



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/25/3370526

Appeal B Ref: APP/C1625/C/25/3370527

Land to the rear of 11 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 Bernard Price (Appeal A) and Mrs Angela Price (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 and the construction of a raised patio area.
 - The requirements of the notice are to:
 - i) Cease the residential use of the land;
 - ii) Remove the domestic outbuilding and associated foundations (as shown outlined in purple on Plan B¹);
 - iii) Remove the raised patio area (as shown outlined in green on plan B);
 - iv) 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.
 - The appeals are 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 are dismissed and the enforcement notice is upheld.

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.

The Notice

2. At the public inquiry I advised the parties that, before considering the grounds of appeal, I have a duty to put the notice in order, if necessary. The powers transferred to Inspectors under section 176(1)(a) and 176(1)(b) of The Town and Country Planning Act 1990 as amended (the 1990 Act) include to correct or vary the terms of an enforcement notice.
3. The reason for me raising my duty was in relation to the case made by the appellants under ground (d). In this the appellants refer to steps on the land.

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

However, the enforcement notice does not mention operational development (OD) comprising the construction of steps. Neither does it require the removal of any steps. For this reason, I was concerned that any steps constructed on the land were not the target of the notice.

4. In response to my concerns, the Council said that there are two sets of steps on the land, but that these are part of the OD comprising the raised patio area.
5. At the site visit I saw the two sets of steps referred to. The first provide access to the raised patio from the garden of 11 Howmead. The second provide access from the raised patio onto the remainder of the appeal site. Both sets of steps are constructed of the same materials as the raised patio, with a brick upriser and patio slabs for the tread of the steps.
6. The first set of steps are constructed within the area occupied by the raised patio and are clearly part of the patio's construction. The second set are constructed between two short pillars located at the edge of the patio, and so appear, again, to be an integral part of the patio's construction. Furthermore, there is nothing to indicate that the steps were not constructed at the same time as the patio.
7. In view of the above, and having had the benefit of the site inspection, I am persuaded that the steps in question are part of the OD comprising the construction of a raised patio area. For this reason, I am satisfied that the notice targets the steps as part of the OD alleged. Indeed, the appellants have approached their appeal on this basis. Accordingly, despite my initial concerns, I conclude that the notice is not defective.

Ground (d) Appeals

8. 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 stated in the notice.
9. The breach of planning control (BOPC) alleged in the enforcement notice comprises both a material change of use (MCU) and 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 in respect of the OD and that no claim for immunity from enforcement action is made with regard to the alleged MCU of the land.
10. In view of the above, the main consideration under the ground (d) appeal is whether, prior to the issue of the notice, a period of four years has passed beginning with the date on which the OD referred to in the notice was substantially completed³. 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 OD was substantially completed before 2 July 2021. The burden of proof is on the appellants.
11. 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

³ Having regard to section 171B(1) 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.

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.

12. The OD referred to in the notice comprises the erection of a domestic outbuilding and the construction of a raised patio area. The outbuilding is located adjacent to the southern and eastern boundary of the appeal site. It is a single storey building with a dual pitch pantile roof and brick built external elevations. Window and door openings in the building are glazed with a upvc window and patio type door. The patio area extends across the remaining width of the appeal site, adjacent to the boundary shared with No 11. It includes the two sets of steps I have already referred to above.
13. In his proof of evidence Mr Price sets out that the works to construct the OD started on site in June 2021. Mr Price says that 'the building was substantially complete by the end of June 2021'. In stating this he says that he remembers that, 'having completed the foundations, hardstanding, steps and brick walls and roof of the storage building', the builder had to leave site to attend to a job elsewhere. The indication is that these are the works that had been carried out by the end of June 2021.
14. When turning to the remaining works to the building and the patios, Mr Price says the builder returned to the site to complete these before the end of August 2021. He says that these works comprised 'topping the hardstanding with paving slabs', and 'erecting some brick pillars by the lower steps'. There was no suggestion that the builder's return to the site and the completion of these works was prior to 2 July 2021, which is, of course the relevant date in this case.
15. In support of his evidence Mr Price has provided a photograph taken from the garden of No 11, in which the building in question can be seen in the far ground. Mr Price says that the photograph was taken in July 2021. I have no reason to doubt when the photograph was taken and the date of this photograph is not disputed by the Council. Nevertheless, what is clear from this photograph is that the roof of the building had not been finished with the pantile roof tiles; these can be seen in the photograph, stored in front of the building. Mr Price did not dispute that the roof of the building had not been finished with the pantiles at this time.
16. Mr Price has also provided an aerial photograph of the appeal site, taken in July 2021. This shows the outline of works in the location of the patio. Unfortunately, the location of the building is obscured by the tree at No 11. Nevertheless, this corroborates Mr Prices evidence with regard to the works to construct the patio that had been carried out by this stage, which exclude, amongst other matters, the finished surface paving.
17. Having regard to the above, I have no reason to doubt Mr Price's evidence, given in writing and at the inquiry, with regard to the stage at which the operations had reached four years prior to the issue of the notice. What I must, therefore, consider is whether or not what was on site at that time can be regarded as a substantially complete outbuilding and patio.
18. My attention has been drawn to the case of *Sage v SSETR & Maidstone BC* [2003] UKHL 22; [2003] JPL 1299, which is regarded as establishing the meaning of the phrase 'substantially completed' used in section 171B(1) of the 1990 Act.

Sage informs that, what is required is 'a fully detailed building of a certain character'. The case endorses a holistic approach.

