



Appeal Decision

Inquiry held and site visit made on 16 June 2026

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2026

Appeal Ref: APP/Q1153/C/26/3377842

Land at SX369802, known as Rose Cottage, The Tollhouse, Greystone Bridge, Launceston, Devon PL15 9PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Lawrence Grose against an enforcement notice issued by West Devon Borough Council.
- The notice was issued on 21 January 2026.
- The breach of planning control as alleged in the notice is without planning permission: (i) the change of use of the Land from a detached garage to the use as a separate dwelling for residential purposes.
- The requirements of the notice are to:
 - (i) Cease the unauthorised residential use of the Land referred to in paragraph 2 of the Notice; and
 - (ii) Remove any fixtures, fittings, furniture and appliances which is associated with the residential use
- The period for compliance with the requirements is: 18 months
- The appeal was made on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed, and the enforcement notice is upheld with a correction and variation.

Matters Concerning the Enforcement Notice

1. Before considering the grounds of appeal, I have a duty to put the Enforcement Notice (Notice) in order, if necessary. The powers transferred to Inspectors under section 176(1)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act) include correcting any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the Notice. In each case, the only test is whether the correction or variation would not cause any injustice to the appellant or the local planning authority.
2. The Notice refers to a 'change of use of the Land,' but it does not claim that a 'material' change of use has occurred. As a result, the allegation does not meet the definition of 'development' as outlined in section 55(1) of the 1990 Act, which specifies a 'material' change in the use of any building or land. To align the allegation with this definition, and ensure the Notice is targeting 'development', it is necessary to include the word 'material.' Therefore, a correction to the allegation was proposed, stating that there has been a 'material change of use of the Land.'
3. Additionally, I asked the parties to consider modifying step (i) of the requirements outlined in the Notice. It was proposed to rephrase this requirement to state: 'Cease the unauthorised use of the Land as a separate dwelling for residential purposes referred to in paragraph 2 of the Notice; and.'
4. This variation aims to ensure the requirement accurately reflects the breach alleged in the Notice. Furthermore, the term 'residential use' in the existing wording may be interpreted as requiring the complete cessation of all residential activities within the

building. However, both parties acknowledge that the previous use included some incidental residential activities associated with The Tollhouse and not as an independent dwelling. This is important in light of the appellant's rights to revert to a previous lawful use under section 57(4) of the 1990 Act.

5. For clarity, section 57(4) provides that where an enforcement notice is issued in respect of development, planning permission is not required for any use of the land that would have been lawful had the development not occurred. Accordingly, the requirements of the Notice should not be framed in a manner that would prevent or inhibit the appellant from exercising any lawful right to resume a use that would have been lawful had the development not occurred. As such, varying step (i) of the requirements to mirror the allegation would ensure that the breach of planning control alleged is remedied without preventing the appellant from exercising his lawful rights under section 57(4) of the 1990 Act.
6. The above matters were raised in the Case Management Conference (CMC) before the Public Inquiry and were discussed before evidence was presented on the grounds of appeal at the event. In their written submissions and at the Inquiry, the Council did not raise any objections to the correction and variation and did not set out any reasons why the proposed changes would cause injustice to their case. Although the appellant raised an objection in his written submissions, no reasoning was set out. Following a discussion at the Inquiry, the appellant indicated that he understood the amendments and the reasons for them. He also indicated that he did not object to the correction or variation or indicate that they would cause injustice to his case.
7. Having regard to the parties' cases, it is clear the Council intended to refer to a 'material' change of use and the appellant understood the allegation being made. As such, I am satisfied that a correction of the Notice to include reference to a material change of use would not cause injustice in this case. Furthermore, the variation to the requirement mirrors the allegation and ensures that the breach of planning control is remedied without making the requirements any more onerous on the appellant. As such, this is also a situation where I can use my powers to make this variation without causing injustice to either party. The correction and variation are set out in full under the Formal Decision section.

