



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/25/3370587

Appeal B Ref: APP/C1625/C/25/3370588

Land to the rear of 35 Howmead, Berkley, 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 Mrs Jeanette Palmer (Appeal A) Mr Michael Palmer (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 and the erection of a garden room, the erection of a brick built raised bed and store, the laying of patio and the siting of raised planters and other domestic paraphernalia.
 - The requirements of the notice are to:
 - i) Cease the residential use of the land;
 - ii) Remove the garden room (as outlined in green on plan B¹) and associated patio/hardstanding (as outlined in blue on plan B);
 - iii) Remove the brick built store, access steps and planter (as outlined in orange on plan B);
 - iv) Permanently remove from the land all domestic paraphernalia that include but are not limited to garden sculptures and the timber trellis arch; 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, planning permission is granted for part of the matters alleged, the notice is corrected, varied 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/25/3370571, APP/C1625/C/25/3370572, 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.
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 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.
4. 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.
5. 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.
6. The OD referred to in the notice comprises the following:
 - a garden room;
 - a brick built raised bed;
 - a store; and
 - a patio.
7. After the above list, the notice refers to 'the siting of raised planters and other domestic paraphernalia'. On site I observed a number of raised planting beds enclosed with timber supports. The indication in the notice, as drafted, is that these timber raised planters are regarded as domestic paraphernalia, rather than being included in the list of OD that is targeted by the notice. I have, therefore, regarded these as being part and parcel of the BOPC comprising the MCU.
8. In addition to this, requirement iii) at part 5 of the notice refers to 'access steps'. I observed a set of brick built steps running down from the existing garden at 35 Howmead. Whilst the notice requires these to be removed, it does not refer to them in the allegation. Again, I have regarded these as being part and parcel of the BOPC comprising the MCU.

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.

The garden room

9. The appeal site is a long parcel of land to the rear of the residential properties at 35 and 33 Howmead. The appeal site is at a level some 1.7 metres below these properties and extends west from a retaining structure along the rear boundary of Nos 35 and 33. The garden room comprises a small, single storey, flat roof building that has been constructed directly adjacent to the retaining structure to the rear of No 35 and adjacent to the northern boundary of the appeal site. The building has been fitted with patio type doors and window openings facing west.
10. The appellants say that the works to construct the garden room commenced in March 2020. The appellants have provided a photograph⁴ which they say shows the site and a partly constructed building. The garden room is, however, more visible in the photograph dated 17 September 2020⁵, which shows a structure of a similar appearance to that observed at my site visit. Whilst I can see windows in the structure and a more complete elevation in this photograph, I cannot tell whether the roof of the structure was complete at this time.
11. Nevertheless, I note the evidence of Mrs Palmer, given in her proof of evidence and under oath at the inquiry, that the garden room was completed by mid-September 2020 and in use before the winter of 2020/2021. This is consistent with what is shown in the aerial photograph from July 2021⁶, which shows what appears to be the roof of the garden room in the corner of the appeal site.
12. The Council does not dispute that the garden room was substantially completed more than four years prior to the issue of the enforcement notice and I have no reason to conclude otherwise. Accordingly, the evidence is sufficient to demonstrate that, on the balance of probability, a period of four years has passed beginning with the date on which the garden room was substantially completed.

The store, patio and brick built raised bed

13. The store is a brick built structure directly adjacent to the retaining structure to the rear of No 35. It is located between the garden room and the set of steps down from the garden at No 35. Although adjacent to the store, I am satisfied that the steps are not an integral part of the store structure and are a separate operation. The Council did not suggest otherwise. The steps are not referred to in the allegation. Adjacent to the steps is a small brick built raised bed.
14. The patio is an area of hardstanding to the front of the brick store and garden room. This extends a short distance along the northern boundary of the site. The location of the patio, along with the garden room and the brick built store are accurately shown on the drawing entitled 'Existing Plan, Elevations & Site Plan' submitted at Appendix A with the appellants' statement of case.
15. In her proof of evidence Mrs Palmer says that, once the garden room was completed, work began on the store, the patio and the brick planter. She refers to the completion of the 'works to form the store, path and patio' in the same year as the completion of the garden room (which she refers to as the summerhouse). I am satisfied that this is corroborated by the aerial image from July 2021 in which I can see the outline of structures consistent with the location of the store, patio

⁴ Appendix C of Mrs Plamer's proof of evidence.

