



Appeal Decisions

Site visit made on 28 April 2026

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 7th April 2026

Appeal A Ref: APP/G1630/C/24/3341850

Plot 6, Warren Fruit Farm, Evesham Road, Greet, GL54 5BN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Billy-Joe Roper against an enforcement notice issued by Tewkesbury Borough Council.
 - The notice was issued on 13 March 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from agricultural use to use as a residential caravan site.
 - The requirements of the notice are:
 1. Cease the use of the Land as a caravan site and:
 - a. Remove all caravans and mobile homes.
 - b. Remove the timber outbuilding shown in photograph A, including any fixtures and fittings within.
 - c. Remove the brick gate posts and all timber fencing.
 - d. Remove all septic tanks, waste treatment plant and foul drainage connections.
 - e. Remove all domestic paraphernalia including but not limited to; ornaments, external lighting and dog kennels.
 2. Restore the land to the pre-development condition as shown in photograph B by:
 - a. Removing all concrete slabs and hardcore.
 - b. Laying 250mm of topsoil and reseeding with grass.
 2. Remove from the Land all items, materials and debris resulting from compliance with steps 1 and 2.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (g) of the Town and Country Planning Act 1990 (as amended).
 - Similar appeal have been made by Mr Conor Roper (3341851), Ms Caitlin Roper (3341852) and Ms Kodie Roper (3341853).
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Appeal B Ref: APP/G1630/W/24/3348446

Plot 6, Warren Fruit Farm, Evesham Road, Greet, GL54 5BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr B ROPER against the decision of Tewkesbury Borough Council.
 - The application Ref is 23/00684/FULL.
 - The development proposed is 'Change of use of land to include the siting and occupation of two static caravans, siting of two touring caravans, and works comprising the erection of two day rooms, two storage buildings, creation of a vehicle access, hard surfacing and installation of sewerage treatment plant to allow for permanent use as a gypsy site (amended description)'.
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Appeal C Ref: APP/G1630/C/24/3341916

Plot 10, Warren Fruit Farm, Evesham Road, Greet, Gloucestershire, GL54 5BN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Billy-Joe Roper against an enforcement notice issued by Tewkesbury Borough Council.
 - The notice was issued on 13 March 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the building from agricultural use to residential use.
 - The requirements of the notice are:
 1. Cease the residential use of the building and;
 - a. Remove the toilet, bath/shower and disconnect all foul drainage connections.
 - b. Remove the coin operated electrical meter at the side of the building and internal electrical sockets.
 - c. Remove all internal
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insulation and plasterboard. d. Remove the domestic patio doors and restore to previous configuration as shown in the rear elevation drawing at annex A. e. Remove the kitchen including the kitchen sink, oven, and fridge. f. Remove all residential and domestic paraphernalia associated with the residential use of the building including but not limited to: Domestic furniture and equipment such as beds, sofas, tables and chairs, and decorative items. 2. Remove from the Land all items and materials resulting from compliance with steps 1 and 2.

- The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (g) of the Town and Country Planning Act 1990 (as amended).
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Decisions

Appeal A – 3341850 and Appeals 3341851, 3341852 and 3341853

1. It is directed that the notice be varied by renumbering the last requirement from '2' to '3' and deleting the word '*removing*' from requirement 2a and substituting the word '*remove*'. Subject to those variations the appeals are dismissed and the enforcement notice is upheld.

Appeal B - 3348446

2. The appeal is dismissed.

Appeal C - 3341916

3. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

4. Two minor discrepancies in the notice for appeal A have been brought to my attention and I agree I can correct the requirements to ensure the third requirement is numbered 3 not 2 and changing '*removing*' to '*remove*' in 2a.

Appeal A – Ground (b)

5. This ground is that the matters alleged have not occurred. The appellant contends the plan submitted with the notice does not include the access to the site. That is correct as it defines only the part of the land where the material change of use has taken place. As the allegation does not include the formation of an access, all the matters alleged have taken place within the area defined on the plan, so the ground (b) appeal must fail.