Preliminary Matters and Background

8. Reference has been made in the appellant's Statement of Case to there being no conflict with the planning policy objectives, no harm to amenity and no unacceptable impact on the countryside, trees and ecology. These would be material considerations in a ground (a) appeal. However, the ground (a) appeal made in this case was barred from being considered due to the provisions of section 174(2A) of the 1990 Act. As such, the planning merits issues raised fall outside the scope of the appeal grounds before me.
9. The Statement of Case presented by the appellant also includes an alternative to the requirements outlined in the Notice. It is indicated that he would like me to consider a variation to permit the continued residential use of Rose Cottage, subject to a personal occupation condition. At the CMC, and since the ground (a) is barred, the appellant clarified this was an appeal on a hidden ground (f), which is that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control. As such,

although the appeal was made on a ground (d), I made parties aware that it would proceed on a ground (d) and a hidden ground (f).

10. I set out in the CMC Summary Note that limited information had been put forward at that stage regarding the hidden ground (f). The onus is on the appellant to set out the precise details of any lesser steps, and this should be detailed in his submissions to the Inquiry. It was highlighted that in cases where there is no accompanying ground (a), the ground (f) appeal is limited to whether the requirements exceed what is necessary to remedy the breach or the injury to amenity, whatever the case may be. The main issues to be considered on this ground were, therefore, the purpose of the Notice, whether the requirements of the Notice were excessive to remedy the breach and if any lesser steps put forward would achieve the purpose of the Notice.
11. A completed Statement of Common Ground was submitted with the appeal. Both parties acknowledge the garage was granted permission in 1991 in association with Angars Ball (now known as The Tollhouse). The Tollhouse, as well as the garage and land subject of the Notice, were part of the same title, and were purchased by the appellant's son on 5 January 2021. The Land subject of the Notice and the garage building were subsequently bought by the appellant on 18 January 2022. The land and building known as The Tollhouse is, therefore, under separate ownership to the land and building subject of the Notice.
12. In addition to the above, both parties highlight a refused planning application¹ and a Lawful Development Certificate (LDC) application². Both the refused planning application and LDC were subject to appeals that were dismissed in December 2024 and September 2025³. For the decision, I will hereafter refer to them as the 2024 application and 2025 LDC. Both parties agree that as well as the 2024 application and 2025 LDC, a Purple Bricks Property Sales Brochure of the Tollhouse (including the Land); The Building Notice Acceptance issued by Devon Building Control Partnership dated 27 July 2021 and the Appellant's application to name/number a new property submitted on 9 March 2022 are relevant material considerations to the appeal.
13. The in-person Public Inquiry event commenced on 16 June 2026 and lasted for one day. All oral evidence presented during the Inquiry was given under sworn affirmation. Although all witnesses gave oral evidence on that day, the evidence regarding the matters concerning the enforcement notice and ground (f) was dealt with by way of a round table discussion led by me. Following the in-person event, I conducted an accompanied site visit in the afternoon to view the premises. I inspected all rooms within the building and assessed the garden space externally.

The Appeal on Ground (d)

14. An appeal on this ground is that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. My consideration of the ground (d) appeal is, therefore, confined to the matter of the material change of use of the Land from a detached garage to a separate dwelling for residential purposes.
15. As a matter of clarification, the wording of section 171B (1)(a) of the 1990 Act has been changed. Section 171B (1)(a) states that the time limit for taking enforcement action on all development in England is ten years, beginning with the date on which

¹ Council reference 0351/24/FUL

² Council reference 0621/25/CLE

³ Appeal reference: APP/Q1153/W/24/3344421 and Appeal reference: APP/Q1153/X/25/3365653

the use commenced. However, the ten-year limit only applies where the material change of use to a single dwellinghouse was on or after 25 April 2024. From the submissions, it is understood that there is no dispute that the alleged material change of use commenced before 25 April 2024.

