



Appeal Decision

Inquiry held on 6 and 7 January 2026

Site visit made on 7 January 2026

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 17th February 2026

Appeal Ref: APP/U1620/C/25/3371877

Green Barn, Severnside Farm, Bonnies Lane, Gloucester GL1 2BZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Sean Gorman against an enforcement notice issued by Gloucester City Council.
- The notice was issued on 17 July 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the material change of use of part of the Building on the Land, from agricultural to residential use, to form two (2) self-contained residential dwellings'.
- The requirements of the notice are
 1. Cease the unauthorised residential use of the Building
 2. Remove from the interior of the two (2) residential dwellings within the building all fittings and features which support residential use of the building including:
 - a. All domestic wiring, plumbing and heating fixtures and fittings, cables and pipe work which support residential occupation of the Building
 - b. Any other residential and domestic paraphernalia associated with the residential use of the building
 3. Remove from the Land and Building all materials, rubbish, debris, plant and machinery resulting from compliance with steps 1 and 2 above.
- The period for compliance with the requirements is 6 months
- The appeal is proceeding on the grounds set out in section 174(2)(d) and (e) of the Town and Country Planning Act 1990 ('the Act') (as amended).

Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words "from agricultural" from the allegation.
2. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The appeal was originally proceeding on grounds (b), (e) and (f) with determination to be by way of a hearing. However, prior to the Case Management Conference (CMC), the appellant indicated that he had intended to pursue a ground (d) appeal and had confused ground (d) with ground (b). The appellant was professionally represented at the CMC where it was agreed that the appeal was proceeding on grounds (d) and (e) with grounds (b) and (f) withdrawn. The ground (d) required a change of procedure to an Inquiry due to the need for evidence to be given by way of oath or affirmation. The appellant was unrepresented at the Inquiry itself but has sought professional advice during the course of the appeal including when he received the notice and prior to, and at the CMC.

4. At the Inquiry, all witnesses gave evidence by way of oath with regard to ground (d). The appellant's witnesses were excluded at the Council's request until it was their turn to give evidence on ground (d).

Nullity, invalidity and protected characteristics

5. In exercising their functions, a public authority must have due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation to advance equality of opportunity and to foster good relations.
6. The appellant states that the notice does not enable him to know what the matters complained of are because of his inability to understand or read documents. The appellant does not consider that the Council had regard to his gypsy status which is a protected characteristic when serving the notice. The Council states that is not the case and it was aware of the appellant's gypsy status throughout the investigation and the appeal process.
7. The appellant does not live in Green Barn. He is a company director who runs a number of businesses with professional support including support from his financial administrator who was a witness at the Inquiry. The appellant received the notice and was able to obtain advice and lodge his appeal. He was able to give evidence at the Inquiry and was provided with assistance when required, both from his own witnesses and the other parties. The requirements of the notice were also discussed briefly at the round table discussion in addition to ground (e) to ensure that the appellant had an understanding of those requirements in the event of the notice being upheld.
8. The appellant maintains that 'improper service' means that the notice is a nullity or invalid. In order for a notice to be a nullity, the notice would need to be hopelessly ambiguous or uncertain on its face. The notice sets out the allegation and the requirements and the appellant has understood what the notice relates to. There is no indication in the documents lodged to explain why the appellant considers that the notice is hopelessly ambiguous or uncertain on its face. In my view, on the facts before me, I find that the notice is not a nullity.
9. A notice would be invalid if it required corrections and variations and correcting and varying caused injustice. However, that is not what the appellant is alleging. I do not therefore find that the notice is a nullity or invalid due to the status of the appellant. I am also unable to conclude that the appellant has been unlawfully discriminated against due to his gypsy status by the Council in serving the enforcement notice.