⁵ Appendix D of Mrs Plamer's proof of evidence.

⁶ Appendix F of Mrs Plamer's proof of evidence.

area and planter. In her proof of evidence Mrs Palmer also recalls that she started to use the land for a residential use when the 'path, patio and store were complete'. In particular, she refers to the storage of garden tools and to sitting out on the patio area.

16. Although Mrs Palmer refers to a path, there is no suggestion that there is a separate area of hard standing on site that could be regarded as a path. On site I observed a narrow area of the patio between the bottom of the steps and the garden room that was referred to as a path during evidence. I am, therefore, satisfied that the path and patio referred to by Mrs Palmer are both part of the same operation referred to as a 'patio' in the notice.
17. The Council suggests that there is insufficient evidence to demonstrate that, on the balance of probability, the operations were substantially completed more than 4 years before the notice was issued. It does not, however, provide any evidence to contradict the appellants' claims, as set out above. I find Mrs Palmer's evidence with regard to these operations, 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.
18. For the reasons given above, I conclude that, on the balance of probability, a period of four years has passed beginning with the date on which the store, patio and brick built planter were substantially completed.

Summary and conclusions on Ground (d)

19. I have found it more likely than not that prior to the issue of the enforcement notice a period of four years has passed beginning with the date on which the garden room, patio, store and brick built planter were substantially completed. Accordingly, I conclude that at the time the notice was issued no enforcement action could be taken in respect of the BOPC comprising these operations. For this reason, the ground (d) appeal succeeds in part insofar as it relates to these matters.
20. In view of the above, I intend to correct the notice so that it does not include reference to the erection of a garden room, the erection of a brick built raised bed and store, and the laying of patio. This would leave a notice that alleges a BOPC comprising only a MCU of the land, which would include the siting of domestic paraphernalia and the access steps. In other circumstances such a conclusion on ground (d) would also result in a correction to the notice to delete the requirements to remove these operations. However, such a correction to the notice would not be automatic in this case for reasons I set out below and consider in a determination of part of the ground (f) appeal out of the ordinary order in this decision.

Ground (f) Appeals A and B in Part

21. The Council make the case that, notwithstanding what my conclusions might be on ground (d), the operations referred to in the notice also facilitate the other BOPC alleged; that comprising a MCU. As such, the Council say that the requirements to remove these operations, along with other domestic paraphernalia, are necessary in order to remedy the BOPC comprising the MCU. In making this case the Council refer to the case of *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598 where it was held that where an enforcement notice is issued in respect of a MCU, and works were carried out to facilitate the MCU, the enforcement notice may require

that the ‘ancillary’ or ‘incidental’ works are removed so that the site is restored to its previous condition and the breach is remedied. This is often referred to as ‘the *Murfitt* principle’, which is a term I will use in this decision.

