seems that none of the plots sold prior to 28 June 2019 are subject to any of the notices or appeals before me.
13. It is common ground, however, that the leaseholds of the numbered appeal plots were sold after 28 June 2019 and the issue of the notices on 4 September

⁸ Appendix 2 to TBC's statement, PCN ref: 19/00113/ECOU.

⁹ Claim no. G90BM108

¹⁰ Appendix 3 to TBC's statement of case

¹¹ Appendix 4 to TBC's statement of case

¹² Appendix 6 to TBC's statement of case

¹³ Appendix 7 to TBC's statement of case

¹⁴ Appeal ref: APP/U1620/C/22/3290133

2020. On 1 August 2020, the appellant provided TBC with a schedule of the site leaseholders¹⁵. None of them have appealed against any of the notices but there is no dispute that they were served with copies as described in MK's witness statement and summarised in Appendix 3 to this decision letter.

The Grounds of Appeal

14. By agreement with the Planning Inspectorate, the appellant submitted just one appeal form (for Appeal A); he provided details of Appeals B-J by email dated 12 October 2020, and then he revised his grounds of appeal by email dated 25 November 2020. I have had regard to all of the appellant's evidence but recorded the grounds as revised in the banner heading above and Appendix 1.
15. Each appeal is proceeding on ground (e); some are also made on grounds (b), (c) and/or (f). Some of the appellant's arguments raised in respect of one ground are more relevant to another, and the evidence also includes two hidden grounds of appeal, being (d) in the case of Appeal C and (g) for Appeal G. TBC has had proper opportunity to respond to the appellant's points in substance and so I can 'read across' the evidence and determine the hidden grounds without prejudice to any party.
16. However, since the appellant has not pleaded ground (a) or paid the deemed planning application fee in respect of any appeal, I cannot consider the merits of what is alleged by the notices.

WHETHER THE ENFORCEMENT NOTICES ARE NULL OR INVALID

17. The appellant argues that the enforcement notices subject to Appeals A-J are null or invalid. Under s176(1) of the TCPA90, an Inspector may correct any error, defect or misdescription in a notice, provided that doing so will not cause any injustice to the appellant or the LPA. If injustice would be caused, the notice will be not correctable and therefore invalid.
18. A notice is null if it is so defective on its face that it does not amount to an enforcement notice at all, and the question as to whether corrections would cause injustice cannot arise. That might be the case if the notice is hopelessly ambiguous and uncertain or omits to state what is proscribed under s173 of the Town and Country Planning Act 1990 (TCPA90) or Town and Country Planning (Enforcement Notices and Appeals) Regulations 2002.
19. The appellant asserts that the notices are null because they were not prepared or served with regard to the Public Sector Equality Duty (PSED) set out under the Equality Act 2010 (EA10). However, that is a question for ground (e) as discussed below; it is not a claim that the notices are defective on their faces.

The Plans Attached to the Notices

20. The appellant's actual case for ground (e) is that the notices do not tell him where the alleged breaches of planning control took place. That argument does raise the prospect of the notices being defective because s173(10) of the TCPA90 and Regulation 4(c) require that notices specify the precise boundaries of the land to which they relate.

¹⁵ Appendix 5 to TBC's statement of case

21. Each appealed notice states that the subject land is 'shown edged in red on the attached plan'. And that is how the plans attached to the original or master copies of the notices were drawn. There is a problem, however, in that the appellant was served with black and white copies of the notices.
22. I agree with the appellant that the notices as served were unclear but I also agree with TBC that the notices are not null or invalid as a result. They cannot be described as fundamentally flawed when the plans were not wrong and it is not essential that a notice includes a plan at all. Under Regulation 4(c), the boundaries of the land should be specified 'by reference to a plan or otherwise'.
23. Moreover, as TBC suggests, the appellant does plainly know where the alleged breaches took place. He demonstrated his knowledge of the site when he gave TBC the schedule of leaseholders one month before the notices were issued, and when he directed me at my site visit to where each notice relates to.
24. However, enforcement notices run with the land rather than recipients. The numbered appeal plots are already sold and there could be further changes to land ownership or occupation in the future. Yet the Ruxton survey plot numbers which are quoted on the notices differ from Land Registry title references and, so far as I am aware, the plots do not have Post Office addresses either.
25. The notices should be corrected so that the land to which they relate will be obvious to any reader at any time, no matter how the plans are reproduced and if the plots are ever renamed. I shall amend the plans so that the plots are hatched in black and the tracks are filled in black, not edged in red. I am satisfied that the corrections can be made because no injustice would be caused to the appellant or Councils; the notices will be made clearer but no different in substance.