The Notice

10. The allegation refers to a material change of use of part of a building from agricultural to residential use to form two self-contained dwellings. The steel framed building known as Green Barn was granted planning permission for agricultural use in 2013 and 2017. Green Barn is now divided internally into two physically distinct parts and has separate external access. At the time of my site visit a car repair use was taking place in the western part of Green Barn. The allegation relates to the material change of use to two self-contained dwellings which has taken place in the eastern part of Green Barn. The Council wishes to delete the words 'from agricultural' from the notice as it is unclear as to whether

the previous use of the eastern part of Green Barn was agricultural or for car repairs.

11. This issue was raised at the Inquiry. The appellant objected to the removal of the words until he had the benefit of legal advice as he stated that the notice describes an agricultural building. However, the allegation addresses use of part of that building and is not attacking the building itself.
12. Removing the words does not change the allegation and there is no requirement to state the previous use where a material change of use is alleged. There is no injustice caused to the appellant in deleting the words, particularly when there is no dispute that the material change of use alleged has occurred. I will delete the words 'from agricultural' from the allegation.

The appeal under ground (e)

13. An appeal under ground (e) relates to the service of the notice. Section 172(2) of the Act requires that a copy of the enforcement notice shall be served: on the owner and the occupier of the land to which it relates and on any other person having an interest in the land being an interest which in the opinion of the authority is materially affected by the notice. The appellant's ground (e) argument relates specifically to service upon him rather than service upon any other persons.
14. In the appeal form, the appellant states that the notice has been 'improperly served' as it was prepared and sent out without regard to his protected characteristics.
15. The appellant as the owner of the land was served personally with the notice, sought professional advice and was able to lodge an appeal and the notice was not therefore "improperly served." The appeal under ground (e) fails.

The appeal under ground (d)

16. An appeal under ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control. The relevant period where the allegation relates to a material change of use to a dwelling or dwellings is four years.
17. It is for the appellant to show on the balance of probabilities that the material change of use of the building to two self-contained dwellings began on or before 17 July 2021 and, if so, whether it continued without significant interruption for at least 4 years thereafter.
18. As established in *Gabbitts v SSE & Newham LBC* [1985] JPL 630 and the Planning Practice Guidance (PPG) an appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
19. The building known as Green Barn is split into two physically separate parts with separate entrances at either end and an internal vertical dividing wall. The western part is in use as a car repairs business and has a wide access for vehicles on the western elevation. The eastern part of the building consists of a ground floor and upper floor flat which make up the two self-contained dwellings which are the subject of the notice. There is a single front door of the type found on dwellings on

the eastern elevation of the barn for access to the dwellings and an internal staircase to access the upper floor flat. There are also two windows on the same elevation to the living areas on both floors.

The evidence

20. Statements from the appellant and Joanne Pearce, who deals with accounts and paperwork for the appellant were provided. Trevor Warren, a builder and friend of the appellant provided a statement and a statutory declaration. Other documentary evidence included leases, tenancy agreements and bank statements.
21. The Council relied upon the proof of evidence of James Caldwell with supporting documentation which includes letters, photographs and google earth images.

The period before 2020

22. Prior to the Inquiry, the appellant's case was that the use as two self-contained dwellings occurred in 2017 and that use had continued thereafter. However, at the Inquiry, the appellant's position changed in response to cross examination about the nature of that early use. The appellant referred to the pre 2020 use of the eastern part of Green Barn as including occupation by 10-12 Polish workers but stated that 'the use was rough and could not be considered to be as flats'. This use appeared to be an informal arrangement of which the appellant had limited knowledge or details which the Council refers to as 'ad hoc residential use.'
23. In light of the oral evidence from the appellant, there is no substantiated evidence that the use of the eastern part of Green Barn by workers demonstrate that two self-contained flats had been created before 2020.

