



Appeal Decisions

Inquiry held on 9, 10 and 15 December 2025

Site visit made on 10 December 2025

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2026

Appeal A Ref: APP/C1625/C/25/3370571

Appeal B Ref: APP/C1625/C/25/3370572

Land to the rear of 23 Howmead, Berkeley, Gloucestershire GL13 9AR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Peter Cook (Appeal A) and Mrs Patricia Cook (Appeal B) against an enforcement notice issued by Stroud District Council.
 - The notice was issued on 2 July 2025.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of land from agricultural to residential, the erection of a domestic outbuilding, two greenhouses and other domestic paraphernalia.
 - The requirements of the notice are to:
 - i) Cease the residential use of the land;
 - ii) Remove the outbuilding and associated foundations (as outlined in green on plan B¹);
 - iii) Remove the two green houses (as outlined in purple on plan B);
 - iv) Permanently remove from the land all domestic paraphernalia that include but are not limited to the picnic bench, table and barbeque; and
 - v) Restore the land to its former condition prior to the unauthorised development occurring.
 - The period for compliance with the requirements is six months after the notice takes effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (d) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - Appeal B is proceeding on the grounds set out in section 174(2)(d) and (f) of the Town and Country Planning Act 1990 (as amended).
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Summary Decisions: The appeals succeed in part, otherwise the appeals fail, planning permission is refused and the notice is corrected and upheld in the terms set out in the Formal Decision.

Preliminary Matters

1. These appeals were considered at the public inquiry alongside four other appeals² relating to land to the rear of two other properties along Howmead. My decisions on those other appeals are the subject of two other separate decisions.

¹ Reference to a plan here and elsewhere in the header is to a plan attached the enforcement notices to which these appeals relate.

² Appeals referenced APP/C1625/C/25/3370587, APP/C1625/C/25/3370588, APP/C1625/C/25/3370526 and APP/C1625/C/25/3370527

Ground (d) Appeals A and B

2. An appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by the matters alleged in the notice.
3. The breach of planning control (BOPC) alleged in the enforcement notice comprises both a material change of use (MCU) and operational development (OD). At the case management conference (CMC) held prior to the start of the inquiry the appellants confirmed that their ground (d) appeal is only made in respect of the MCU and that this only relates to a part of the land to which the notice relates. The part of the land in question is that shown in red on the plan attached to the appellant's, Mr Cook's, proof of evidence as Appendix A. I will refer to this from hereon in as 'the Appendix A Land'. At the CMC the appellants confirmed that no claim for immunity from enforcement action is made with regard to the alleged OD of the land.
4. In view of the above, the main consideration under the ground (d) appeals was identified at the CMC as whether, prior to the issue of the notice, the residential use of part of the land to which the notice relates has continued substantially uninterrupted for a period of ten years or more beginning with the date of the breach³. The date of the breach would be the date the material change of use alleged took place.
5. As the Notice was issued on 2 July 2025, for the appellants to succeed it must be demonstrated that, on the balance of probability, the date of the breach was before 2 July 2015. The burden of proof is on the appellants.
6. Although the Planning Practice Guidance document on Lawful development certificates does not explicitly apply to enforcement appeals, the advice at paragraph 006 is pertinent to the main considerations in this case. It advises that, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse an application for a lawful development certificate, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
7. The appeal site is some 1.2 metres below the level of the garden at 23 Howmead and extends in a long narrow strip some 92 metres from the rear boundary of 23 and 25 Howmead. In his proof of evidence Mr Peter Cook explains that he and his wife purchased the appeal site in April 2017, but that prior to this he had used the Appendix A Land for growing vegetables in raised beds. In order to do this Mr Cook said that he installed a gate and constructed a series of steps down from his garden at No 23 onto the appeal site. He said that he constructed raised planters, which he filled with compost. Mr Cook said this was necessary as the land was not suitable for growing vegetables. He said that from around 2013 onwards he used the Appendix A Land for the growing of vegetables.
8. In an attempt to corroborate his claims, Mr Cook has provided an aerial image at his Appendix B, which he says was taken in July 2013. On this I can see the outline of a physical feature on land to the rear of No 23. At the site visit I saw the

³ Having regard to section 171B(2) of the 1990 Act and section 5 of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.

current planters and steps, which Mr Cook says replaced the original raised planters and steps in 2019. These are in the general location of the items I can see in the aerial image. I also note that there are no similar structures to the rear of the other properties I can see in the image along Howmead.