16. Consequently, to succeed on ground (d), the appellant must demonstrate that the material change of use to a single dwellinghouse commenced and thereafter subsisted continuously for more than four years, without material interruption, before the Notice was issued. The burden of proof rests with the appellant. The evidence need not be corroborated by independent evidence to be accepted, provided the evidence alone is sufficiently precise and unambiguous to demonstrate the appellant's case on the balance of probabilities.
17. There is no dispute between the parties that the building, in its current layout and occupation by the appellant, is a single dwellinghouse. Based on my observations on site and the floor plans, the layout comprises a living room, a downstairs toilet and sink, an open plan kitchen and dining room with built-in cooking facilities, a study/single bedroom and a double bedroom and bathroom upstairs. The bathroom contained a bath and shower along with a toilet and sink. As such, it currently has the necessary facilities for day-to-day living and can be characterised as a dwellinghouse.
18. However, the main area of contention is the date when the breach as a separate dwelling first began. The appellant asserts that this was from 1 February 2021, whereas the Council considers the breach first began on 16 May 2022. The Notice was issued on 21 January 2026 and therefore, for the purposes of the ground (d) appeal, the use must have commenced and thereafter subsisted continuously as a separate dwelling on or before 21 January 2022. As such, in making this assessment, it is essential to determine when the breach of planning control occurred based on factual evidence and the specific circumstances presented in the case.
19. The appellant claimed that he carried out works to the property to improve it and bring it in line with building regulations. He claims to have occupied the property from 1 February 2021 and continued to occupy it while the works he commissioned through a building regulations application in 2021⁴ were being carried out. The appellant confirmed that the Purplebricks sales advertisement produced by the Council⁵ was the sales brochure advertising the property when his son purchased it in January 2021.
20. The Purplebricks brochure indicates the double garage and games room would lend itself to an individual cottage, subject to planning consents. It describes the accommodation as including a storeroom, a lobby/hall and a games room/office, which was accessed by stairs. It is acknowledged that the sales particulars indicated the garage contained some living accommodation, but the description did not include a kitchen, a bedroom, a living room or a bathroom. As such, as a matter of fact and degree, it was clear the extent of the accommodation described did not include the necessary facilities for day-to-day living, and the estate agent was indicating that planning consent was needed to use it as an individual property.
21. The appellant claims that the detached garage was already functioning independently from the Tollhouse before his son purchased the property. He asserted that the description of the accommodation set out in the brochure was inaccurate and did not include all of the accommodation within the garage at the time of the purchase.

⁴ CD1.5- Core Document List

⁵ CD1.7 -Core Document List

However, the appellant has not produced evidence to the contrary, such as dated photographs to demonstrate that the brochure was not an accurate description of the accommodation. Furthermore, no witnesses were produced at the Inquiry that confirmed the detached garage included all of the necessary facilities and was already functioning independently from the Tollhouse before his son purchased the property.

22. Notwithstanding the appellant's claim of previous occupiers and inaccuracies in the brochure, during questioning the appellant described the layout and facilities in the garage building in February 2021. The appellant confirmed that the garage building comprised a living room, a bedroom, a kitchen area containing a sink but with no cooking facilities and a toilet with a hand basin but no bath or shower. He confirmed that there was no fixed heating system and the building required works to insulate the floor and walls as well as update the kitchen and bathroom to bring them into line with modern building regulations standards. Based on the evidence presented, the appellant's position equates his occupation of the garage, in advance of and during the works he undertook, with the establishment of a separate dwelling.
23. However, the Purplebricks brochure, taken together with the appellant's oral evidence, does not demonstrate that the building contained the primary living accommodation necessary for day-to-day residential occupation. Whilst I accept that the building contained accommodation beyond that described in the brochure, his testimony nonetheless indicated that it lacked facilities normally expected for independent domestic living, including adequate provision for everyday cooking and personal washing. Consequently, the appellant has not discharged the burden of proof required to demonstrate, on the balance of probabilities, that the building provided the facilities ordinarily required for day-to-day private domestic existence on 1 February 2021.
24. Furthermore, contrary to claims of occupation of a separate dwelling, the building control application submitted by the appellant and dated July 2021⁶ describes the works being applied for as 'conversion to habitable' at garage at Angars Ball Cottage. The building control application is specifically referenced in a later application for the naming and numbering of the property submitted by the appellant, dated March 2022⁷. This provides dates when the works would be completed, and when it would be occupied. The date for the completion of the works given by the appellant on the form was 2 May 2022 and it would be occupied by 16 May 2022.
25. These applications and the dates provided were given weight in the previous Inspector's decision for the 2025 LDC⁸. This decision is a material consideration and considered substantially the same issues relating to lawfulness. I attach significant weight to these applications as evidence and the later dates given on the name and numbering application form linked to these works. In reaching this view, I have had regard to the appellant's own evidence that the building lacked adequate facilities for everyday cooking and personal washing. In that context, the building control application, describing the works as a "conversion to habitable", indicates that he considered further works were necessary before the building was capable of separate residential occupation. Furthermore, the naming and numbering application provide specific dates for the completion of those works and subsequent occupation.
26. The appellant was given the opportunity to explain the description of the building works set out in the building regulations application. He was also asked about the

