



Appeal Decisions

Site visit made on 21 January 2026

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2026

Appeal A Ref: APP/J2210/C/23/3334865

Appeal B Ref: APP/J2210/C/23/3334866

Land at Beggars Roost, Woolage Green Road, Canterbury CT4 6SF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeals are made by Mr Jonathan Leatherbarrow (Appeal A) and Mrs Jacqueline Leatherbarrow (Appeal B) against an enforcement notice issued by Canterbury City Council.
 - The notice was issued on 16 November 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the change of use of an incidental outbuilding to the property known as 'Beggars Roost' to two dwelling houses.
 - The requirements of the notice are: 1) Permanently cease the use of the outbuilding as two dwelling houses; 2) Restore the outbuilding back to a building that is incidental to the main dwelling house (known as Beggars Roost); and 3) Remove all resultant materials and debris from the land involved with the compliance of requirements 1 and 2.
 - 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) and (d) of the Act. Appeal B is proceeding on the ground set out in section 174(2)(d) of the Act. 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.
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the text 'the change' at paragraph 3 of the enforcement notice (titled '*the matters which appear to constitute the breach of planning control*') and the substitution of the text 'the material change'. Subject to the correction, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matters

2. The description of the alleged breach of planning control refers to a change of use. With regard to section 55 of the Act, a change of use does not necessarily constitute development requiring planning permission, unless it is a material change of use. There is no dispute that the alleged breach is a material change of use and I shall therefore correct the notice accordingly, without causing injustice to any parties.
3. Claims have been made in respect of the lawfulness of the building constructed. The notice only relates to the use of the building, and I have not therefore assessed the lawfulness of what has been built, except to the extent that the appellant claims the building was not constructed as two dwellings from the outset, which has not been disputed by the Council. Third party claims that the building was erected as two dwellings from the outset have not been supported by evidence. Therefore, on the evidence before me, I do not see any errors in the description of the breach

other than that mentioned above. This is not to say that any operational development carried out is lawful or unlawful.

The appeal under ground (d)

4. To succeed under this ground the appellants need to show that, at the date when the notice was issued, no enforcement action could be taken in respect of the material change of use of the building to two dwellings (the MCU).
5. The onus is on the appellants to make out their case to the standard of the balance of probabilities, and their evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
6. Prior to issuing the notice on 16 November 2023, the Council issued an enforcement notice dated 3 October 2023. The description of the alleged breach in that notice was '*Without planning permission, the change of use of an outbuilding (garage / home office) incidental to the property known as 'Beggars Roost' to two dwelling houses*'. That notice was withdrawn due to what have been described as administrative errors. The description of the alleged breach in the previous notice is slightly different to, but essentially consistent with, the description used in the notice the subject of this appeal. Therefore, notwithstanding any errors in the notice dated 3 October 2023, the notice dated 16 November 2023 comprises the taking of further enforcement action in the context of section 171B(4)(b) of the Act.
7. With regard to section 171B of the Act, as it was before 25 April 2024, no enforcement action could be taken in respect of the MCU after the end of the period of four years beginning with the date of the MCU. Therefore, for the appeals to succeed, the appellants need to provide sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the MCU took place on or before 3 October 2019 and that the building has remained in use as two dwellings without significant interruption for a period of at least four years prior to 3 October 2023.
8. The building comprises a dwelling and a double garage at ground floor level and a dwelling at first floor level. It is claimed that construction of the building commenced in August 2016 and that it was substantially complete by July 2017. It is also claimed that the ground floor dwelling commenced use for residential purposes in 2017, around the time the building was completed, but after the ground floor had first been used for storage purposes, and that the first-floor dwelling was brought into independent residential use approximately six months later.
9. A timeline provided by the appellants refers to the ground-floor dwelling being lived in by: John and Beverley Brooks from April 2017 until January 2021; Fiona Lock from February 2021 until April 2021; unidentified people as short lets through Bloom Bookings from April 2021 until July 2022; Barry and Maxine Cursons from August 2022 until October 2022; unidentified people as short lets through Bloom Bookings in November 2022; and Gary Sainsbury and Helen Francis from December 2022 until at least November 2023.
10. The timeline refers to the first-floor dwelling as being lived in by: Amelia Leatherbarrow (the appellants' daughter) from February 2018 until January 2020; Max Holden from January 2020 until August 2020; Amy Barker from September