22. As I note above, the appellants do not make the case that the MCU is a BOPC that is immune from enforcement action. However, they say that the operations listed in the notice and required to be removed are development that itself has brought about the MCU of the land in this case. They say that for this reason and because these operations are ‘immune under the 4 year rule’, the notice cannot require their removal.
23. In making this case, the appellants refer to the judgment in *Caldwell & Timberstore Ltd v SSLUHC & Buckinghamshire Council* [2024] EWCA Civ 467, where the Court of Appeal reviewed relevant case law and distinguished this case with, amongst others, *Kestrel Hydro v SSCLG & Spelthorne BC* [2016] EWCA Civ 784 (also referred to by the parties). In *Caldwell*, it was held that the *Murfitt* principle did not apply in circumstances where the OD is itself the source of or fundamental to the relevant MCU. In particular, the principle does not extend to works that are more than merely ancillary or secondary and are instead fundamental to or causative of the change of use itself.
24. This is a matter that I suggested in the CMC should be considered under the ground (f) appeal. This is, after all, a matter that is entirely relevant to whether or not 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 comprising the MCU.
25. Indeed, at the CMC the appellants confirmed that the focus of their ground (f) appeals is the requirements to remove the operations referred to in the notice. This includes requirements ii) and iii) and requirement v) insofar as it relates to land occupied by the OD. The parties agreed that the main considerations under the ground (f) appeals were:
 - Whether the operations required by the notice to be removed are fundamental to or causative of the material change of use, or in the alternative, are ancillary or secondary to the material change of use; and
 - whether the steps requiring their removal exceed what is necessary to remedy the breach.
26. I would ordinarily consider the ground (f) appeal after ground (a). However, before I move on to consider the deemed planning application, it is essential that I consider the appellants ground (f) appeal in part; that part being whether or not ‘the *Murfitt* principle’ applies in this case to the operations required by the notice to be removed. I say this because, if I were to find in favour of the appellants and conclude that the *Murfitt* principle does not apply to any or all of the operations required to be removed by the notice, I would conclude that the requirements to remove some or all of these operations exceed what is necessary to remedy the BOPC comprising the MCU. In these circumstances, the notice would be varied to remove these requirements, allowing some or all of the operations to remain on site. If this were the outcome, this would be a matter that is entirely material to whether or not permission ought to be granted for the BOPC comprising the MCU. This is particularly so as the appellants seek permission for the use of only part of the appeal site; the part upon which some of the operations are located.

27. Having regard to the above, I consider each of the operations as follows.

The garden room, store and patio

28. The allegation of a MCU of the land comprises a change from an agricultural use to a residential use. There is no dispute that the residential use is associated with the use of the dwellinghouse at No 35. Such a residential use of land can result from an array of activities that would ordinarily take place within a domestic garden. Mrs Palmer was, however, quite specific about the activities that took place on the land when the material change of use to a residential use took place.
29. The appellants took ownership of the land in April 2017. However, prior to the erection of the garden room, store and patio, Mrs Palmer confirmed at the inquiry that the only activity that took place on the appeal site was for works of maintenance. Between April 2017 and the construction of the garden room, Mrs Palmer describes only grass cutting and scrub clearance close to the footpath. She said that during this time all other domestic activities (she described BBQs, sitting out and drying washing as examples) took place in the existing garden of No 35.
30. I found Mrs Palmer's evidence in this regard to be persuasive. In particular, at the inquiry she said that, although she has a child, her daughter was a teenage at this time and had no interest in playing outdoors, let alone on the appeal site. She also confirmed that she did not exercise her dog on the land.
31. The Council suggest that the aerial images provided in its statement of case, dated 2018 and 2020, demonstrate the change from an agricultural to a residential use after the appellants' purchase of the site. I can see that these show a maintained parcel of land which is something the appellants acknowledge having done. However, I am not persuaded that the maintenance of land in this way is an indication alone that a material change of use to a residential use has occurred. These images do not show any obvious sign of domestic activity. The only difference between the 2018 and the 2020 image is the obvious outline of the garden room in the 2020 image, which the appellants say they commenced building at this time.
32. I do not consider the appellants' reference to the use of the land in a residential capacity for many years⁷ to be contradictory evidence. After all, the appellants' evidence is that, at the time of writing their grounds of appeal, the land had been used as suggested for more than 4 years.
33. Moving on, although the evidence indicates that the garden room was the first operation to be carried out on the land, the evidence indicates that the works to construct the store and patio followed in quick succession. I am, therefore, persuaded by Mrs Palmer's written and oral evidence, that what she considers to be a residential use did not occur until all three of these operations were completed. Nevertheless, the apparent simultaneous completion of the operations and commencement of the residential use is not, on its own, sufficient to demonstrate that the operations were causative of the MCU. What I must consider is the connection between the operations and the type of activities of a residential nature that first took place on the land and, therefore, resulted in the MCU.