9. Mr Cook acknowledged that he did not have the permission of the landowner to carry out these activities on the land between 2013 and when he took ownership of the land in April 2017. Nevertheless, this does not cast doubt on how Mr Cook says he used the Appendix A Land during this period.
10. Whilst the Council did not dispute that the Appendix A Land had been used to grow vegetables prior to 2017, it suggests that this did not result in a MCU of the land prior to 2017. In doing so the Council point to the definition of agriculture set out at section 336 of The Town and Country Planning Act 1990 as amended (the 1990 Act). I can agree that the growing of vegetables on land, as described by Mr Cook, would be an activity that would fall within this definition. However, it does not automatically follow that because only this activity took place on the land, the use of the land remained in agricultural use during this time. I say this mindful that the growing of vegetables is an activity commonly found in a domestic garden. In these circumstances, it is an activity that would fall within the definition of agriculture, but would, like other common activities within a garden, be an activity that is incidental to the enjoyment of the dwellinghouse.
11. Mr Cook is clearly a keen gardener and most of the current activities on the appeal site are for the purposes of growing vegetables and, to a lesser degree, growing flowers. There is evidence of other activities on the appeal site that would ordinarily be connected with a domestic use. This includes the storage and siting of garden furniture used for sitting out on the land and the use of the land for BBQs. Nevertheless, it is not these other activities alone that, in my judgement, mean that the land is in a residential use, as alleged in the notice. The gardening activities contribute substantially to the definable character of the use of the land at present. This includes the growing of vegetables in the raised planters I observed adjacent to the rear boundary of No 23.
12. The appellant does not dispute that the existing use of the land is for residential purposes as alleged, albeit the main activities on the land take place close to the property at No 23. These current activities take place wholly in connection with the use of the appellants' property at No 23. Indeed, the appeal site is clearly used as an extension of the appellants' garden at No 23.
13. When I compare the current activity on the appeal site to that carried out by Mr Cook prior to 2017, as described in his written and oral evidence, there appears to be little difference in the gardening activities that took place on the Appendix A Land. The permanent presence of the steps shows the connection between the Appendix A Land and No 23 from around 2013 onwards. Furthermore, only Mr Cook carried out gardening activities on the Appendix A Land from his property at No 23. I also note that the gardening activity could only be carried out by the construction of raised planters, which themselves are an overtly domestic feature common in a residential garden. All of this demonstrates that the gardening activity on this land was of a domestic scale and nature. Having regard to the particular circumstances of this case, I find as a matter of fact and degree that the activities carried out by Mr Cook on the Appendix A Land was a use of that land for residential purposes and this activity resulted in a MCU of the land. On this basis, I

find it more likely than not that the MCU of the Appendix A Land took place in 2013, if not before.

14. Notwithstanding the above, I note the Council's suggestion that the evidence is not sufficient to demonstrate that this use of the land has continued substantially uninterrupted from 2013 onwards. Whilst not all vegetables can be grown all year round, Mr Cook explained at the inquiry that the plants grown on the land would change, depending on the season, and that he would grow 2 crops in a year. He confirmed that he has grown vegetables on the land all year round since 2013.
15. I acknowledge that the evidence to support this is limited to the aerial imagery from 2013, 2017 and 2020. Nevertheless, this evidence does nothing but corroborate what is said by Mr Cook in his oral and written evidence. Particularly as I can see some items in the location of the Appendix A Land on the images.
16. I find Mr Cook's evidence with regard to the use of the Appendix A Land, given both in writing and at the inquiry, to be precise and unambiguous. I am also mindful of the significant weight that is carried by evidence that is given under oath, in view of the sanctions that could be imposed should the evidence be false or misleading. Furthermore, it is not contradicted by any other evidence, including that from the Council.
17. All things considered, I conclude that the appellants have discharged the burden of proof that is upon them. I am satisfied that, on the balance of probability, prior to the issue of the notice, the residential use of part of the land to which the notice relates (i.e. the Appendix A Land) has continued substantially uninterrupted for a period of ten years or more beginning with the date of the breach. Accordingly, I conclude that at the time the notice was issued no enforcement action could be taken in respect of the BOPC comprising the MCU of this part of the appeal site. For this reason, the ground (d) appeal succeeds in part insofar as it relates to this matter.
18. In view of these conclusions, I intend to correct the notice to make clear that neither the allegation nor the requirements relate to the Appendix A Land.