- 2020 until September 2021; Amelia Leatherbarrow from November 2021 until July 2022; and Lawrence McLachlan from August 2022 until at least November 2023.
11. Bloom Stays records refer to booking payments in respect of the ground-floor dwelling from 26 June 2021 until 16 October 2021 and from 2 November 2021 until 19 April 2022. A signed letter dated 3 October 2023 from Gary Sainsbury and Helen Francis states they have lived in the ground-floor dwelling since 23 December 2022.
 12. In respect of the first-floor dwelling, a signed letter has been provided from Amelia Leatherbarrow, which states it was her place of residence between 31 January 2018 and 23 January 2020. Bank records also show payments of £650 from A Barker into the appellant's bank account in November 2020 and January 2021, and a payment of £675 in December 2020. Photographs dated 29 October 2020 show the interior of the first-floor dwelling, with a lounge area, shower, and kitchen.
 13. Other photographs dated 27 May and 2 July 2017 and 16 July 2019 show the kitchen, a bedroom, and the patio to the ground-floor dwelling. A photograph dated 23 August 2019 is said to show the interior of the ground-floor dwelling, while a photograph dated 12 August 2020 shows domestic paraphernalia on the patio to the ground-floor dwelling. Aerial photographs dated September 2018, May 2019, and July 2020 are said to show a garden shed within a defined grass lawn and patio furniture adjacent to the north-west elevation of the building, where the ground-floor dwelling is located.
 14. A site inspection note from the Building Control Approved Inspector dated 9 February 2017 states: *'Queried use of building as more rooms exist than originally shown on plans and owner Mr Leatherbarrow advised that it will be used as a garage with an office above. The separate rooms within the garage floor are to be used as storage.'* The Building Regulations Final Certificate dated 10 November 2023 refers to *'construction of detached garage/office building with residential accommodation at ground floor level and first floor'*. An electrical safety certificate refers to separate electricity meters being fitted to each dwelling with a completion date of 4 July 2017, and a commercial property owner's insurance quote refers to the ground-floor dwelling as a private rental, with an effective date of 26 June 2017.
 15. Excerpts from an insurance broker's market presentation report dated July 2017 refer to the building as comprising one flat and an office with parking and tool storage space below. A copy of a bank statement shows a payment to that insurance broker from the appellant on 11 November 2020. Further insurance documents in the name of the appellant relate to separate policies for the ground-floor dwelling and the first-floor dwelling dated 18 January 2021, with an effective date of 15 March 2021.
 16. Alongside the above, I have been referred to documents submitted by the appellants as part of an application¹ which sought planning permission in respect of the building for *'change of use of existing detached garage/home office building to a holiday let comprising two units'*. The application form states at section 5 that the proposed change of use had not started, and at section 6 that the current use of the site was *'garage and home office as ancillary use with main dwelling'*. The

¹ The Council's ref: CA/20/02521

declaration at the end of the application form has been completed by the appellants' agent, confirming that to the best of their knowledge any facts stated were true and accurate, amongst other things, on 11 November 2020. The existing floor plans which were submitted as part of that application show ground and first floor layouts as they were at the time of my site visit, but the ground-floor dwelling was labelled 'Annexe' and the first-floor dwelling was labelled 'Home office'.