⁷ Paragraph 6.4 of the appellants' grounds of appeal.

34. In this regard, Mrs Palmer described the initial activities as sitting in the garden room and sitting out on the patio area to enjoy the views. She also referred to the storage of garden tools and equipment in the store. I am satisfied that these activities are characteristic of a residential use. Furthermore, there is no evidence of any other initial activities on the land. Whilst Mrs Palmer describes creating and planting flower beds on the land, she says that this was during the 12 months after her initial use of the land.
35. Having regard to the above, I am satisfied that the initial activities described by Mrs Palmer were wholly related to the operations comprising the garden room, store and patio. I find it more likely than not that these activities were carried out on the land only because these operations were in situ. For this reason, I conclude that the garden room, store and patio were causative of the MCU in this case, rather than being ancillary or secondary to it.
36. Accordingly, I find that the requirements to remove these operations exceed what is necessary to remedy the BOPC comprising a MCU to a residential use. I intend, therefore, to vary the notice to delete the requirements to remove these operations from the land. The ground (f) appeal succeeds insofar as it relates to the requirements relating to these operations.

Brick built raised bed

37. As I note above, Mrs Palmer described creating and planting flower beds during the 12 months after her initial use of the land. The evidence indicates, therefore, that the use of the brick built raised bed is not an activity that took place when Mrs Palmer says the residential use commenced. For this reason, I find it more likely than not that the construction of the brick built raised bed was not causative of the MCU of the land to a residential use; it is an operation that is ancillary or secondary to it. Accordingly, I have no reason at this stage to vary the notice to delete the requirement to remove this operation from the land. I note the appellants suggest other reasons why the requirement to remove this operation exceeds what is necessary to remedy the BOPC comprising the MCU. I will, however, consider these other elements to the appellants' case on ground (f) after I have considered the ground (a) appeal.

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

Preliminary Matters

38. 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.
39. The notice, as I intend to correct it, alleges a MCU from agriculture to a residential use. As I note above, there is no dispute that the residential use is associated with the use of the dwellinghouse at No 35. Furthermore, and as confirmed above, part and parcel of the MCU is the siting of domestic paraphernalia, including the timber enclosed raised planters, and the access steps.
40. 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. 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 a small part of the appeal site.

41. 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.
42. 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

43. At the CMC it was agreed that the main issues in this case are as follows:
- i. 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
 - ii. The effect of the development on the character and appearance of the surrounding area.

Reasons

Location:

44. 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.
45. 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.
46. 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.
47. 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.

48. These conclusions are consistent with those of the Inspector in the recent appeal decision⁸, which has been drawn to my attention, relating to land to the rear of 11 Howmead.
49. It will be noted that my findings above mirror those in the appeal decisions⁹ that relate to land to the rear of 23 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:

50. Having regard to the purpose of Policy CP15 of the SDLP, as set out above, this Policy is relevant to this second main issue. 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.
51. 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.
52. Although the appeal site was part of a much larger parcel of former agricultural land, it is still a substantial area of land in use for residential purposes, particularly when compared to the existing garden of No 35. It extends across the rear of both Nos 35 and 33 and some distance to the former field boundary to the west.
53. Whilst not as narrow as the site to the rear of No 11, I also find the appeal site to be an arbitrary projection into the former wider field, which I can agree is at odds with the established boundary line of the adjoining properties along Howmead, on the edge of the settlement. I acknowledge that the appeal site is bound on two sides by residential development. However, the established hedgerows to the north of the site provide a substantial boundary to the residential development beyond. The eastern boundary of the site is also defined by the change in ground levels.
54. I have had regard to the enclosures that divide the wider parcel to the south, 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 the residential development to the north and east.
55. I note the conclusions of the previous Inspector, who says that 'the use of the land as garden does not represent a significant visual intrusion into the adjoining

⁸ Appeal reference APP/C1625/W/24/3338648.