Ground (a) and the deemed application for planning permission – Appeal A

Preliminary Matters

19. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
20. The notice, as I intend to correct it, alleges a MCU of the vast majority of the appeal site from agriculture to a residential use and OD comprising the erection of an outbuilding, associated foundations and two green houses on the land. Having regard to the notice as drafted, the domestic paraphernalia is part and parcel of the MCU. The notice indicates that this includes, but is not limited to, the picnic bench, table and barbeque.
21. The ground (a) appeal relates to the entirety of these matters. By this I mean the deemed planning application is for the development comprising the MCU of the entirety of the appeal site and the OD. Notwithstanding this, section 177(1)(a) of the 1990 Act informs that, on the determination of an appeal under section 174, the Secretary of State may grant planning permission in respect of the matters stated in

the enforcement notice as constituting a breach of planning control, **whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates**. In making their ground (a) appeal, the appellant has invited me to exercise the provisions of section 177(1)(a) and grant planning permission for the MCU of only part of the appeal site. This is in addition to the OD.

22. On a separate matter, a consultation document on proposed reforms to the National Planning Policy Framework (the Framework) has been published since the close of the inquiry. The consultation on this document is ongoing and the document is not policy at present. In view of this, having regard to the main issues in this case, I have not sought the parties' views on this.
23. Finally, whilst there has been reference in evidence to the emerging local plan, the parties confirmed that neither place any reliance on its policies to make their case.

Main Issues

24. At the CMC it was agreed that the main issues in this case are as follows:

- Whether or not the location of the development is acceptable, having regard to the relevant policies and guidance on the matter of its location; and
- The effect of the development on the character and appearance of the surrounding area.

Reasons

Location:

25. The appeal site is located on land that is beyond the settlement boundaries identified in the Stroud District Local Plan adopted November 2015 (SDLP). It is, therefore, within the countryside for the purposes of the development plan.
26. Policy CP3 (Settlement Hierarchy) of the SDLP informs that new development should be located in accordance with the District's settlement hierarchy. There is no dispute that the location of the development in question does not accord with the settlement hierarchy.
27. Policy CP15 (A Quality Living and Working Countryside) informs that new development will not be permitted outside of identified settlements unless certain criteria are met. This is in order to 'protect the separate identity of settlements and the quality of the countryside (including its built and natural heritage)'. The appellant does not suggest that the development in question meets any of the criteria of Policy CP15. I do not disagree with this position.
28. I have not been advised of any other policies of the development plan that might support the residential development that is the subject of this appeal. Neither have I been taken to any national guidance that would also provide support for this development in this countryside location. Accordingly, I can only conclude that the location of the development is unacceptable, having regard to the relevant policies and guidance on the matter of its location. As the development is in conflict with Policy CP3 of the SDLP, it undermines and, therefore, causes harm to the Council's strategy for new development during the plan period. It is, therefore, also

in conflict with Core policy 1 of the SDLP, which reflects the presumption in favour of sustainable development set out in the Framework.

29. These conclusions are consistent with those of the Inspector in the recent appeal decision⁴, which has been drawn to my attention, relating to land to the rear of 11 Howmead.
30. It will be noted that my findings above mirror those in the appeal decisions⁵ that relate to land to the rear of 35 Howmead on the matter of the location of the development. This is unavoidable, given the application of the same development plan policies to development of the same nature.

Character and appearance:

31. Having noted the purpose of Policy CP15 of the SDLP, as set out above, this Policy is relevant to the matter of character and appearance in this case. Policy CP14 (High Quality Sustainable Development) is also relevant as it only supports development where it achieves, amongst other matters, respect for the surrounding area. Whilst I am told that the appeal site is within the 'Sandstone Ridge' landscape character area, I have little information before me about its key characteristics. Nevertheless, I note that Policy ES7 (Landscape Character), informs that development will only be permitted if, amongst other matters, its location and use is sympathetic to and compliments the landscape character.
32. Whilst the notice refers to Policy ES12 (Better design of places) of the SDLP, this appears to relate to development proposals for allocated sites. The relevance of this policy is not obvious to me and has not been set out in evidence.
33. The appeal site was part of a much larger parcel of former agricultural land to the rear of the properties along Howmead. The appeal site spans the width (east to west) of the former parcel by some 92 metres, but is a fairly narrow parcel across the width of the rear boundaries of Nos 23 and 25. Nevertheless, it is a substantial area of land in use for residential purposes, when compared to the existing garden of No 23.
34. The appeal site compares with that to the rear of No 11 and so I also find it to be an arbitrary projection into the former wider field, at odds with the established boundary line of the adjoining properties on the edge of the settlement along Howmead.
35. I have had regard to the new residential development to the north of the appeal site. I also note the enclosures that divide the wider former field parcel, and the built development in this wider area, which is outside of the defined settlement limit along the rear of the Howmead properties. The Council have found some of this built development and other structures to be lawful or not expedient to enforce against. Nevertheless, the appeal site and the wider former field parcel retain a rural character, such that it is still more in keeping with the rural landscape to the west of the appeal site, rather than residential development to the east and north.
36. With regard to the MCU that is the subject of the deemed planning application, if permission were granted for a residential use of the appeal site, this would allow for residential activity on the whole site. Whilst further built development could be