17. I have been provided with excerpts of comments from members of the public submitted in respect of the planning application, which refer variously to the building being lived in. One comment refers to it being *'used as family accommodation for the best part of five years'*, another states *'we have been aware of this building being tenanted for the best part of 2020'*. The parish council's comments include internal photographs of the ground-floor dwelling consistent with what I saw during my site visit which are said to have been taken from a 2019 listing of the property for sale, along with the following quote: *'The annex is ideal for adult children or family members. Comprising to the ground floor lounge, kitchen room with integrated appliances, two double bedrooms and a family bathroom. To the first floor and with a separate entrance there is a large office space with w/c storage cupboards and sun terrace'*.
18. I have not been provided with full copies of the comments or sales listing referred to above, but they show neighbours were aware that people had been living in the building for some time by late 2020. The limited information from the sales listing shows the ground-floor dwelling as it currently exists, but also suggests this was an annex, and that an office was at first floor at the time of the listing in 2019 or 2020. It would have been odd for the two dwellings to have been referred to in this manner in a sales listing if they were being lived in as separate dwellings at that time, especially if rented out to any non-family members. These do not therefore weigh significantly in favour of the appellants' claims that the MCU took place prior to October 2019.
19. In summary, there is evidence that the building has been lived in by various people in some form or another since it was completed in 2017, but it remains unclear in what capacity the building has been used consistently since its completion. For instance, an unsigned rent increase letter dated 29 February 2020 from the appellant to Mr and Mrs Brooks refers to them lodging in 'the annex' and requests future contributions up to a third of household bills, including those for the television licence and rates on the property. This tallies with the voter canvassing form dated October 2020, which refers to Mr and Mrs Brooks as being registered at Beggars Roost. It was shortly after this that the appellants sought planning permission for a change of use of the building from what was described as a garage and home office ancillary to the main dwelling, with the accompanying plans referring to an annex at ground floor. The sharing of household bills, such as a television licence and council tax, and describing the living space as an annex do not indicate separate households, even though rent was being paid and there were separate electricity meters.
20. Overall, the quality of the evidence provided to support the appellants' claims is weak in that it is very patchy and can be interpreted in different ways. I do not take the Building Control Final Certificate as a reliable indication that residential accommodation was in place at ground and first-floor levels prior to October 2019, as the certificate is dated 10 November 2023 and there are no notes to show when the design deviated from that in front of the Approved Inspector in February 2017.

Signed and unsigned letters of limited detail support some of the claimed occupancies, but their terms remain unclear in the absence of other corroboratory evidence. The existence of separate electricity meters suggests the appellants intended to rent the two dwellings, at least.

21. Although third party comments on the planning application support the claim that the building had been lived in for some time by the end of 2020, it remains unclear whether one or both dwellings existed at that time, whether one or both were in use as dwellings consistently, and whether any people living there formed separate households to the appellants living in the main dwelling.
22. The timeline presented identifies people claimed to have lived in each dwelling over different periods (except when managed by Bloom bookings), but there is no evidence to support claims Fiona Lock, Barry and Maxine Cursons, Max Holden, or Lawrence McLachlan lived in the dwellings. Furthermore, the signed letter from Amelia Leatherbarrow does not refer to the period November 2021 to July 2022 and the Bloom bookings statement is an undetailed spreadsheet of payments between June 2021 and March 2022. The only evidence to support the claim that Amy Barker lived in the first-floor dwelling are copies of bank statements between November 2020 and January 2021, which could presumably relate to rent for December 2020 to February 2021, but this has not been clarified.
23. On the limited explanations given, I do not see how the planning application form was likely completed to reflect a permitted use of the building. The declaration on the application form is a clear confirmation from a professional agent that any facts stated are true and accurate to the best of their knowledge, including the building's existing use at that time. Aside from the submitted plans referring to an annex and a home office, it is difficult to accept that the architect agent did not know how the building was laid out and being used when completing that declaration, or that they may have misunderstood section 6 of the application form. Either false information relating to the existing use of the building was submitted with that planning application, or false information relating to the use of the building in November 2020 has been provided in support of this appeal.
24. Third parties have suggested the *Welwyn*² principles are relevant in this case, which relate to positive deception in matters integral to the planning process, and where there has been no material change of use of a building to a dwelling when a dwelling is constructed from the outset. However, I see no need to explore these points further, as there is an overall lack of clear and consistent evidence of appropriate detail to support the appellants' claims that either of the dwellings was exempt from enforcement action on 3 October 2023.
25. For the reasons given above, the appellants have failed to provide sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the MCU took place on or before 3 October 2019 and that the building remained in use as two dwellings without significant interruption for a period of at least four years prior to 3 October 2023. For the same reasons, it has not been shown, as a matter of fact and degree, that the material change of use of any part of the building to a single dwelling took place on or before 3 October 2019 and remained in use as such for a period of at least four years prior to 3 October 2023.
26. For the above reasons the appeals under ground (d) fail.