The period 2020 to 2021

24. The evidence provided for this period includes a lease signed on 7 December 2020. There are also bank statements which start from November 2021 showing rent payments for the 'green shed'.
25. The lease is in the sole name of Mrs Migdalska, there is no plan or description of the land other than the Schedule on the last page which refers to 'Green flats 1/2'. It is not obviously a residential agreement in terms of its wording and it does not follow the format of later tenancy agreements in referring to residential use. Mrs Migdalska and her husband own a property nearby in Newent which they purchased in 2010 and which they still own. No explanation is provided as to why Mrs Migdalska would rent 2 flats when she owned a house as well and she clearly cannot occupy two flats by herself at the same time.
26. Mr and Mrs Migdalska wrote to the Council on 5 July 2021. Their letter refers to the purchase of a car repair garage at Green Barn in April 2021 but the 'garage was stolen' in June 2021 and they only operated the business for 2 months. They sent the letter from their address in Newent and asked for any reply to be sent to that home address. Any involvement that Mr and Mrs Migdalska had with Green Barn had ceased by July 2021.
27. Whilst the bank statements show payments by Mr K Migdalska, those payments together with the lease do not address the issues of who was in residential occupation during this period and whether the two self-contained dwellings which

are being enforced against existed at that time with a dividing wall separating any residential use from the car repair use.

28. Evidence for this period includes an invoice dated 17 April 2020 from Trevor Warren to Court Farm Estates which is the appellant's company. The invoice was provided to the Council in December 2024 as part of a housing investigation by the Council about the facilities in the first floor flat.
29. The invoice refers to for the sum of £14,606 for renovation of both flats to bring them up to a satisfactory standard including plumbing and electrical works and decoration. The invoice is not receipted and there is no corresponding entry to show a payment being made as the bank statements provided only cover the period November 2020 to March 2022.
30. Whilst the Council alleges that the invoice is a fabrication, the invoice's lack of detail means that it is of very limited assistance to the appellant. The invoice refers to renovation of flats which implies that the flats existed before April 2020. However, there is no other documentary evidence before me to support that view that two self-contained dwellings existed before 2020. Trevor Warren was adamant that the self-contained use of two flats or dwellings started in 2018 which is not the view of the appellant. The invoice does not address the issue of occupation or use as of April 2020 and the appellant has not provided any details of any potential occupiers before the Migdalska lease in December 2020.

July 2021 to November 2022

31. In order to show 4 years continuous and interrupted use since 2020 which is now the earliest date relied upon by the appellant, the period between July 2021 and 2023 is crucial. There are no tenancy agreements provided for this period as the series of tenancy agreements provided for both dwellings cover the period from 2023 to present day.
32. The bank statements cover the period November 2020 to March 2022. However, there are a number of entries as the appellant receives rent from other properties in addition to Green Barn into his business account. There are payments referred to as 'rent for the green shed' during this period from Lee Stanton.
33. However, Lee Stanton also operated a car business from Green Barn. There are rent payments from him as an individual but also as Lee Stanton Car Consortium Limited. In evidence, the appellant stated that he did not consider Lee Stanton to be a residential tenant but Lee stayed there some nights if he had been drinking.
34. Lee Stanton did apply for planning permission to change the use of the whole of Green Barn from agricultural use to car repairs in 2021. The application describes the current use as vehicle repair garage and to regularising the existing use. There is no reference in that application to any existing use as self-contained flats or renovation works. Having a car business at Green Barn, and occasionally staying overnight at Green Barn, is not evidence of continuous occupation or use of part of the building as two self-contained dwellings. Whilst Joanne Pearce stated that Lee Stanton's son may have occupied a flat, that occupation was not referred to by the appellant and is speculative. An email from Joanne Pearce sent on the 10 March 2023 about Lee Stanton's rent from the Green Shed refers to him as being deceased in November 2022.

The period from November 2022 to early 2023

35. No evidence has been provided by the appellant or his witnesses as to who occupied the two self-contained dwellings at Green Barn during this period. These dates falls within the four year continuous period irrespective of whether the period commences in 2020 or before July 2021.