Appeal B

6. This is a s78 appeal for two gypsy pitches on the site covered by the enforcement notice subject to Appeal A. Plot 6 is part of a much larger area of land called Warren Fruit Farm. This was split into twenty or so relatively small plots and sold off piecemeal some years ago. According to the Council three of those plots have permission for a residential use, but a number of others have small cabins that are used for 'agricultural' purposes. At one time there was a communal set-up enabling the plot holders to sell their produce more efficiently, but I do not know whether that still operates or not. One of the plots has now been occupied by the appellant who has moved several caravans on and wants to regularise a two-pitch gypsy site.

7. The Council's reasons for refusal concern the visual impact on the surrounding area, harm to the ecological and arboricultural assets of the site, lack of information about drainage and poor visibility at the access. There is no dispute that the appellant and his family are gypsies and it is agreed that the Council do not have a 5-year supply of gypsy sites.
8. The plot would seem to be just about large enough to accommodate two gypsy pitches, as long as only single unit mobile homes were used, as well as a day room for both pitches, a tourer each, parking, an appropriate treatment plant and soakaways for surface water, so subject to conditions the SUDs issue should be capable of resolution.
9. The whole of Warren Fruit Farm is well screened by hedgerows and trees and lies in the midst of some beautiful countryside that is part of a Special Landscape Area. The fruit farm also retains a large number of trees, many originally part of the orchards. A public footpath runs along a hillside above the eastern side of the farm and there are expansive views across the farm, the appeal site and the wider countryside. Also visible dotted about the farm are various cabins, sheds and vehicles associated with the activities on the various plots. Most of these are well screened or blend into the well treed landscape. The appeal site however, stands out with a number of caravans and vehicles grouped closely together. Once developed, as shown in the plans the regular pitches with their extensive hardstanding, large mobile homes, touring caravans and assorted vehicles, plus all the usual residential paraphernalia associated with residential living would stand out amidst the much more informal uses in surrounding plots.
10. The appellant suggests the plot is previously developed land, but there is no evidence that it was. The fact it may have contained some structures associated with a previous agricultural use does not make it previously developed land. The development would clearly appear intrusive and harmful.
11. The Joint Core Strategy for Gloucester, Cheltenham and Tewksbury was adopted in 2017. Policy SD6 deals with landscape and requires development to protect landscape character for its own intrinsic beauty. The appellant argues the site is outside the Tewksbury Landscape Sensitivity Area (TLSA) but that does not diminish its role in the SLA or the requirements of SD6. The TLSA seems to be a designation specific to the urban fringe and not the open countryside where the site lies. SD4 also deals with good design and requires development to respond and respect the character of the site and its surroundings. The development is contrary to both these policies, and LAN1 from the 2019 Borough local plan which also seeks to protect the SLA. Policy SD13 (Core Strategy) deals specifically with gypsy sites but defers to SD6 where sites are in the SLA. The PPTS recognises that gypsy sites can be accommodated in rural areas, but that does not mean at the expense of high quality landscapes and the development is contrary to Council policies and seriously harms the character and appearance of the area.
12. The Highways advice is that visibility onto the B4078 is seriously sub-standard and in my short time in the area it did seem to be a busy and rather fast road. The appellant argues the traffic from two pitches would not be a significant increase over the current use for a number of plots, some of which are residential. That might carry weight if the existing access was acceptable for low level usage, but that is not the case here. It would not be appropriate to increase the use of an

already below standard access. This would be contrary to INF1 and SD13 (Core Strategy).