Notices 1b and 6

26. While the appellant has not raised this issue, Notices 1b and 6 both allege that there has been a material change of use of Plots 1CB and 1AN respectively to use for the stationing of a mobile home, but the allegations do not specify the land use that the mobile homes facilitate. The notices similarly require that the use for stationing a mobile home is ceased, but that is not a land use in itself.
27. Mobile homes are moveable by definition and they are usually stationed so that the land can be put to residential use, or use as a restroom at an outdoor workplace, or storage use. In terms of the latter, caravans may be sited on land in order to store things in or be stored themselves.
28. Notices 1b and 6 both state that the reasons for taking enforcement action include that the 'storage of caravans within the flood plain can impede floor water during flood events...' I could read that sentence as indicating that 'it appears to TBC that the use of the land is the storage of caravans', and so I find that the notices are not nullities or hopelessly ambiguous and uncertain on their faces¹⁶. However, there is no other evidence that TBC does in fact consider the use of Plots 1CB or 1AN to be storage.
29. Paragraph 4.2.3 of TBC's statement says that Notice 1b 'seeks to remedy the unauthorised use for [Plot 1CB] for the stationing of a mobile home...no

¹⁶ S173(1) and (2) of the TCPA90 provide that an enforcement notice shall state the matters which appear to constitute the breach of planning control to enable any person served with a copy to know what those matters are.

evidence has been obtained to indicate that any residential use of the mobile home is taking place or that the plot is otherwise occupied'. Paragraph 4.7.1 describes the use of Plot 1AN in a similar way. The word 'storage' does not appear in either paragraph and I cannot presume that the land is or was used for storage simply because there was no residential activity.

30. The appellant's case on ground (c) against Notices 1b and 6 was that the mobile homes are used for the storage of materials, tools and feed as part of the lawful agricultural use of the land. TBC rebut that argument without saying why they think the caravans are there. Thus, the allegation and requirements of Notices 1b or 6, and TBC's statement of case, all fail to explain what TBC thinks the use of Plot 1CB or Plot 1AN has been changed to.
31. It is not always fatal for a notice to describe a change of use erroneously but I could not correct Notice 1b or 6 without causing injustice to the appellant. The actual use of Plots 1CB and 1AN could have been canvassed with the parties only after the deadline had passed for the appellant to plead ground (a) and seek planning permission, as he might have wished to do, for whatever use TBC think is in breach of planning control. Notices 1b and 6 are invalid.

Notice 4b

32. Notice 4b does specify the use of land – residential use – that the alleged mobile homes are stationed for on Plot 1L. However, Notice 4b contains two other errors which were not identified by the appellant:
- The allegation refers to a 'curtilage' but that term denotes, in short, an area of land about a building. I would not expect the mobile homes to have a curtilage. There is no suggestion that there is any building on Plot 1L and so Notice 4b should simply say that the land is in residential use.
 - The notice requires the removal of 'static homes' but that phrase is ambiguous. It would suffice for the notice to require the removal of all mobile homes and other caravans.
33. I can correct Notice 4b on those lines without causing injustice to the appellant or the Councils. The notice will be made more precise but not more onerous, or so different in substance as potentially alter the grounds pleaded for Appeal F.

Conclusion on Nullity and Invalidity

34. I conclude none of the notices are null but Notices 1b and 6 do not specify the alleged breaches of planning control or the steps required to be taken with sufficient clarity. It is not open to me to correct the errors under s176(1)(a) since injustice would be caused were I to do so. Notices 1b and 6 are invalid and will be quashed. In these circumstances, Appeals B and H do not fall to be considered on grounds set out in s174(2)(e), (c) and (f) of TCPA90.
35. However, it would cause no injustice to the appellant or the Councils for me to correct the plans attached to Notices 1a, 2, 3, 4a, 4b, 5, 7 and 8, as well as the textual errors in Notice 4b, as discussed above.

APPEALS A, C, D, E, F, G, I AND J ON GROUND (E)

36. Ground (e) is that copies of the notice(s) were not served as required by s172 of the TCPA90. Like grounds (b), (c) and (d), (e) is a 'legal' ground where the

onus is on the appellant to make his case on the balance of probabilities. The provisions of s172 are:

- S172(1) concerns the issuing of a notice and is not relevant.
- S172(2) requires that a copy of a notice shall be served (a) on the owner and on the occupier of the land to which the notice relates, and (b) on any other person having an interest in the land which, in the opinion of the LPA, is materially affected by the notice.
- S172(3) requires that the service of the notice shall take place (a) not more than 28 days after its date of issue and (b) not less than 28 days before the date on which it is specified to take effect.