⁶ CD1.5 Core Document List

⁷ CD1.8 Core Document List

⁸ Appeal reference: APP/Q1153/X/25/3365653

discrepancy between the dates he included on the application for the naming and numbering of the property and the earlier date he now claims to have occupied the building as a dwellinghouse. However, he was unable to provide a substantive explanation, beyond indicating that the 'conversion to habitable' description was a general description of works often used. Furthermore, he outlined that the dates provided were necessary to submit or administer the name and numbering form, but he was unable to explain why those later dates were provided.

27. In the absence of a clear explanation or reasoning for the description of the works or the discrepancy between the dates, or any persuasive evidence to the contrary, I find that the appellant's evidence lacks the precision and consistency necessary to discharge the required burden of proof on the balance of probabilities. As such, based on the evidence before me, it is less than probable that the alleged breach commenced on 1 February 2021 and subsisted continuously for a four year period without material interruption.
28. The appellant was questioned on the additional evidence he submitted, which included a payment receipt for the building control application dated 27 July 2021; a quotation from a window company dated September 2021; a creditor's letter relating to the window company dated December 2021; floor and elevations plan of the building dated 6 April 2022; documentation from 'Aqua Source' relating to the creation of a borehole and water connection dated February 2026; correspondence from Western Power concerning an electricity connection dated December 2021, together with an undated acceptance letter; a water analysis certificate dated 8 December 2025; a Planning, Design and Access statement for Rose Cottage, dated May 2022 and several undated photographs of the site⁹.
29. The appellant indicated that the documents had been provided to demonstrate matters relating to the property before the relevant date. However, he was unable to clearly explain what the plans, documents and photographs were intended to demonstrate. The plans dated April 2022, and documents dated from May 2022, December 2025 and February 2026 fall outside the relevant period for determining when the alleged breach commenced and therefore provide limited assistance in identifying the date on which the use began. The images said to indicate the building has a separate electricity and water supply before 2008 are also undated and provide limited assistance in identifying when the use as a separate dwelling began.
30. The evidence included before the relevant date, such as the building regulations application receipt in July 2021; a quotation for windows from September 2021 and an estimate for electricity connection from 17 December 2021 aligns with the appellant's version of events by demonstrating works to convert the property were being undertaken. Also, some of the correspondence is addressed to the appellant at the property. However, this evidence principally demonstrates preparatory, or conversion works to facilitate the use rather than the commencement of the use alleged. Taken together, the evidence is therefore of limited assistance in establishing the time at which the breach occurred or its continuity thereafter. Accordingly, only limited weight can be afforded to this evidence in determining the ground (d) appeal.
31. Drawing these matters together, and based on the evidence presented, I find that the building lacked the facilities ordinarily associated with day-to-day private domestic existence and therefore did not amount to a separate dwelling prior to the completion

⁹ CD2.2 to 12 - Core Document List (excluded CD2.5- removed by appellant)

of the works undertaken by the appellant. I therefore conclude that the material change of use to a separate dwellinghouse occurred no earlier than 16 May 2022. Given this finding, it is unnecessary to consider in detail whether that use subsisted continuously thereafter for a period of four years. As such, the breach alleged is not immune from enforcement action.