² *Welwyn Hatfield BC v SSCLG & Beesley* [2011] UKSC 15; [2011] JPL 1183

The appeal under ground (a) and the deemed application for planning permission

Main Issues

27. The main issues are:

- whether the development is in a suitable location in principle, with particular regard to the Council's strategic approach to sustainable development; and
- the effect of the development on the Stodmarsh Nature Reserve Special Area of Conservation (SAC) and Ramsar site, with particular regard to nutrient neutrality.

Location

28. The dwellings are located within the countryside, outside any defined settlement. Policy SP4 of the Canterbury District Local Plan (2017) (LP) states development will be permitted in the countryside if required for agriculture and forestry purposes. The development does not relate to either of those purposes.
29. Policy HD4 of the LP states that planning permission for new dwellings in the countryside will only be granted where specific circumstances apply. No information has been provided to demonstrate that the dwellings are for rural workers, comprise the re-use of a heritage asset or a redundant/disused building leading to an enhancement to the immediate setting, or are of a design quality or nature which can be described as exceptional or innovative. None of the circumstances described by Policy HD4 therefore apply in this case.
30. It is claimed that the dwellings could be used as holiday-lets, which would be policy compliant, but it has not been explained how this would be the case or how their use as such could be controlled in an enforceable manner in the absence of a legal agreement. The dwellings are located on the edge of a small village with limited public services, in a rural location. Occupiers of the dwellings may support the nearby public house and unidentified services in other villages, but the provision of electric car charging points would do little to ensure the development would be sustainable or specifically meet an identified local need in this particular location, having regard to Policy SP4.
31. The dwellings are not therefore in a suitable location in principle, with particular regard to the Council's strategic approach to sustainable development set out in the LP. The development is contrary to Policies SP4 and HD4 of the LP for the reasons given above.

Nutrient neutrality

32. The Stodmarsh Nature Reserve SAC and Ramsar site is designated as a European Site, as defined by the Habitats Regulations³ on account of the wetland habitat it provides for protected species. It suffers from eutrophication as a result of excessive nutrients entering from the water catchment. Natural England linked the discharge of wastewater from housing into the Stour Valley river catchment to the deterioration of the European Site in November 2020, and issued advice that new overnight accommodation within that catchment should not be permitted unless it could demonstrate nutrient neutrality.

³ The Conservation of Habitats and Species Regulations 2017 (as amended)