37. I may also have regard to s329 of the TCPA90 which provides, amongst other matters, that a notice 'may be served' by 'delivering it to the person on whom it is to be served'; leaving it at the usual or last known place of abode of that person; or sending it by registered or recorded delivery letter to that person.
38. Since the appellant owns the freehold for the whole site, he was required to be served with copies of all of the notices under s172(2)(a). He does not dispute that he was indeed served, and that the service took place on 4 September 2022 at his home address in accordance with s172(3) and s329. As noted above, the appellant's claim is related to different legal provisions; he contends that TBC did not serve the notices on him so as to comply with the PSED.
39. The PSED requires public authorities, in the exercise of their functions, to have 'due regard' to three aims which include the need to advance equality of opportunity between persons who share and do not share 'protected characteristics'. The appellant has the protected characteristic of race because he is a Gypsy by ethnicity. He claims – and I accept – that he has difficulties with reading and writing because he did not have a conventional school education in connection with his Gypsy heritage.
40. The appellant suggests that TBC did not have due regard to the need to 'take steps'¹⁷ to ensure that he would comprehend the notices. The appellant asked TBC in advance, for example in his witness statement to the court dated 15 July 2020, to be mindful of his literacy difficulties in the course of service. He suggests that TBC could have but failed to arrange for the notices to be read to him by the officer serving.
41. However, I have no remit to decide whether TBC or any other public authority complied with the PSED in the exercise of their functions. I am bound by the PSED myself but s172 does not require that LPAs give assistance to recipients at the time of service. S329 does not expect that the recipient is even present, let alone read aloud to when served. The PSED does not alter what it means to be 'served as required by s172' and the appellant has not shown that, on the balance of probabilities, he was not properly served.
42. Moreover, TBC did assist the appellant because they informed his barrister on 7 September 2020 that the notices had been served and they passed on contact details for the appellant to talk about the notices. The barrister then made valid appeals on the appellant's behalf against Notices 1a, 2, 3, 4a, 4b, 5, 7 and 8.

¹⁷ In accordance with s149(3) of the EA10 and *Pieretti v Enfield LBC* [2010] EWCA Civ 1104.

Even if the appellant had shown that TBC did not serve the notices as required by s172, I could and would disregard such failure on the basis that he was not substantially prejudiced as described in s176(5) of the TCPA90.

43. In conclusion, on the balance of probabilities, it has not been demonstrated that copies of Notices 1a, 2, 3, 4a, 4b, 5, 7 and 8 were not served as required by s172 or s329, or that the appellant was substantially prejudiced in any respect of service. Appeals A, C, D, E, F, G, I and J fail on ground (e).

APPEAL C ON GROUND (B)

44. An appeal on ground (b) is that the matters alleged by the enforcement notice have not occurred. The appellant has pleaded this ground in respect of Notice 2, which alleges that there has been a material change of use of Plot 1CA to use for the depositing of hardcore, scrap, builders' waste and other waste material, with associated fencing and a site cabin. However, the appellant said such materials were on the land when he acquired the site¹⁸ and that sounds like an admission that the change of use did at some point take place.
45. In any event, TBC has submitted photographs of the appeal plots and tracks taken during the year prior to the issue of the notices¹⁹. Plot 1CA is identifiable on photographs dated on or after 19 May 2020 by what must be the alleged site cabin in the position marked with an X on the plan attached to Notice 2. The same object was in the same place on the date of my site visit when the appellant confirmed which plot is 1CA.
46. The photographs show not only the site cabin but also that Plot 1CA had been fenced and used for the depositing of hardcore, scrap, builders' waste and other waste material before Notice 2 was issued on 4 September 2020. This evidence, described further below in relation to ground (d), is unambiguous. I conclude that, on the balance of probabilities, the alleged change of use did occur and Appeal C must fail on ground (b).

APPEALS C AND D ON GROUND (C)

47. An appeal on ground (c) is that what is alleged does not constitute a breach of planning control. This ground is normally pleaded where the appellant considers that planning permission is not required or already granted.
48. The appellant claims that the use of Plot 1CA for the depositing of materials as alleged by Notice 2 is ancillary to the primary agricultural use of the land. An ancillary (or incidental) use is one which is functionally related, in some normal way, to the primary use of the planning unit. Agriculture is the lawful use of the site and individual plots, by reason of history and/or s55(2)(e) of the TCPA90²⁰. In principle, planning permission would not be required to carry out on this land any use that is incidental to agriculture.
49. However, the appellant has not explained how the depositing of waste could be functionally connected to agriculture. And there is no evidence that Plot 1CA or indeed any part of the site is in agricultural use on the balance of probabilities. Whether Plot 1CA should be described as a planning unit on its own and/or as

¹⁸ The appellant suggested that the deposited materials had been on the land continuously for more than ten years, and that is the hidden ground (d) appeal.

¹⁹ Appendices 20-27 to TBC's statement of case. Photographs of Plot 1CA particularly are in Appendix 21.

²⁰ The use of any land for the purposes of agriculture shall not be taken to involve the development of land.

part of a larger planning unit, it has not been demonstrated that there is any farming use that the depositing of materials could be ancillary to.

