



Appeal Decision

Site visit made on 10 December 2025

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2026

Appeal Ref: APP/Y9507/C/23/3333602

Land at Willow Spring Farm, Hillgrove Lane, Northchapel, Petworth, West Sussex GU28 9EN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Nick Steele against an enforcement notice issued by Chichester District Council on behalf of the South Downs National Park Authority.
 - The notice was issued on 11 October 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of a building (in the approximate position shown on the Plan) to use as a single dwelling house.
 - The requirements of the notice are: (i) Cease the use of the said building as a single dwelling house, (ii) Remove from the building all beds, soft furnishings, lounge chairs, TV and domestic items which facilitate domestic living, (iii) Remove the sink, cooker and units in the kitchen from the building, and (iv) Remove the toilet and shower unit in the shower room from the building.
 - The period for compliance with the requirements is six months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Act.
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Decision

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

Main Issue

2. The appeal is proceeding on ground (d) only. As such, the main issue is whether, on the date the notice was issued, enforcement action could be taken in respect of the material change of use of the building to a dwellinghouse (the MCU).

Reasons

3. At the time the notice was issued, section 171B(2) of the Act provided that where there has been a breach of planning control consisting in the material change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. Case law¹ confirms that the onus is on the appellant to make out their case to the standard of the balance of probabilities, and their evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict the appellant's version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted. Therefore, for the appeal to succeed, sufficiently precise and unambiguous evidence needs to be provided to show that it is more likely than not that the MCU took place on or before 11 October 2019 and that the building has remained in use as a dwellinghouse since, without significant interruption.

¹ *Gabbitts v SSE & Newham LBC* [1985] JPL 630

4. Much of the appellant's evidence refers to them living at the site, but it is disputed whether the site has been the appellant's main residence at various points in time. While these are relevant considerations, they are not determinative as to whether the building was in use as a dwellinghouse. A person may live in a building without it constituting a dwellinghouse, and a building may constitute a dwellinghouse without it being someone's main residence. There is no definition of the term 'dwellinghouse' in the Act, but it was accepted in *Gravesham BC v SSE & O'Brien* [1983] JPL 306 that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence.
5. The building was erected as a barn for the storage of hay and machinery. Various alterations have since been made to the building, including the addition of solar panels, battery storage, and water storage/purification facilities, and extensions to the northern and eastern ends. There is no dispute that the building was in use as a dwellinghouse when the Council inspected it on 15 June 2022. It is claimed that residential use began in 2014.
6. A mezzanine space above the western entrance to the barn comprises an 'office/bedroom', where the appellant claims he previously slept on a slide-out bed which would be stored within a cupboard, while clothes and bedding were kept in metal filing cabinets. Another mezzanine space above the eastern end of the barn was used for storage purposes during my visit, and this is where the appellant claims a toilet was previously located, with a shower previously in a cupboard under a staircase. The appellant openly admits that he removed that toilet and shower in May 2018 after he learned that a Council inspection was imminent. There is no clear evidence as to when shower and toilet facilities were reinstated, although a portable toilet is said to have been provided outside either from the start of 2018 or after the mezzanine toilet was removed in May 2018. Considering the Council has presented internal photographs of the barn dated 30 April 2018, it appears more likely that the appellant removed the toilet and shower in April 2018.
7. Aside from the office/bedroom, living accommodation was contained within the eastern end of the barn and part of its northern extension on the day of my visit. It comprises a kitchen/living area, two sleeping areas, a utility room, and a shower room with toilet. The kitchen/living area included a range cooker, sink, fridge/freezer, kitchen units, and wood burner, while the utility room had washing/drying machines. It remains unclear when these facilities at the eastern end of the barn were installed. This living space could be accessed from French doors on the east elevation, or an internal door underneath the eastern mezzanine floor opening into the central part of the barn, where pigs were housed and various tools/machinery were stored. There was a portable toilet between the western entrance to the building and the site entrance.
8. The appellant's statutory declaration (SD) dated 25 May 2023 is limited in detail and lacks specificity on key dates. It states: the building has been his residence for at least the previous four years continuously; residential use first began in 2014 when he changed his correspondence address to the site; living accommodation in the barn has been improved since 2014, including through the installation of a septic tank and water storage tanks to provide sanitation and water, and the addition of a toilet and kitchen 'to enable permanent living at the barn'; and his daughter was born in 2018 and has regularly lived with him at the barn for typically three to four nights per week since her birth.