⁴ Appeal reference APP/C1625/W/24/3338648.

⁵ Appeals referenced APP/C1625/C/25/3370587 and APP/C1625/C/25/3370588

controlled by the imposition of a condition, as suggested, this would not prevent other domestic activity, including additional domestic planting, play equipment, drying washing etc. I acknowledge that the whole of the appeal site is not used in this way at present, but such activity across the whole of the site would, in my judgement, cause a substantial change to the character of the site. The appeal site is visible from the footpath to the south and such a change would be apparent from this public vantage point, as well as from the other residential properties along Howmead. I have had regard to the conclusions of the previous Inspector on the visual effect of the residential use of the land to the rear of No 11. However, having regard to the potential effect of continued residential activity across the appeal site, I cannot say that this would not detract from the predominant rural character of the surrounding area.

37. Accordingly, I cannot conclude the same as the previous Inspector with regard to the effect of the MCU on the character and appearance of the surrounding area. The MCU if permitted for the whole of the appeal site would result in an unacceptable encroachment of residential activity that is harmful to the rural character of the surrounding area.
38. Turning to the OD that is the subject of this ground (a) appeal, the outbuilding erected on the land is a substantial structure. Its domestic window openings and open veranda to the front are features that render the building overtly domestic in its appearance. The greenhouses are also of an entirely domestic scale and, although small, add to the residential character of the appeal site. This development is out of keeping with the rural character of the site and is an encroachment of domestic development into the rural landscape.
39. I acknowledge that the effect of both the MCU and OD on the character and appearance of the surrounding area might be localised. Nevertheless, I still consider it to be unacceptable and in conflict with the policies of the SDLP referred to above.

Permission sought for MCU of part of the appeal site:

40. Notwithstanding the above, I am invited to grant permission for the MCU of part of the appeal site. The area identified by the appellant is shown outlined in red on the 'Site Plan' at appendix K of their grounds of appeal. I will refer to this from hereon in as 'the Appendix K Land'. I am mindful that this land includes the Appendix A Land, the residential use of which I have found to be lawful. The Appendix K Land is confined to the land occupied by the outbuilding and is where most of the current gardening activities take place.
41. The area for which permission is sought is far smaller than that considered above. Nevertheless, the location of this development still fails to accord with Policy CP3 of the SDLP. It also remains that the development does not have the support from Policy CP15. I acknowledge that the harm caused to the Council's strategy would be less than that caused by the use of the appeal site as a whole. Nevertheless, the location of the development would still be unacceptable and in conflict with the development plan policies relevant to the matter of its location.
42. I acknowledge that the effect of the development on the character and appearance of the surrounding area would be reduced. Nevertheless, the use would result in the retention of residential activities extending into the rural landscape. Even if the buildings referred to above were removed, much of the domestic activity on the

land would remain, which would still be highly visible from the footpath to the south of the site. Again, I acknowledge that the effect of this would be localised. I am not, however, persuaded that it would be so limited as to result in an acceptable effect on the appearance and rural character of the surrounding area. Although the harm caused by this would be less than that caused by the use of the appeal site as a whole, the use would still conflict with Policies CP15, CP14 and ES7 of the SDLP.