50. The appellant also claims that the operations involved in erecting or installing the alleged fencing and site cabin (in connection with the change of use) at Plot 1CA, and the alleged hoarding, raised land levels and hard surface at Plots 1MA and 1MB were 'not inconsistent with agricultural use'. Again, that argument cannot succeed because the appellant has not demonstrated that the plots are likely to be in use for farming.
51. There is no concept of 'ancillary works' in the same way as ancillary uses. S55(2) of the TCPA90 describes some operations which do not require planning permission, but they do not include 'works consistent with agriculture' or 'works ancillary to a use', let alone 'works connected to an incidental use'. The appellant has not shown that planning permission is unlikely to be required for the fencing or site cabin on Plot 1CA or for the hoarding, raised land or hard surface on Plots 1MA and 1MB. And he also made no case that any works are 'permitted development' or otherwise granted permission already.
52. I conclude that, on the balance of probabilities, the material change of use and works subject to Appeal C, and the operational development subject to Appeal D, require but do not have planning permission. On the balance of probabilities, what is alleged in Notices 2 and 3 constitutes a breach of planning control. Appeals C and D fail on ground (c).

APPEAL C ON GROUND (D)

53. An appeal on ground (d) is that no enforcement action could be taken at the date the notice was issued – in each case here being 4 September 2020 – in respect of any breach of planning control constituted by the matters alleged. Under s171B(3) of the TCPA90, no enforcement action may be taken after the end of the period of ten years beginning with the date of a breach of planning control consisting of a material change of use of land.
54. As noted above, the appellant claims that the change of use of Plot 1CA to use for the depositing of waste materials occurred before he bought the farm on 16 February 2012. He stated that 'any said deposits...have been on the land for a continuous period likely to exceed ten years'. However, the alleged use in this case is the depositing of materials, not the storage of materials which were deposited and left in the past. The appellant has not shown that, whenever the use was started, it was probably carried out for any continuous ten year period.
55. It is unsurprising that the appellant did not substantiate his hidden ground (d) appeal because it is undermined by aerial photographs submitted by TBC²¹. They show the site as laid to pasture and devoid of any structures or objects on 1 January 2009²² and 13 July 2013. Grass had been worn away or removed from part of the site, including Plot 1CA, by 25 May 2017 but that was less than ten years before the notice was issued and it did not appear even then that hardcore or other waste materials were being or had been deposited.
56. Plot 1CA also looked free from waste materials in an aerial photograph dated 27 June 2018 and site photographs dated 4 February 2020. By 19 May 2020,

²¹ Appendix 10 to TBC's statement of case

²² I would take that date as more likely to be 'sometime in 2008 or 2009' since the photograph shows trees in leaf and could not have been taken on any New Years Day.

however, a site photograph shows that a mattress, shelving and other bulky items had been deposited beside a new fence on the southern boundary of the plot. Additional fencing and the site cabin are seen on 1CA in the photographs dated 26 June and 2 July 2020, which also show the land as strewn with dumped soil, sand, rubble and hardcore in front of the bulky materials now towards the back or eastern side.

57. The appellant has not shown that the unauthorised use of Plot 1CA for the depositing of hardcore, scrap, builders' waste and other waste material had taken place, on the balance of probabilities, for a continuous ten year period by 4 September 2020. I conclude that it was not too late for the Councils to issue Notice 2 when they did. Appeal C fails on the hidden ground (d).

APPEALS A, C, D, E, F AND G ON GROUND (F)

58. Ground (f) is that the requirement of the notices exceed what is necessary to remedy the breaches of planning control or, as the case may be, to remedy any injury to amenity caused by such breaches.
59. The appellant has pleaded ground (f) in relation to Notices 1a, 2, 3, 4a, 4b and 5 on the basis that Plots 1CB, 1CA, 1MA/MB, 1L and 1AP are sold. He is only a 'bare trustee' for those plots which are not yet registered to their new owners, and he has no right to enter any of them. He said he would need to seek an injunction to ensure that the requirements of the notices are complied with.
60. However, changes in land ownership are not relevant to ground (f)²³; whether the appellant can comply with any notice himself is a totally different question to whether the requirements are excessive to remedy the breaches or harm. The appellant has made no case that Notices 1a, 2, 3, 4a, 4b or 5 should be varied to require lesser steps. Appeals A, C, D, E, F and G fail on ground (f).

APPEAL G ON GROUND (G)

61. Ground (g) is that the period specified in a notice for compliance with the requirements falls short of what is reasonable. As noted, the appellant did not expressly plead this ground but he stated that DL, the leaseholder of Plot 1AP, would seek to extend the period for compliance with Notice 5 from three months to six. However, DL has made no case himself to that effect.
62. Notice 5 requires that the alleged use of Plot 1AP to use for the depositing of hardcore and other materials is ceased, the materials are removed and the land is restored. The appellant has not explained and I see no reason why those steps could not be reasonably completed in three months. I conclude the period for compliance with the requirements set out in Notice 5 does not fall short of what is reasonable and Appeal G fails on the hidden ground (g).

OVERALL CONCLUSIONS

63. I cannot comment on the motives or behaviour of any party to the appeals. I have had regard to all other matters raised but none alter my decisions. I conclude that none of the notices are null but Notices 1b and 6 are invalid and

²³ And it is not unusual for enforcement notices to be served on persons or corporations, such as mortgage providers, who might not carry out the steps required by the notice themselves.

shall be quashed. Appeals A, C, D, E, F, G, I and J should not succeed and I shall uphold Notices 1a, 2, 3, 4a, 4b, 5, 7 and 8 with corrections as described.