19. The appellants acknowledge that *Sage* is relevant to the determination of the appeal, but attempt to draw a distinction between that case and the one before me. Whilst other arguments were considered in *Sage*, whether or not the development in question had been 'substantially completed' was clearly a main issue in that case.
20. Having regard to the approach in *Sage*, it is clear that the appellants had always intended the building in question to be completed with a pantile roof, which would have included the prominent ridge tiles I observed on the completed building. This is evident, having regard to the presence of the pantiles on site in July 2021. Whilst the roof of the building may well have been watertight, the felt material that had been fitted prior to 2 July 2021 was evidently not the intended finish for the building. Indeed, felt material described by Mr Price, often used in roof construction, is ordinarily only part of the complete roof structure and is usually fitted below the final roof material.
21. There is nothing to indicate that the building was designed with the intention of being fitted with anything other than a pantile roof with ridge tiles, or that the intention was to finish the roof with felt material alone. Furthermore, the roof of the building is a substantial element of the overall operation. It is not a minor element and its finish cannot be regarded as being of little consequence to the overall scheme. Accordingly, I cannot regard the building absent of its intended pantiles and ridge tiles as being a fully detailed building of a certain character. Without the finished roof materials, the building is more likely than not to have the appearance of an unfinished structure.
22. In view of this, and as it is more likely than not that the roof of the building was not finished with pantiles and ridge tiles until some time in August 2021, I can only conclude that, prior to the issue of the notice, a period of four years has not passed beginning with the date on which the outbuilding was substantially completed, on the balance of probability.
23. I acknowledge that the building may have been used for its intended purpose before 2 July 2021. This does not change that at this time further works were necessary to complete the building as intended.
24. Turning to the patio, I have no doubt that the intended finish was with the paving slabs I observed on site. These are clearly an integral part of the design of this operation, as are the brick pillars at the edge of the patio. Again, this final surfacing of the patio is, in my judgement, a substantial element of the overall operation. It is not a minor element. The finish of the patio with paving slabs cannot be regarded as being of little consequence to the overall scheme, bearing in mind that the slabs cover the vast majority of this operation.
25. Whilst I acknowledge that, prior to 2 July 2021, the works carried out on site would have been sufficient to provide a level surface on this part of the site and that what was there might well have been walked on. There is, however, nothing to indicate that this operation was designed with the intention of being finished with anything other than paving slabs. Indeed, at the inquiry Mr Price described the works to this area at this time as having been screeded, but not capped.

26. Accordingly, I cannot regard the patio area, which includes the steps, absent of its paved surfacing as being a fully detailed operation of a certain character. Without the paving slabs and pillars, the operation is more likely than not to have the appearance of an unfinished form of development.
27. As the appellants confirms that the patio area was not finished with paving slabs and pillars until some time in August 2021, I can only conclude that, prior to the issue of the notice, a period of four years has not passed beginning with the date on which the patio was substantially completed, on the balance of probability.
28. Having regard to my finding above, at the date on which the notice was issued, it was not too late for enforcement action to be taken in respect of the BOPC comprising the OD alleged in the notice. For this reason, the ground (d) appeal should fail.

Ground (f) Appeals

29. The purpose of the notice is to remedy the breach. Accordingly, the ground (f) appeal 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.
30. Much of the case made by the appellants in support of their ground (f) appeals relate to the merits of the development, which are relevant to a ground (a) appeal. As the ground (a) appeal in this case has been barred, these matters cannot be considered within the remit of this appeal. A ground (f) appeal cannot be a means of obtaining a planning permission by reason of section 173(11) of the 1990 Act, where permission is otherwise unobtainable under section 177(1).
31. Furthermore, whilst the appellants suggest that the building is not put to a residential use, that is the use of the land that is alleged in the notice. I am, therefore, unable to consider within the remit of this appeal whether or not the building would be acceptable if put to some other use. The mechanism for this to be considered would be via a separate application for planning permission to the Council.
32. It may well be the case that some domestic activity, structures and operations in the wider area are tolerated by the Council or have been found to be lawful. Indeed, I have granted planning permission for the residential use of a small area of land to the rear of 35 Howmead. However, this is on the basis of the particular circumstances of that case. Nevertheless, whether or not these matters justify the retention of the development subject of this appeal is not relevant to the ground (f) appeal. That these other operations, structures and uses exist on land close to the appeal site is not sufficient for me to find in the appellant's favour under the ground (f) appeal. I say this, given that I am only able to consider whether 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 that is alleged in the enforcement notice.
33. I note the appellants reference to the Planning Practice Guidance on Enforcement and post-permission matters. However, in line with my conclusions above, even if the BOPC in this case were to be regarded as a trivial or technical breach, this is not reason for me to conclude that the requirements of the notice are not necessary to remedy these breaches.

34. The appellants have not suggested any alternative steps that would achieve the purpose of remedying the breach of planning control in this case. No other steps that would achieve this purpose are obvious to me. On this basis I can only conclude that the requirements to cease the residential use, remove the OD and remove the domestic paraphernalia are proportionate and necessary to achieve the purpose of the notice, which is to remedy the breach. The requirement to restore the land to its former condition is also necessary, following the removal of these items, in order to remedy the breach.

35. For the reasons set out above, the appeal under ground (f) should fail.

Overall Conclusions – Appeals A and B

36. For the reasons given above, I conclude that the appeals should fail. I shall uphold the enforcement notice.

Formal Decision – Appeals A and B

37. The appeals are dismissed and the enforcement notice is upheld.

J Moss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Wadsley
Abigale Snook MRTPI
Bernard Price

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