Other Matters:

43. For the reasons set out above, the development (whether in whole or in part) is contrary to the development plan when read as a whole. My determination of the ground (a) appeal and the deemed planning application must be in accordance with the development plan, unless material considerations indicate otherwise.
44. I have had regard to the structures on other parts of the wider former field parcel that have been found lawful or have not been enforced by the Council. Whether or not these are all development for the purposes of section 55 of the 1990 Act is another matter. Nevertheless, their presence does not justify the harm caused by the OD or the MCU (whether the whole or part of the appeal site).
45. I say the above mindful also of my decision on the appeals relating to land to the rear of No 35⁶. I have found most of the OD on that land lawful and have granted planning permission for a residential use of a small part of that appeal site. The OD subject of the deemed planning application in this appeal is, however, sited further away from the settlement boundary and established residential development than that to the rear of No 35 and most, if not all, of the other structures that have been brought to my attention.
46. Furthermore, I do not understand that the Council has permitted other such MCU on the wider field parcel or deemed them not expedient to enforce. As I understand it, the decisions not to take action is in respect of structures on the land and not the use of the land in question. The permission I have granted for the use of land to the rear of No 35 was on the basis of the particular circumstances of that case and, in any event, on a parcel smaller than that considered in this case.
47. The lack of any complaints regarding the development does little to weigh in favour of the grant of planning permission.
48. Having regard to all matters raised, I can identify no material considerations of sufficient weight to indicate that my determination of the deemed planning application (whether for the whole or part of the land to which the notice relates) should be made otherwise than in accordance with the development plan. Furthermore, I am unable to identify any conditions that might overcome the harm caused in this case.

Conclusions

49. For the reasons given above, I conclude that planning permission should be refused for the development that is the subject of the enforcement notice, once corrected as I intend, whether on the whole or part of the land to which the notice relates. The ground (a) appeal should, therefore, fail.

⁶ Appeals reference APP/C1625/C/25/3370587 and APP/C1625/C/25/3370588

Ground (f) Appeals A and B

50. The purpose of the notice is to remedy the breach. Accordingly, the ground (f) appeals in this case is that the steps required by the notice to be taken, or the activities required by the notice to cease (once corrected as I intend), exceed what is necessary to remedy the BOPC.
51. Having regard to my conclusions on the ground (d) appeals, the requirements of the notice that remain the subject of the ground (f) appeals are those that relate to the appeal site outside of the Appendix A Land.
52. I have concluded that the activity on the appeal site brought about by the residential use results in a harmful change to the character of the site. It may well be the case that some domestic activity is tolerated by the Council in the wider area. I have already concluded that this is not sufficient to justify the harm caused by the development subject of this appeal. Furthermore, it is not a reason to find that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the BOPC.
53. The BOPC comprising the MCU and OD has been found to be harmful. The domestic paraphernalia is ancillary to the MCU and, therefore, contributes to the harm caused. Accordingly, the requirement to cease the residential use, remove the OD and remove the domestic paraphernalia is necessary to achieve the purpose of the notice, which is to remedy the breach. I can only find the requirement to restore the land to its former condition to be necessary, following the removal of these items, in order to remedy the breach.
54. Having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve the purpose of remedying the BOPC in this case are obvious to me. On this basis I can only conclude that the steps required in the notice are necessary and proportionate. For these reasons, the appeals under ground (f) should fail.

Overall Conclusions Appeals A and B

55. For the reasons given above, I conclude that the ground (d) appeals succeed in part. Otherwise, I conclude that the appeals should fail. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision Appeals A and B

56. It is directed that the enforcement notice is corrected by:
- the insertion in part 3 of the words “outside of the area identified in red on the attached Appendix ‘A’ plan” after the words “the material change of use of land”;
 - the insertion in part 5 i) of the words “outside of the area identified in red on the attached Appendix ‘A’ plan” after the words “Cease the residential use of the land”;
 - the insertion in part 5 iv) of the words “outside of the area identified in red on the attached Appendix ‘A’ plan” after the words “Permanently remove from the land”;

- the insertion in part 5 v) of the words “outside of the area identified in red on the attached Appendix ‘A’ plan” after the words “Restore the land”; and
- the attachment to the enforcement notice of the plan entitled ‘Appendix ‘A’” annexed to this decision.

57. Subject to the corrections, Appeals A and B are dismissed, the enforcement notice is upheld and planning permission is refused on Appeal A on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J Moss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Wadsley
Abigale Snook MRTPI
Peter Cook

St. John's Chambers
ACS Town Planning
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Simon Aley
Sean Kirton

One Legal
Stroud District Council

INQUIRY DOCUMENTS

- ID1 Photographs of nearby plots provided by the Council
- ID2 Photographs of nearby plots provided by the appellants



Planning Inspectorate

Plan

This is the plan referred to in my decision dated: **4 February 2026**

by **J Moss BSc (Hons) DipTP MRTPI**

Land at: Land to the rear of 23 Howmead, Berkeley, Gloucestershire GL13 9AR

Reference: APP/C1625/C/25/3370571 and APP/C1625/C/25/3370572

Not to scale