FORMAL DECISIONS

Appeal A: APP/G1630/C/20/3260558

64. It is directed that Enforcement Notice 1a is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'edged and hatched in black'.
- The substitution of the plan attached as Appendix 4 to this decision letter for the plan attached to the enforcement notice.

65. Subject to the corrections, Appeal A is dismissed and Notice 1a is upheld.

Appeal B: APP/G1630/C/20/3262694

66. Enforcement Notice 1b is quashed.

Appeal C: APP/G1630/C/20/3262696

67. It is directed that Enforcement Notice 2 is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'edged and hatched in black'.
- The substitution of the plan attached as Appendix 5 to this decision letter for the plan attached to the enforcement notice.

68. Subject to the corrections, Appeal C is dismissed and Notice 2 is upheld.

Appeal D: APP/G1630/C/20/3262698

69. It is directed that Enforcement Notice 3 is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'edged and hatched in black'.
- The substitution of the plan attached as Appendix 6 to this decision letter for the plan attached to the enforcement notice.

70. Subject to the corrections, Appeal D is dismissed and Notice 3 is upheld.

Appeal E: APP/G1630/C/20/3262701

71. It is directed that Enforcement Notice 4a is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'edged and hatched in black'.
- The substitution of the plan attached as Appendix 7 to this decision letter for the plan attached to the enforcement notice.

72. Subject to the corrections, Appeal E is dismissed and Notice 4a is upheld.

Appeal F: APP/G1630/C/20/3262703

73. It is directed that Enforcement Notice 4b is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'edged and hatched in black'.
- Deleting the words 'mobile homes/caravans, being used for residential purposes with associated curtilage' from paragraph 3 and substituting 'mobile homes/caravans for residential purposes'.
- Deleting the words 'static homes' from sub-paragraph 5(2)a.
- The substitution of the plan attached as Appendix 8 to this decision letter for the plan attached to the notice.

74. Subject to the corrections, Appeal F is dismissed and Notice 4b is upheld.

Appeal G: APP/G1630/C/20/3262706

75. It is directed that Enforcement Notice 5 is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'edged and hatched in black'.
- The substitution of the plan attached as Appendix 9 to this decision letter for the plan attached to the enforcement notice.

76. Subject to the corrections, Appeal G is dismissed and Notice 5 is upheld.

Appeal H: APP/G1630/C/20/3262708

77. Enforcement Notice 6 is quashed.

Appeal I: APP/G1630/C/20/3262710

78. It is directed that Enforcement Notice 7 is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'edged and hatched in black'.
- The substitution of the plan attached as Appendix 10 to this decision letter for the plan attached to the enforcement notice.

79. Subject to the corrections, Appeal I is dismissed and Notice 7 is upheld.

Appeal J: APP/G1630/C/20/3262711

80. It is directed that Enforcement Notice 8 is corrected by:

- Deleting the words 'edged in red' from paragraph 2 and substituting the words 'filled in black'.
- The substitution of the plan attached as Appendix 11 to this decision letter for the plan attached to the enforcement notice.

81. Subject to the corrections, Appeal J is dismissed and Notice 8 is upheld.

Jean Russell

INSPECTOR

APPENDIX 1: DETAILS OF APPEALS B-J

Severnside Farm, Walham, Gloucester (Part of Land Registry Title: GR356602)

Appeal B: APP/G1630/C/20/3262694 – Notice 1b – Plot 1CB

- Appeal B is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 1b issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 1b is: without planning permission; (1) The material change of use of the Land from agriculture to use for stationing a mobile home and associated fencing.
- The requirements of Notice 1b are to: (1) Cease the unauthorised use of the Land for the stationing of a mobile home. (2) Remove the mobile home and perimeter fencing from the Land.
- The period for compliance with the requirements is one (1) month.
- Appeal B is proceeding on the grounds set out in s174(2)(c), (e) and (f) of the Town and Country Planning Act 1990.

Appeal C: APP/G1630/C/20/3262696 – Notice 2 – Plot 1CA

- Appeal C is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 2 issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 2 is: without planning permission; (1) The material change of use of the Land from agriculture to use for the depositing of hardcore, scrap, builders [sic] waste and other waste material with associated fencing and siting of a site cabin.
- The requirements of Notice 2 are to: (1) Cease the unauthorised use of the Land for the depositing of hardcore, scrap, builders [sic] waste, other waste material, associated fencing and siting of a site cabin. (2) Remove from the land all hardcore, scrap, builders waste, other waste material, associated fencing. (3) Remove the site cabin (current position shown with an 'X' on the attached plan) from the Land. (4) Restore the levels of the ground to the levels prior to the unauthorised development taking place, lay topsoil and re-seed with grass so it can return in time to grassland.
- The period for compliance with the requirements is three (3) months.
- Appeal C is proceeding on the grounds set out in s174(2)(b), (c), (e) and (f) of the Town and Country Planning Act 1990.