⁹ Appeals referenced APP/C1625/C/25/3370571 and APP/C1625/C/25/3370572

agricultural land or detract from the predominant rural character of the surrounding area'. However, if permission were granted for the deemed planning application as submitted, this would allow for residential activity on the whole of the appeal site. Whilst built development could be controlled by the imposition of a condition, as suggested, this would not prevent other domestic activity, including domestic planting, play equipment, drying washing etc. The whole of the 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 west and such a change would be apparent from this public vantage point, as well as from the other residential properties along Howmead.

56. Accordingly, I cannot conclude the same as the previous Inspector with regard to the effect of the development 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.
57. Whilst I acknowledge that the effect of the MCU on the character and appearance of the surrounding area might be localised, I still consider it to be unacceptable and in conflict with the policies of the SDLP referred to above.

The permission sought for the MCU on part of the appeal site:

58. Notwithstanding the above, I am invited to grant permission for the use of part of the appeal site for residential purposes. The area identified by the appellant is shown outlined in red on the 'Site Plan' entitled 'Appendix 'K'', although this plan is found at appendix L of the appellants' grounds of appeal. From hereon in I will refer to the land identified on this plan as 'the Appendix K Land'. For the avoidance of doubt the plan is annexed at the end of this decision.
59. The area identified is confined to the land occupied by the garden room, patio, store and the existing steps down from the rear garden of No 35. In light of my conclusions on ground (d) and ground (f) (in part), the notice as I intend to correct it will not refer to the garden room, patio and store in the allegation and will not require their removal from the land. These operations can, therefore, remain on the site, regardless of my conclusions on this ground (a) appeal. If I were to refuse the permission for the MCU sought by the appellant and uphold the requirements of the notice, it is likely that the provisions of section 57(4) of the 1990 Act¹⁰ would apply. This might allow for a return to an agricultural use. It would not, however, allow for the use of the land (including the operations on it) for a residential use, as such a use would contravene the requirements of the notice.
60. However, having regard to the design and materials used in the construction of these operations, they are overtly domestic types of development. They are not designed for an agricultural purpose and are likely to be of limited benefit to any agricultural activity on the wider site.
61. If permission were granted for the MCU sought by the appellant, the extent of domestic activity that would take place on this part of the appeal site would be limited, having regard to the confined area on which it could take place. Some of

¹⁰ Where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.

this activity (storage and use of the garden room) would also take place within the confines of the structures that are not required to be removed from the land. These activities would, therefore, have little effect on the character and the appearance of the remainder of the appeal site and the surrounding area, even when viewed from the public right of way to the west. This is given that they would take place within and upon operations that are themselves overtly domestic in their appearance.

62. In view of the above, I conclude that the limited effect of the development comprising a MCU of only part of the appeal site on the character and appearance of the surrounding area is acceptable. It does not conflict with the purpose of Policy CP15 of the SDLP. Neither is there conflict with Policies CP14 and ES7.
63. Notwithstanding this, despite the area for which permission is sought being far smaller than the appeal site, I acknowledge that the location of this development still fails to accord with Policy CP3, and that the lack of support for it from Policy CP15 still remains. However, the harm caused to the Council's strategy would be less than that caused by the use of the appeal site as a whole, having regard to the smaller area for which permission is sought.