The period from 2023 onwards

36. The appellant has provided a list of the tenants who he states have occupied the flats since 2023, with tenancy agreements for all tenants apart from one. The earliest agreements are dated 27 February 2023 for Flat 1 and 15 April 2023 for Flat 2. The Council's position is that it accepts that there have been occupiers since 2023 although it points out that there have been some gaps since 2023, which vary in size from 14 days to the largest gap of 89 days.

Assessment of the Evidence

37. The appellant is relying upon the material change of use to two self-contained dwellings occurring in 2020 and then continuing without significant interruption for a period of four years.
38. The evidence given by the appellant and his witnesses was contradictory. The appellant indicated that he was relying upon his witnesses to answer questions that he could not answer. However, Joanne Pearce deals with administrative and financial matters. She was therefore unable to answer questions about actual occupation at any particular time which left large gaps in the appellant's case. Mr Warren's invoice assumes that flats or self-contained dwellings existed pre April 2020 in referring to renovations of flats which is not the view of the appellant. There is no evidence before me as to who is alleged to have occupied or used two self-contained dwellings if they existed before, in or from April 2020.
39. At some stage, the eastern part of the Green Barn was physically separated from the western part by a dividing wall and at some stage, an upper and ground floor flat were created with an internal staircase with separate access from any car repairs use. However, before the occupation from 2023 which is supported by tenancy agreements, the appellant's evidence does not distinguish between car repairs use and the use being enforced against.
40. Whilst there is a tenancy for Mrs Migdalska, there is no plan or clear description of what the tenancy related to. She could not have occupied two self-contained dwellings and whilst she and her husband had a car repair business at Green Barn, she also had a house nearby that she still owns with her husband.
41. Lee Stanton operated a car repair business from Green Barn. However, there is no tenancy agreement for Lee Stanton and the appellant in evidence stated that Lee Stanton was not a residential tenant but stayed at Green Barn occasionally. As Lee Stanton was not a residential tenant of two dwellings, the appellant has no evidence of occupation of two self-contained dwellings from July 2021 when Mr and Mrs Migdalska ceased to have any interest in Green Barn until the tenancy agreements commenced in February 2023 for Flat 1 and April 2023 for Flat 2.
42. A gap of at least 19 months is fatal to the appellant's argument that the use of two self-contained dwellings has been continuous for a period of four years,

irrespective of whether the appellant is relying upon a period between 2020 to 17 July 2025 or a later period from 17 July 2021 to 17 July 2025.

43. The appellant referred to a lack of evidence from the Council as James Caldwell did not visit until 2024. However, in an appeal under ground (d) the evidential burden is on the appellant, on the balance of probabilities to show that the use has been ongoing for a four year period without significant interruption.
44. The Council has however provided aerial images from various dates. The photographs taken in the week of 12 November 2018, 27 July 2020 and on 28 July 2022 show the eastern elevation without an entrance door or any windows. The eastern elevation now includes the only entrance door to the dwellings and a ground floor window and a first floor window.
45. The dwellings now contain facilities required for day to day private domestic existence, including kitchens and shower rooms. However, it is not clear from the appellant's evidence when those two separate dwellings were created, when self-contained use actually commenced and subsequently that the use occurred over a 4 year period without significant interruption.
46. The appellant's evidence is not sufficiently precise or unambiguous and has therefore not demonstrated, on the balance of probabilities, that the material change of use of the building began on or before 17 July 2021 and continued without significant interruption for at least 4 years thereafter. The appeal under ground (d) therefore fails.

Conclusion

47. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

E Griffin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sean Gorman	Appellant
Joanne Pearce	Executive/Administrator
Trevor Warren	Builder

FOR THE LOCAL PLANNING AUTHORITY:

Michael Rhimes	Counsel of Francis Taylor Building
James Caldwell	Team Leader (Enforcement and Regulation)

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Appellant's opening statement
2. Council's opening statement
3. Enlarged copies of photographs shown on pages 208, 213 and 148 in the
Bundle Index
4. Council's closing statement
5. Appellant's closing statement