Appeal D: APP/G1630/C/20/3262698 – Notice 3 – Plots 1MA & 1MB

- Appeal D is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 3 issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 3 is: without planning permission; (1) The erection of hoarding along the perimeter of the Land. (2) The raising of land levels through the importation of spoil, scalpings and waste material and the creation of a hard surface.
- The requirements of Notice 3 are to: (1) Remove the hoarding along the perimeter of the Land. (2) Remove all hard surfacing, imported spoil, scalpings, hardcore, and waste material and restore the levels of the ground to the levels prior to the unauthorised development taking place, lay topsoil and re-seed with grass so it can return in time to grassland.
- The period for compliance with the requirements is two (2) months.
- Appeal D is proceeding on the grounds set out in s174(2)(c), (e) and (f) of the Town and Country Planning Act 1990.

Appeal E: APP/G1630/C/20/3262701 – Notice 4a – Plot 1L

- Appeal E is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 4a issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 4a is: without planning permission; (1) The raising of ground levels through the importation of hard-core, spoil and waste material. (2) The erection of a prefabricated building (current approximate location shown with an 'X' on the attached plan).
- The requirements of Notice 4a are to: (1) Remove all imported spoil, hardcore, and waste material and restore the levels of the ground to the levels prior to the unauthorised development taking place, lay topsoil and re-seed with grass so it can return in time to grassland. (2) Demolish the prefabricated building (current approximate location shown with an 'X' on the attached plan) in its entirety and remove any resultant debris/material from the Land.
- The period for compliance with the requirements is three (3) months.
- Appeal E is proceeding on the grounds set out in s174(2)(e) and (f) of the Town and Country Planning Act 1990.

Appeal F: APP/G1630/C/20/3262703 – Notice 4b – Plot 1L

- Appeal F is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 4b issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 4b is: without planning permission; (1) The material change of use of the Land from agricultural use to use for the siting of mobile homes/caravans, being used for residential purposes with associated curtilage.
- The requirements of Notice 4b are to: (1) Cease the unauthorised residential use of the Land. (2) Remove from the Land a. All mobile homes, static homes and other caravans; b. All vehicles and trailers; c. All residential paraphernalia which facilitates a residential use, including: tables, chairs, potted plants, outdoor lighting, gazebos, and trampolines.
- The period for compliance with the requirements is two (2) months.
- Appeal F is proceeding on the grounds set out in s174(2)(e) and (f) of the Town and Country Planning Act 1990.

Appeal G: APP/G1630/C/20/326706 – Notice 5 – Plot 1AP

- Appeal G is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 5 issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 5 is: without planning permission; (1) The material change of use of the Land from agricultural to use for the depositing of hard-core, rubble, spoil and other waste material.
- The requirements of Notice 5 are to: (1) Cease the unauthorised use of the Land for the depositing of hard-core, rubble, spoil and other waste material. (2) Remove from the land all hard-core, rubble, spoil and other waste material. (3) Restore the levels of the ground to the levels prior to the unauthorised change of use taking place and re-seed the Land so it can return in time to grassland.
- The period for compliance with the requirements is three (3) months.
- Appeal G is proceeding on the grounds set out in s174(2)(e) and (f) of the Town and Country Planning Act 1990.

Appeal H: APP/G1630/C/20/3262708 – Notice 6 – Plot 1AN

- Appeal H is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 6 issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 6 is: without planning permission; (1) The material change of use of the Land from agriculture to use for stationing a mobile home.
- The requirements of Notice 6 are to: (1) Cease the unauthorised use of the Land for the stationing of a mobile home. (2) Remove the mobile home from the Land.

- The period for compliance with the requirements is one (1) month.
- Appeal H is proceeding on the grounds set out in s174(2)(c), (e) and (f) of the Town and Country Planning Act 1990.

Appeal I: APP/G1630/C/20/3262710 – Notice 7 – Unnumbered Plot

- Appeal I is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 7 issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 7 is: without planning permission; (1) The raising of land levels through the importation of spoil, chippings and waste material and the creation of a hard surface.
- The requirements of Notice 7 are to: (1) Remove all hard surfacing, imported spoil, chippings, hardcore, and waste material and restore the levels of the ground to the levels prior to the unauthorised development taking place, lay topsoil and re-seed with grass so it can return in time to grassland.
- The period for compliance with the requirements is two (2) months.
- Appeal I is proceeding on the ground set out in s174(2)(e) of the Town and Country Planning Act 1990.