Other Matters:

64. 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.
65. 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 MCU of the entirety of the appeal site to a residential use. This is not least because I do not understand that the Council has permitted other such MCU on the wider field parcel or deemed them not expedient to enforce. Indeed, I note that a MCU of other parts of the wider field parcel to a residential use is the subject of the other appeals considered at the inquiry.
66. The lack of any complaints regarding the development does little to weigh in favour of the grant of planning permission.
67. Many of the matters referred to by the appellant in support of the ground (a) appeal are raised in support of the grant of permission for only part of the development alleged in the notice. When considering whether permission should be granted for the whole of the development alleged, once corrected as I intend, none of these matters are of sufficient weight to indicate that my determination of the appeal 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.
68. Turning to the permission that is sought for only part of the appeal site, whilst I have still identified conflict with the development plan, the weight I attribute to the harm caused as a result of this is far less than that caused by the use of the whole of the appeal site. Weighing in favour of the grant of permission are the particular circumstances of this case. These are that what will remain on site is development that is overtly domestic, but would be of limited use for any purpose to which it

could be put. Having regard to the limited harm caused by the MCU for which permission is sought, I conclude that these particular circumstances are a material consideration that is, on balance, sufficient for my determination of the appeal to be made otherwise than in accordance with the development plan. I conclude as such, taking into account the matter of conditions, considered below.

Conditions:

69. I have approached the matter of conditions with advice in the Planning Practice Guidance: Use of Planning Conditions in mind.
70. During the discussion on conditions at the inquiry, the parties agreed that if the residential use were to continue on the Appendix K Land, the land would fall within the curtilage of the dwelling at No 35. In light of this I note the condition suggested, which would take away the permission granted by reason of Class E and Class F, of Part 1, Article 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.
71. I am mindful of the advice in the Framework, which informs that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. However, I have concluded that permission should be granted only because of the particular circumstances of this case. In other circumstances, the existing operations would not be permitted. However, my decision in this appeal means that they can remain. The permission I will grant would give purpose to these operations. Whilst the opportunity for further development on the site would be limited, to allow any further development would cause further harm and undermine the basis on which I have determined this ground (a) appeal.
72. Accordingly, the condition is necessary, entirely relevant to planning and the development to be permitted, and reasonable in all other respects. I will, however, alter the wording of the condition, as discussed during the inquiry, in the interests of precision.
73. In light of the agreed position with regard to the use of the land in connection with the dwelling at No 35, a condition that would limit the residential use to the use of that property is necessary in order to more clearly define the development permitted.

Conclusions

74. For the reasons given above, I conclude that planning permission should be refused for the development that is subject of the enforcement notice, once corrected as I intend.
75. In considering whether permission ought to be granted for part of the land to which the notice relates, I conclude that the particular circumstances of this case are, on balance, a reason for the ground (a) appeal to succeed in part. I will grant planning permission for the BOPC comprising the MCU specified in the notice, once corrected as I intend, on part of the land to which the notice relates. The planning permission will, therefore, be granted for the use of the Appendix K Land.
76. As a consequence of the above, the enforcement notice will not be quashed. However, its requirements will cease to have effect in so far as they are inconsistent with the planning permission which I will grant. This includes

requirement i) which is to cease the residential use of the land, and requirement v) which is to restore the land to its former condition prior to the unauthorised development occurring. For the avoidance of doubt, these requirements will cease to have effect insofar as they relate to the Appendix K Land.

77. Notwithstanding this, I intend to remove from the notice the requirement to remove the access steps. I will do this in the interest of certainty with regard to this requirement. And because these steps are located entirely on the land for which permission will be granted, as well as being part and parcel of the MCU I intend to permit.
78. Regardless of my conclusions above, it is still necessary for me to consider the remainder of the case made on the ground (f) appeals that relates to requirements that will not be superseded by the permission that will be granted.