9. The appellant's SD does not provide any specific dates as to when he first started living in the building, or when any sleeping, cooking, washing, or toilet facilities were first provided, removed, and/or reinstated. Notwithstanding this, it is also clear from the many other SDs², that the appellant has been living at the site for a significant period. However, these SDs also lack detail as to how the appellant was living there, whether he was living there continuously, and how the building may have constituted a dwellinghouse throughout the periods they refer to.
10. The Council received allegations since 2013 that the barn was being lived in. Repeated inspections carried out by the Council found no evidence to support those allegations. This is not surprising if the only bed in the building was slid into a cupboard during the day, clothes and bedding were kept within filing cabinets, and a toilet and shower were removed specifically to avoid the Council finding them.
11. The SDs which refer to a kitchen with hot and cold running water, cooking in a kitchen since before 2018, and the existence of a toilet and fully equipped kitchen do not describe where these facilities were, or what they comprised, to explain why the Council may not have seen them during inspections. The existing utility room with shower and toilet facilities was built in 2020, and there are very limited details of whether there were any washing or toilet facilities prior to then, after a toilet and shower were removed in 2018, and if so, where.
12. There is other evidence in support of the appellant's case, such as undisputed claims that his daughter lived there for part of each week since her birth on an unspecified date in 2018, and his driving licence³ and shotgun licence⁴, which are legally required to display his permanent address. These point towards the appellant living at the site since 2014, but if that was the case, it is unclear why the Council did not find any evidence at all when carrying out inspections, even if a bed, clothes and bedding were out of sight in unusual locations. It remains entirely unclear where any cooking, toilet, or washing facilities were at those times, or why the Council was unable to find them, although I note references in the Council's site visit notes to caravans also being present on the land at least some of the time.
13. Alongside the driving and shotgun licences, the appellant has provided copies of other correspondence showing the site as his address from April 2018. This includes invoices for solar power and battery storage items, and correspondence relating to car insurance, HM Revenue and Customs, The Pensions Regulator, bank accounts, dental work, and vehicle repairs/MOT. These all weigh in favour of the appellant's case, but not significantly as they merely show the appellant was receiving post at the site, or describing it as his home address to those parties, and there is no dispute that he was spending much of his time on the land tending to animals. On the information provided, it would not have been unusual for the site to be used as the appellant's registered home address for this correspondence, even if the barn was not in use as a dwellinghouse.
14. The Council has suggested the appellant lived elsewhere, with the Council Tax and Electoral Services Teams advising that the appellant was registered for those purposes at Drapers Cottage, Northchapel from November 2019 to November 2021. The appellant has explained that his ex-partner listed him as living with her

² Those of Caroline Lacey, Ciáran Declan Ross-Thomas, Clare and Peter Collington, Darren Hone, David Lock, Fr. Dominic O'Hara, Jayne and Bryan Lock, Marek Knasisk, Patrick Lacey, Benjamin John Kaighin, George Charles Banbury, Rev Ian Vane, and Martin Peter Wakefield

³ Dated 17 June 2014

⁴ Dated 13 June 2019

‘due to not wanting to draw attention to the fact I was living at Willow Spring Farm’. I also note undetailed claims that the appellant lived at Home Farm House, Shillinglee between May 2018 and September 2019, which are disputed.