Appeal J: APP/G1630/C/20/3262711 – Notice 8 – Access Tracks

- Appeal J is made by Mr Sean Gorman under section 174 of the Town and Country Planning Act 1990 as amended against Enforcement Notice 8 issued by Tewkesbury Borough Council and Gloucester City Council on 4 September 2020.
- The breach of planning control as alleged in Notice 8 is: without planning permission; (1) The formation and laying out of two access tracks on the Land.
- The requirements of Notice 8 are to: (1) Excavate all of the material that comprises the sections of tracks/roads. Remove all of the excavated material from the Land. (2) Restore the levels of the ground to the levels prior to the unauthorised development taking place, lay topsoil and re-seed with grass so it can return in time to grassland.
- The period for compliance with the requirements is ten (10) months.
- Appeal J is proceeding on the ground set out in s174(2)(e) of the Town and Country Planning Act 1990.

APPENDIX 2: THE APPEAL AND OTHER PLOTS

2.1 The 'Ruxton Surveys plan' January 2018 (Appendix 13 to TBC's statement)



2.2 Extract from the Title Plan dated 28 June 2019 (Appendix 1 to TBC's statement)





APPENDIX 3: LEASEHOLDERS OF THE NUMBERED PLOTS

- 3.1 **Plot 1CB, Notices 1a and 1b:** the 1 August 2020 schedule submitted by the appellant states that the lease was transferred to TPW on 16 January 2020. Notices 1a name the appellant and TPW as recipients.
- 3.2 MK stated that, at 17.02 hours on 4 September 2020, they 'met with and personally served occupants of Plot 1CB' with what, from the description, must have been Notices 1a and 1b plus a letter from TBC to TPW and the authorisation letter from GCC. MK said that 'the occupants of Plot 1CB stated that they would bring these [documents] to the attention of [TPW] at the earliest opportunity'.
- 3.3 **Plot 1CA, Notice 2:** the schedule states that the lease was transferred to DP on 22 May 2020. Notice 2 names the appellant but not DP as a recipient – but MK stated that they 'served at Plot 1CA by affixing to the boundary fence in a clear plastic wallet' what must have been Notice 2, plus a letter from TBC to DP, at 17.06 hours on 4 September 2020.
- 3.4 **Plots 1MA and 1MB, Notice 3:** the schedule states that Plot 1MA was transferred to CJM and PAP, and Plot 1MB was transferred to JDK, on 18 October 2019²⁴. Notice 3 names the appellant, CJM, PAP and JDK as recipients. MK 'personally served' what must have been Notice 3, plus letters from TBC and GCC, on JDK at 17.00 hours on 4 September 2020 at Plot 1MB. MK stated that JDK 'was identified to me by admission'.
- 3.5 At 19.30 on 4 September, MK attended the known address for CJM and PAP, and inserted through the letterbox a set for each person of what must have been Notice 3, letters from TBC to CJM and PAP, the authorisation letter from GCC and copies of the 7 and 20 July injunction orders.
- 3.6 **Plot 1L, Notices 4a and 4b:** the schedule states that Plot 1L was transferred to IM on 22 August 2019. Notices 4a and 4b name the appellant, IM and also RM as recipients. MK stated that, at 17.09 hours on 4 September 2020, they affixed two sets of what must have been Notices 4a and 4b, plus letters from TBC to IM and RM, in clear plastic wallets to the gates at Plot 1L²⁵.
- 3.7 **Plot 1AP, Notice 5:** the schedule states that Plot 1AP was transferred to RC at the end of June 2020. Notice 5 names the appellant, RC and also DL as recipients. MK stated that, at 17.18 hours on 4 September 2020, they affixed in clear plastic wallets to a wooden post on Plot 1AP what must have been Notice 5 plus letters from TBC to RC and DL.
- 3.8 **Plot 1AN, Notice 6:** again, the schedule states that Plot 1AN was transferred to RC at the end of June 2020. Notice 6 names the appellant, RC and also DL as recipients. MK stated that, at 17.15 hours on 4 September 2020, they affixed in clear plastic wallets to the door of a caravan on Plot 1AN what must have been Notice 6 plus letters from TBC to RC and DL.

²⁴ The Land Registry recorded the transfer of Plot 1MA but described it as Plot 1M (or GR442234) on 15 November 2019; Appendix 19 to TBC's statement of case.

²⁵ At 16.15 on 9 September 2020, MK also 'personally served' at Plot 1L certified translations of the documents on RM who 'took the copy for IM'.

- 3.9 TBC's planning enforcement officer has signed certificates of service showing that Notices 5 and 6 were also posted to RC and DL's known address²⁶.
- 3.10 It is undisputed that the Unnumbered Plot and Access Tracks are entirely owned by the appellant. To serve on any other interested persons, however, MK attached Notices 7 and 8 plus associated documents to the boundary fence at the Unnumbered Plot and temporary fencing across the Access Tracks at 17.20 and 17.28 hours respectively on 4 September 2022.

²⁶ Appendix 32 to the TBC's statement of case.