Ground (f) Appeals A and B - Remaining Parts

79. As I note above, 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.
80. Having regard to my conclusions on the ground (a) and (d) appeals, and on the part of the ground (f) appeals already considered, the requirements of the notice that remain the subject of the ground (f) appeal are the requirements to cease the residential use of the appeal site outside of the Appendix K Land (requirement i), to remove all domestic paraphernalia from this land (requirement iv) and to restore this land to its former condition (requirement v). Also, requirement iii, to remove the brick built planter.
81. I have concluded that, excluding the Appendix K Land, the activity on the land brought about by the residential use results in a harmful change to the character of the site. I cannot, therefore, regard the BOPC as a trivial or technical breach. 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 use of the vast majority of the appeal site. Furthermore, it is not a reason to find success on ground (f). The BOPC comprising a MCU has been found to be harmful and the requirement to cease the residential use is necessary to achieve the purpose of the notice, which is to remedy the breach.
82. Whilst the brick built planter was substantially completed more than 4 years prior to the issue of the notice, the evidence was not sufficient to persuade me that it was causative of the MCU. Furthermore, it falls outside of the land for which the appellant has sought permission. Although small and very close to the other operations that can remain on site, it nevertheless projects into the land, the residential use of which I have found to be unacceptable. It is designed for domestic planting and is only on site a result of the MCU to residential. I say the same for the domestic paraphernalia, which includes the timber enclosed raised planters, as well as the garden sculptures and the timber trellis arch, referred to in requirement iv).
83. Whilst the Council may have allowed similar planters on other sites to the south to remain, the brick and timber planters and the other domestic items on the appeal site appear to be fairly permanent and are overtly domestic features that add to the harm caused by the residential activity on the land. Again, the existence of other

such tolerated items on land nearby does not justify the harm they cause or provide reason to find that the requirements to remove them excessive. Similarly, 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.

84. 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 remaining elements of the appeals under ground (f) should fail.

Overall Conclusions – Appeals A and B

85. For the reasons given above, I conclude that the ground (d) and (f) appeals for Appeal A and Appeal B should succeed in part and that the ground (a) appeal on Appeal A should also succeed in part. Otherwise, the appeals should fail. I will grant planning permission for the BOPC comprising the MCU specified in the notice, once corrected as I intend, on part of the land to which the notice relates. Otherwise, I will uphold the notice with corrections and variations. In accordance with section 180 of the 1990 Act, the requirements of the notice will cease to have effect in so far as they are inconsistent with the planning permission which I will grant.

Formal Decision – Appeals A and B

86. It is directed that the enforcement notice is corrected and varied by:

- the deletion from part 3 of the words "the erection of a garden room" and the words "and store, the laying of patio";
- the deletion of part 5ii) in its entirety; and
- the deletion from part 5iii) the words "store, access steps and".

87. Subject to the corrections and variations, Appeal A is allowed insofar as it relates to land outlined in red on the plan annexed to this decision, entitled Appendix 'K', and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, for the material change of use from agricultural to residential on part of the land to the rear of 35 Howmead, Berkley, Gloucestershire GL13 9AR shown edged red on the Appendix 'K' plan, subject to the following conditions:

- i. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class E and Class F, of Part 1, Article 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 shall be undertaken.
- ii. The use hereby permitted shall not be carried on other than as part of the garden of the dwelling known as 35 Howmead Berkley, Gloucestershire GL13 9AR.

88. Otherwise, the Appeals A and B are dismissed and the enforcement notice is upheld as corrected and varied, and planning permission is refused on Appeal A in

respect of the material change of use from agricultural to residential of land to the rear of 35 Howmead, Berkley, Gloucestershire GL13 9AR identified with a red line on the plan attached to the enforcement notice, but excluding the land identified with a red outline on the Appendix 'K' plan, on the application deemed to have been made under section 177(5) of the 1990 Act.

J Moss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Wadsley
Abigale Snook MRTPI
Jeanette Palmer

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 35 Howmead, Berkley, Gloucestershire GL13 9AR

Reference: APP/C1625/C/25/3370587 and APP/C1625/C/25/3370588

Not to scale