13. The plans show the retention of a dense tree screen at the end of the plot and thickening of existing hedgerows as well planting of wildflower meadow grassland. It should be possible to achieve a bio-diversity net gain of 10% - although putting all the available grassed space down to wildflower meadow would not seem feasible within the tight confines of the two pitches. But no evidence has been provided about the trees on the site or its boundaries and the Council are particularly concerned about the loss of or damage to the fruit trees which are a UK priority habitat. This would be contrary to policy SD9.
14. In conclusion therefore, although the Council does not have a 5 year supply of gypsy sites the harm caused by the proposal outweighs any benefits of increasing supply and the site is unsuitable for an unrestricted gypsy site.
15. In the event of this conclusion being reached the appellant has provided details of his and his partner's personal health circumstances and this does suggest they would benefit from a permanent site, from where they could easily access the necessary medical treatment. However, I am not sure as to the identity of the other members of the family or whether they have any pressing personal circumstances. In any event the weight to be attached to these circumstances is considerably lessened as they own another site which is a lawful gypsy site at Twin Oaks near Evesham.
16. The appellant argues this site was compulsorily purchased by the Council thus rendering them homeless. However, the true facts, as provided by the Council, are somewhat different. It seems that Twin Oaks is part of a larger site that has attracted the interest of volume housebuilders. The Council did look at a CPO for the site but did not pursue it. Currently there is an application to build houses on the wider land but that has been undetermined for several years. The appellant has a separate deal with the prospective developers to sell them the site if they get planning permission. If this happened, he would be making himself and his family homeless, but there is no evidence such a situation is likely to happen or when. It would seem therefore the appellant and his family have somewhere else to live.
17. Consequently, I do not consider the appellant's personal circumstances when added to the balancing exercise outweigh the harm to the landscape, highway safety and bio-diversity that I have identified. In reaching this conclusion I have been aware of the public sector equality duty and the appellant's human rights. But insofar as the latter are engaged any interference is appropriate and proportionate.

Appeal A – Ground (g)

18. The Council have given the appellant and his family 6 months to vacate the plot and restore the land. Given that it seems they can return to Twin Oaks at any time, that seems a generous period and there is no reason to extend it.

Appeal C – Ground (c)

19. This is an entirely different appeal, involving another plot of land (plot 10) at Warren Fruit Farm, also owned by the appellant. The appeal concerns an existing

cabin that has been converted into a dwelling. Ground (c) is that planning permission is not required for the development.

20. The history of the site is important to understanding the case presented by the appellant. In 2020 an application for prior approval to convert the appeal building to a dwelling was made (20/00787/PDAD). It was claimed the building was in use for agricultural purposes. This application was accompanied by evidence of agricultural use in the past (the significance of which I shall return to). There is no dispute that the Council received the application but did not notify the applicant within the 56 days allowed. The right of conversion is governed by Class Q of Part 3 of the General Permitted Development (England) Order 2015. This allows the conversion of an agricultural building on land that currently or formerly was an agricultural unit into a dwelling subject to various conditions and limitations, one of which is the prior approval process. This process is governed by Class W of Part 3 which stipulates that if the Council do not respond within 56 days the applicant can assume that prior approval is granted.
21. The applicant at the time of the prior approval application wrote to the Council informing them he had not received the required notification and so was going to proceed with the conversion to a dwelling. Other than an acknowledgement nothing further was heard from the Council. The conversion was thus undertaken and the current appellant rented out the building to the current occupiers in February 2024.
22. So far both parties are in agreement. It is also common ground that regardless of the outcome of the prior approval process, if the proposal is not permitted development in the first place - that is it might be contrary to any of the limitations set out in Class Q - then it cannot be lawfully converted into a dwelling. In this case the Council argue that plot 10 was not an agricultural unit and so the prior approval process was essentially void and there is no permitted development right to convert the building to a dwelling.
23. The Council base their finding that plot 10 was not an agricultural unit on the outcome of an appeal decision, issued in June 2022 (ie after the prior approval application) dealing with a string of prior approval appeals for various plots at Warren Fruit Farm (but not the appeal plot). These were all made by the same applicant as the 2020 application on plot 10 and I would assume were as a result of success thereon. However, all the prior approvals were refused because none of the plots met the definition of agricultural units in paragraph X, 'Interpretation of Part 3'. Paragraph X requires the agricultural unit and building to be used for the purposes of an agricultural trade or business. The Inspector found that despite some of the plots clearly being used for agriculture, breeding sheep, pigs, collecting eggs, and that some sales were being made, none of the evidence pointed to an actual trade or business, they were more akin to a hobby farm or leisure pursuit. Therefore none of the plots could be considered under Class Q as agricultural.
24. It follows, according to the Council that as plot 10 was very similar in size and use to these other plots that it too could not be in agricultural use and so there was permitted development right for conversion to a dwelling. It seems to me that if that is what the evidence shows, then that line of reasoning must be correct. However, the appellant points out that when the 2020 prior approval application