APPENDIX 4: SUBSTITUTE PLAN FOR NOTICE 1A



The Planning Inspectorate

Plan

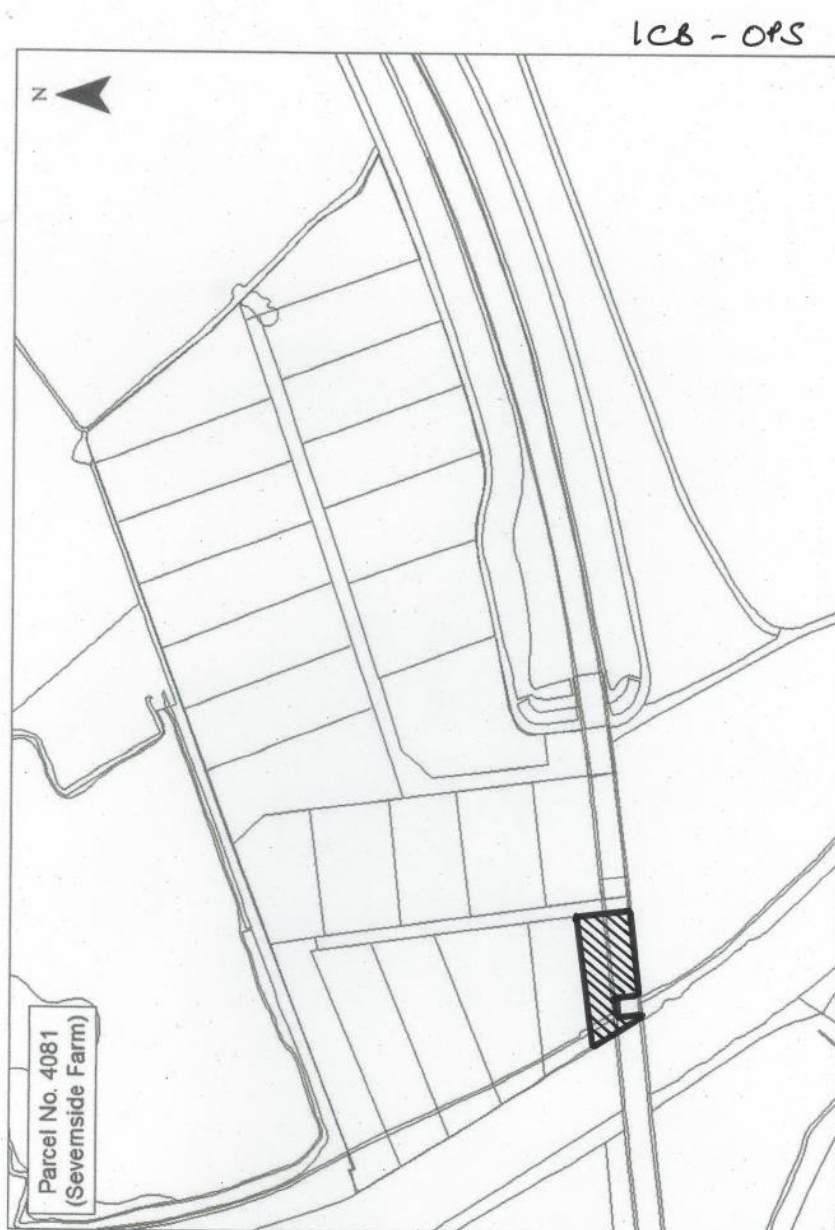
This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal A: APP/G1630/C/20/3260558

Land: Plot 1CB, Severnside Farm, Walham, Gloucester

NOT TO SCALE



APPENDIX 5: SUBSTITUTE PLAN FOR NOTICE 2



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal C: APP/G1630/C/20/3262696

Land at: Plot 1CA, Severnside Farm, Walham, Gloucester

NOT TO SCALE



APPENDIX 6: SUBSTITUTE PLAN FOR NOTICE 3



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal D: APP/G1630/C/20/3262698

Land at: Plots 1MA & 1MB, Severnside Farm, Walham, Gloucester

NOT TO SCALE



APPENDIX 7: SUBSTITUTE PLAN FOR NOTICE 4A



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal E: APP/G1630/C/20/3262701

Land: Plot 1L, Severnside Farm, Walham, Gloucester

NOT TO SCALE



APPENDIX 8: SUBSTITUTE PLAN FOR NOTICE 4B



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal F: APP/G1630/C/20/3262703

Land: Plot 1L, Severnside Farm, Walham, Gloucester

NOT TO SCALE



APPENDIX 9: SUBSTITUTE PLAN FOR NOTICE 5



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal G: APP/G1630/C/20/3262706

Land: Plot 1AP, Severnside Farm, Walham, Gloucester

NOT TO SCALE



APPENDIX 10: SUBSTITUTE PLAN FOR NOTICE 7



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal I: APP/G1630/C/20/3262701

Land: Unnumbered Plot at Severnside Farm, Walham, Gloucester

NOT TO SCALE



APPENDIX 11: SUBSTITUTE PLAN FOR NOTICE 8



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 31 October 2022

by Jean Russell MA MRTPI

Appeal J: APP/G1630/C/20/3262711

Land: Access tracks at Severnside Farm, Walham, Gloucester

NOT TO SCALE