32. Accordingly, the appeal on ground (d) fails.

The Appeal on Hidden Ground (f)

33. An appeal on ground (f) is made on the basis that the requirements of the Notice exceed what is necessary. For the appeal to succeed on this ground, I must be satisfied that the steps required to comply with the Notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach.
34. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. Having regard to the allegation and requirements of the Notice, as corrected and varied, it is clear that the purpose is to remedy the breach of planning control that has occurred in line with section 173(4)(a) of the 1990 Act.
35. The appellant has set out that a lesser step would be to allow him to continue residing in the property but include a condition for a personal permission. I have considered the appellant's stance on the hidden ground (f), but no detailed information was provided in his submissions or at the event on how this lesser step could be achieved through variations to the steps in the Notice. Furthermore, where no accompanying ground (a) exists, and the Notice clearly seeks to remedy the breach, I can only assess whether the requirements exceed what is necessary to remedy the breach.
36. Therefore, without an appeal on ground (a), it is not within my authority to grant planning permission for the building and impose a condition limiting its use. As such, it is not open to me to consider the lesser step put forward by the appellant in this appeal. The cessation of the property's use as a separate dwelling, along with the removal of fixtures and fittings that support that separate residential function, constitutes the necessary action to address the breach. I do not see any other lesser steps that would achieve this purpose.
37. Accordingly, the appeal on ground (f) fails.

Other Matters

38. I acknowledge the appellant's willingness to engage constructively with the Council, as evidenced by his submission of applications aimed at regularising the disputed matters and seeking guidance from his local Member of Parliament.¹⁰ I also noted the concerns he raised regarding the actions of the Council, specifically in relation to the alteration of the description of development associated with a historic planning application. He also identified an error in the original Notice, which he brought to the Council's attention, enabling them to reissue a Notice with the correct date.
39. I do not doubt the appellant's intentions to regularise the development and work cooperatively with the Council. However, it is important to note that my role is limited

¹⁰ CD.2.13- Core Documents List- Letter to appellant from Member of Parliament

to the appeal before me. I do not have jurisdiction over the Council's conduct or past decision-making. Any concerns regarding the Council's actions should therefore be directed to the Council itself. Additionally, if an error occurs on an enforcement notice, the Council has the authority to withdraw it and issue a corrected version under the second bite provision¹¹. As such, although I have had regard to these matters, they do not have any significant effect on my conclusions on the grounds of appeal made.

40. I have had regard to the provisions of the Human Rights Act 1998 and, in particular, Article 8 of the European Convention on Human Rights and Article 1 of the First Protocol. The requirements of the Notice would result in the cessation of the use of the building as a dwellinghouse and would therefore interfere with the appellant's home and possessions. I also note the appellant's personal circumstances, including his age, financial concerns and the fact that he has no alternative accommodation. As such, I have had regard to the Public Sector Equality Duty under Section 149 of the Equality Act 2010, recognising age as a protected characteristic.
41. Whilst I acknowledge that compliance with the requirements of the Notice would have a significant impact on the appellant, the appeal on ground (d) has not succeeded; I have found that the requirements of the Notice are not excessive and there is no ground (a) before me to consider the planning merits of the development. In these circumstances, the interference with the appellant's rights is justified and proportionate in the public interest, having regard to the importance of maintaining effective planning control and remediating the breach. I am not persuaded, based on the limited evidence before me, that the personal circumstances advanced are such as to outweigh that public interest or justify a different outcome in this case.

Conclusion

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

Formal Decision

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

In paragraph 3, delete the wording of the allegation and substitute with the words 'without planning permission: (i) the material change of use of the Land from a detached garage to the use as a separate dwelling for residential purposes.'

In paragraph 5, requirement step (i), delete the words and substitute with the words 'cease the unauthorised use of the Land as a separate dwelling for residential purposes referred to in paragraph 2 of the Notice; and'

44. Subject to the correction and variation, the appeal is dismissed, and the enforcement notice is upheld.

M. P. Howell

INSPECTOR

¹¹ Section 171B(4) of the 1990 Act

APPEARANCES

FOR THE APPELLANT:

Lawerence Grose Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jackson Sirica Counsel, appointed by the Council

Josh Birkenshaw Planning Enforcement Officer, South Hams District and West Devon Borough Council.