was made for plot 10 it included a mass of evidence dating from 2012-2014 about animal movements, egg collecting, payments, etc pertaining to plot 10. This had all been originally submitted back in 2014 when another prior approval application (14/01142/PDAD) had been made to convert a different building on plot 10 into 2 dwellings. This shows that the Council accepted that in 2014 plot 10 was an agricultural unit in accordance with the requirements of Class Q. The current appeal building was situated on plot 10 and used as overflow storage for hay, straw and animal feed, overflow that was from the barn subsequently converted into 2 dwellings following the success of the 2014 prior approval application.

25. I am not as convinced as the appellant by this line of argument. The application for prior approval in 2014 established nothing more than that prior approval was granted. This seems no different to me than the 2020 prior approval application and it is common ground that the prior approval process does not establish anything about the legitimacy of the conversion in the first place. The issue is whether the evidence of agricultural use provided in 2014 was convincing. The Council say it was so similar to that provided to the 2022 appeal that it clearly is wanting.
26. There is no doubt the tenant of plot 10 in 2014 and the owner both thought it was agricultural as they sign statutory declarations to that effect. They also state the current use of the land (in 2019 when the statutory declarations were signed) was to support free range poultry. However, the evidence itself consists of the 'Small is Successful' document, movement and welfare documents for pigs and sheep in 2012 and 2013, a list of egg production and a receipt for some meat from an abattoir. But there is nothing to pin this to plot 10, much of the documentation seems to be for the small holders as a collective. The egg figures, where a profit can be identified seems to be very small and the meat receipt is a single document for £120. Thus while there is no doubt the use was agricultural, whether the effort amounted to a trade or business is another matter. Much of the evidence seems to be similar or the same as that rejected by the Inspector in 2022 and there is certainly nothing that suggests an actual business had been established on plot 10. Therefore I can find no reason to reach a different conclusion to the Inspector in 2022, that there was not an agricultural trade or business established on plot 10 in 2014.
27. There is no evidence for anything after 2014 other than the tenant's assertion the land was now used for free range chickens, but nothing as to profit and loss for those chickens. Indeed the complete lack of up-to-date evidence provided in 2020 suggests the applicant knew then there was not an agricultural trade or business going on and relied on the use being established in 2014. The then GPDO Class Q required that the land had to be established as an agricultural unit on 20 March 2013 and that an agricultural unit was then, as now, an agricultural trade or business. and that being the last use of the land. This what the applicant in 2020 and the appellants in 2022 attempted to demonstrate using very much the same evidence.
28. In my view therefore it has never been established that plot 10 has been used for an agricultural trade or business and so none of the prior approvals on the land are valid. It is likely the conversion of the barn to two dwellings is now lawful because of the passage of time, but not the more recent conversion of the appeal building

which was only undertaken in 2023. Consequently the appeal on ground (c) fails as that conversion does require planning permission.

Appeal C – Ground (g)

29. Although the building is occupied the tenants have 4 months to find alternative rental accommodation. There is no evidence that alternative rented accommodation would not be available in what seems to be a generous timescale. The appeal on ground (g) fails.

Conclusions

30. I shall dismiss appeal A and vary and uphold the notice, dismiss appeal B and refuse planning permission and dismiss appeal C and uphold the notice.

Simon Hand

INSPECTOR