15. On the evidence before me, it is not possible to establish a clear and reliable timeline for when the barn first began to be used as a dwellinghouse, or the extent of facilities which existed at any given period prior to June 2022. As a result, I cannot be satisfied, on the balance of probabilities, that the building provided the necessary facilities for day-to-day private domestic existence continuously throughout any period prior to June 2022. I appreciate that the appellant created the living facilities himself, but the absence of clear statements setting out where, when and how they were created, or dated receipts/photographs attributable to their creation is notable. There are copies of invoices for building materials addressed to the site dating from 2021 and 2022, but there is nothing to show whether these items were related to the maintenance or improvement of any living facilities, or the use of the barn as a dwellinghouse.
16. In summary, there is a wealth of undetailed evidence to suggest the appellant has lived at the site most of the time, at least on and off, since 2014. However, for the reasons explained above, the evidence is largely ambiguous, lacks detail in respect of when the building has been in use as a dwellinghouse, and it also conflicts with what the Council saw during repeated inspections.
17. It is relevant that the Council’s inspections were only carried out because it had received reports of the barn being lived in, but the site visit notes refer to caravans said to be in use for lambing and temporarily by a relative. I am also mindful that the appellant was registered at another property on the council tax and electoral services register for a significant period, not that this confirms he was not living at the site, or that it did not constitute a dwellinghouse over any period. A shower and a toilet were removed specifically to avoid detection in the first half of 2018, but it is unclear when such facilities were reinstated, when any cooking facilities were installed, or when the portable toilet was first placed on the land as part of an undocumented ‘gentlemen’s agreement’ with an unidentified friend of the appellant.
18. With regard to the SDs, such documents may carry substantial weight on account of the serious implications where a false statement is made. However, the sheer number of SDs in support of the appellant’s case and the standing of the people who have taken the time to visit a Solicitor during a workday to complete the SDs do not compensate for the lack of detail within the statements, and the resulting ambiguity. That evidence has also not been subject to cross-examination under oath. The weight I assign to the SDs is therefore limited in this case.
19. Taking all of the above into account, I find that the evidence is not sufficiently precise and unambiguous to show, on the balance of probabilities, that the MCU took place at least four years before the notice was issued and that the building has remained in use as a dwellinghouse since, without significant interruption. Moreover, even if I were to find otherwise, the appellant deliberately misled the Council and concealed the breach of planning control.
20. The appellant claims his bed slid in and out of a cupboard in an office, where filing cabinets were used to store bedding and clothes. That is not an ordinary arrangement, and in this context, where the Council were carrying out inspections, I find that it was primarily to prevent the Council from finding evidence of him

sleeping there, rather than to clear space to provide a professional reception for visiting clients. He has also explained that he removed a toilet and a shower specifically because he had learnt that an inspection was imminent. I am in no doubt that the purpose of removing those facilities was also to prevent the Council finding evidence of him living there, and/or him creating a dwellinghouse. On top of this, the appellant has clarified that the reason his ex-partner listed him as living with her at an alternative address was to not draw attention to him living at the site. Even the appellant's relative, Mr Ross-Thomas, in his SD, has described staying at the site 'in the hidden living space in the office above the west entrance to the barn'. This shows that Mr Ross-Thomas was aware that living accommodation was being deliberately concealed by the appellant.

21. The above actions by the appellant exceed what could reasonably be described as 'keeping a low profile', as he went out of his way to stop the Council finding relevant evidence. His actions amount to positive deception to prevent the regular operation of the Council's planning enforcement function, which is an integral element of the planning system. Although some of those actions took place more than four years before the notice was issued, they form part of a pattern of ongoing and continued deception which prevented the Council from finding evidence and issuing an enforcement notice earlier. It is possible that the Council's inspections were not thorough enough, especially in light of the continued reports of someone living at the site, but the site visit notes and photographs show evidence was not found to encourage further investigation. It is therefore unsurprising that these acts of deception resulted in the Council closing investigations and not undertaking additional inspections.
22. The appellant would have profited directly from his deception had I been convinced on the evidence that the MCU took place at least four years prior to the notice being issued and that the building had remained in use as a dwellinghouse without significant interruption since. This is because he would have benefited from a lawful dwellinghouse which his appeal statement describes as non-compliant with national and local planning policies. For these reasons, with regard to *Welwyn Hatfield BC v SSCLG & Beesley* [2011] UKSC 15 and the public policy principle that no one should profit from their own wrong, the appellant would not have been entitled to rely on the provisions of section 171B(2) of the Act.
23. The appeal under ground (d) therefore fails.

Conclusion

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

L Douglas

INSPECTOR