33. The dwellings are existing and it is claimed the MCU took place before November 2020, and that the advice of Natural England in this regard does not therefore apply. However, I have a duty, as the competent authority, to consider the effect of the dwellings on the integrity of the European Site on the date of this decision, if granting planning permission. I am also unconvinced by undetailed claims that there has been no increase in overnight accommodation at the site on account of an adjacent caravan park which has been described as a long-established and currently vacant holiday-let use within the overall site and same ownership.
34. Natural England published a revised catchment map for the European Site in June 2024⁴, having undertaken a review of all nutrient neutrality areas, taking updated surface water catchment data and other evidence into account. This removed an area of the surface water catchment due to insignificant connectivity with unfavourable sections of the European Site.
35. The appellant has advised that foul sewage from the site drains into the Newnham Valley Preston wastewater treatment works system (WwTW), which discharges into the Little Stour watercourse. The Stodmarsh water quality modelling I have been referred to⁵ (the Modelling Report) explains that the Little Stour joins the Great Stour approximately 7 kilometres downstream of the European Site. At this point, the Great Stour is tidal, and any nutrient inputs to the Little Stour would need to be transported upstream in the Great Stour to enter the European Site. The Modelling Report was commissioned by Dover District Council and focuses on nutrient discharges from Dambridge WwTW, which flow into the Little Stour. On this basis, it is claimed that the Modelling Report formed part of the evidence which led to the publication of the revised catchment map.
36. The revised catchment map relates to surface water. Foul sewage from the dwellings becomes surface water at the point it is discharged from a WwTW. The revised catchment map shows the dwellings are located outside of the surface water catchment, but it is unclear where the Newnham Valley Preston WwTW is located. The reasoning and conclusions of the Modelling Report suggest it is extremely unlikely that nutrients within foul sewage from the dwellings would be carried upstream into the European Site if they are eventually discharged into the Great Stour from the Little Stour: *'dilution would be so great, even under extreme worst-case scenarios (continuous very low river flow and high tides) that any contaminants transported from the (Dambridge) WwTW will be at concentrations well below the best available laboratory limits of detection'*.
37. I am mindful that the Council has not been afforded the opportunity to comment on the Modelling Report or the appellant's claim that the site is served by the Newnham Valley Preston WwTW which discharges into the Little Stour. The views of Natural England have not been sought either, and in these circumstances, in accordance with the Habitats Regulations, it would be necessary for me as the competent authority to carry out an appropriate assessment to consider the effect of the dwellings on the integrity of the European Site if I was minded to grant planning permission. As I have found the dwellings are contrary to the development plan in respect of the first main issue, there is no need for me to carry out an appropriate assessment unless other considerations indicate planning permission should be granted.

⁴ Natural England. 2024. Stodmarsh Special Area of Conservation, Special Protection Area and Ramsar – Catchment Map. Natural England Technical Information Note Third Edition TIN212

⁵ Stodmarsh Water Quality Modelling. APEM Scientific Report P00006031. Dover District Council, September 2022, Final, 32 pp.

Other considerations and planning balance

38. I have been referred to planning permission granted by the GPDO⁶ for the change of use from a use falling within Class E of Schedule 2 to the UCO⁷ to a use falling within Class C3 of Schedule 1 to the UCO. It is unclear how the building may be lawfully used for purposes falling within Class E, and there is no other information before me to show how the planning permission granted by the GPDO may comprise a fallback position for the appellant.
39. The Council cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 11(d)(ii) of the National Planning Policy Framework (the Framework) therefore applies in that the development plan policies which are most important for determining the application are deemed to be out-of-date and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.
40. I have found that the dwellings conflict with the Council's strategic approach to the location of development, and there is little to suggest the appeal site is a sustainable location for new dwellings. Indeed, the lack of local services strongly suggests otherwise. Moreover, there is very limited information to suggest the dwellings may contribute towards the effective use of land, creation of well-designed places, or the provision of affordable homes. The above-mentioned conflict therefore attracts significant weight.
41. There is limited information before me as to how the dwellings may be supported by the Framework, but there will be small-scale social benefits from the provision of two homes where there is a limited supply of housing. Economic benefits include increased spending opportunities at the local public house and other businesses further afield, and increases in council tax receipts. Given their small scale, the benefits of the dwellings are modest, which attract modest weight in their favour. The same can be said for the fact that the MCU has not necessitated the use of carbon-intensive materials, as the deemed application for planning permission only relates to the MCU, not the erection of the building.
42. I therefore find that the adverse impacts of granting planning permission for the MCU, when assessed against the policies in the framework taken as a whole, would significantly and demonstrably outweigh the benefits. Furthermore, in addition to the policies referred to above, the dwellings also conflict with Policy SP1 of the LP, which broadly reflects paragraph 11(d)(ii) of the Framework. As such, planning permission should not be granted and there is no need for me to carry out an appropriate assessment in respect of the second main issue.

Conclusion on ground (a) and the deemed application for planning permission

43. The dwellings conflict with the development plan taken as a whole, and other considerations, including the Framework, do not indicate planning permission should be granted. The appeal under ground (a) therefore fails and the deemed application for planning permission should be refused.

⁶ Article 3(1) and Class MA of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

⁷ The Town and Country Planning (Use Classes) Order 1987 (as amended)

Overall Conclusion

44. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

L Douglas

INSPECTOR