



Appeal Decisions

Site visit made on 15 January 2024

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal A Ref: APP/W4705/C/23/3316592

Appeal B Ref: APP/W4705/C/23/3316593

Land at Yews Green Farm, Yews Green, Cockin Lane, Bradford, BD14 6PX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 1990 Act as amended).
- The appeals are made by Mr Michael Patrick Fogarty (Appeal A) and Mrs Diane Fogarty (Appeal B) against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 5 January 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the unauthorised construction of two new buildings to be used as residential dwelling houses as shown in the attached photographs.
- The requirements of the notice are to: i. Demolish the 2 new buildings on the land; ii. Make good any damage caused to the land as a result of compliance with the requirements of this Notice; and iii. Remove all arising materials from the land.
- The period for compliance with the requirements is: six calendar months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2) (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal C Ref: APP/W4705/C/23/3316597

Appeal D Ref: APP/W4705/C/23/3316598

Land at Yews Green Farm, Yews Green, Cockin Lane, Bradford, BD14 6PX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 1990 Act as amended).
- The appeals are made by Mr Michael Patrick Fogarty (Appeal C) and Mrs Diane Fogarty (Appeal D) against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 5 January 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the conversion of a barn to form two dwellings, the raising of the eaves on the south (rear) elevation of the barn and the construction of 4 no. dormer window extensions on the south (rear) elevation of the barn as shown in the attached photographs.
- The requirements of the notice are to: i. Demolish the 4 dormer window extensions on the south (rear) elevation roof plane of the barn; ii. Reduce the height of the eaves on the south (rear) elevation to the original height; iii. Make good any damage caused to the land as a result of compliance with the requirements of this Notice; and iv. Remove all arising materials from the land.
- The period for compliance with the requirements is: six calendar months.
- Appeal C is proceeding on the grounds set out in section 174(2) (a) and (e) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

- Appeal D is proceeding on the ground set out in section 174(2) (e) of the Town and Country Planning Act 1990 as amended.
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Summary Decisions Appeals A and B: The appeals are dismissed and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.

Summary Decisions Appeals C and D: The appeals are dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Procedural Matters

1. Whilst Appeals A and B and Appeals C and D relate to separate enforcement notices (hereafter referred to as Notice 1 and Notice 2¹), and different alleged breaches of planning control, they concern the same appellants and buildings and/or land within their ownership. Therefore, to avoid duplication, I have dealt with both pairs of appeals together in one decision letter.
2. Notice 1 and Notice 2 were issued because it appeared to the Council that there have been breaches of planning control within paragraph (a) of section 171A(1) of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 1990 Act as amended), namely, carrying out development without the required planning permission.
3. In 2017 planning permission was granted for 'Change of use and conversion of barn to form two dwellings, and change of use, conversion and extension of outbuilding to form single dwelling'² (the 2017 permission). However, the development undertaken, which is the subject of Notice 1 and Notice 2, differs to that granted under the 2017 permission. Whilst subsequent applications have been submitted seeking to regularise the development undertaken, they have been refused by the Council³.
4. I have considered whether the alleged breaches of planning control should more properly be described as falling within paragraph (b) of section 171A(1) of the 1990 Act as amended, specifically, failing to comply with any condition or limitation subject to which planning permission has been granted.
5. From the evidence before me and my observations on site, the development undertaken which is the subject of Notice 1 and Notice 2, represents a substantial deviation from the approved plans, such that it is not the same development. Namely, the construction of a substantial three bay building adjacent to the highway; a greater footprint and height of the 'outbuilding' with differences in the positions of external walls, openings and fenestration, resulting in a building of a much larger size, scale and massing and distinctly different appearance; and a greater height of the full width of the south elevation of the 'barn', with the addition of four dormer windows and changes to openings and fenestration, resulting in a building of a considerably larger size and bulk and noticeably different appearance.

¹ Appeals A and B - Notice 1 and Appeals C and D - Notice 2.

² Application Ref: 17/05177/FUL.

³ Application Ref: 17/05177/NMA01; Application Ref: 22/00817/FUL; Application Ref: 22/04049/FUL; and Application Ref: 22/04935/FUL.

6. I am therefore satisfied that the alleged breaches of planning control are properly described as falling within paragraph (a) and that the development as built and the subject of Notice 1 and Notice 2 does not have planning permission. I have determined the appeals on this basis.
7. With regard to Appeals A and B, in paragraph 3, Notice 1 refers to the breach of planning control alleged as being 'without planning permission' and 'unauthorised'. Notice 1 is concerned with a breach of planning control rather than other areas of legislation, and therefore the former is the more appropriate. The word 'unauthorised' is superfluous and I shall delete it.
8. The power under section 176(1)(a) of the 1990 Act as amended provides that a notice may be corrected provided that no injustice would be caused by doing so. I am satisfied that no injustice would be caused by correcting Notice 1 in the above respect.
9. Also in relation to Appeals A and B, the appellants contend the alleged breach of planning control as stated in Notice 1 to be 'factually incorrect', in that one of the structures referred to is to form a detached garage and not, as the notice contends, 'to be used as a residential dwelling house'. On this basis, I consider there to be a hidden ground of appeal under section 174(2)(b) of the 1990 Act as amended, namely that those matters have not occurred. The parties have been given the opportunity to comment on this matter and I have taken their responses into account in my determination of the appeals. I am therefore satisfied that no injustice would be caused by me taking the approach that Appeals A and B are also proceeding on ground (b).

Appeals A, B, C and D on ground (e)

10. The appeals on ground (e) are that copies of Notice 1 and Notice 2 were not served as required by section 172 of the 1990 Act as amended. On this ground of appeal the onus is on the appellants to make out their case to the standard of the balance of probabilities. Section 172(2) of the 1990 Act as amended states that, a copy of an enforcement notice shall be served — (a) on the owner and on the occupier of the land to which it relates; and (b) 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.
11. The appellants submit that the Notices were not served correctly as required by section 172, as the certificates of service were addressed and served to them at Yews Green Farm, Yews Green, Cockin Lane, Bradford, BD14 6PX. Yews Green Farm is a property adjoining the appeal sites, which is not within the ownership of the appellants or occupied by them. They state that the Council was aware of this after being informed by email following a Planning Contravention Notice being issued to the same address⁴.
12. Conversely, the Council asserts that the Notices were addressed and served by hand to the appellants at Yews Green Farm, as the Land Registry Title identifies the owners of the land, which is the subject of the Notices, at this address. Furthermore, that they were also addressed and served by recorded delivery to an additional address in Halifax which had been provided by the appellants⁵. The Council also states that a copy of the Notices were placed on the Council's

⁴ Dated 25 August 2021.

⁵ Under section 330 of the Town and Country Planning Act 1990 (as amended).

Section 188 Register which is a public document and is available for public inspection.

13. The appellants dispute the Council's claims regarding the Land Registry Title and the serving of the Notices to an additional address, which they contend were never received. They also highlight that the placement of the Notices on the Council's Register does not denote their correct service.
14. Whilst the Council has not provided any corroborative evidence regarding the Land Registry Title or the serving of the Notices to an additional address, I am mindful that under this ground of appeal the onus is on the appellants to make out their case to the standard of the balance of probabilities.
15. There is no substantive evidence before me which demonstrates that the Notices were not served as required by section 172 of the 1990 Act as amended. Additionally, even if I accept that they were not served as required, which I do not, mindful of section 176(5) of the 1990 Act as amended, given that the appellants received correct copies of the Notices and were able to submit valid appeals prior to them taking effect, I am not persuaded that they have been substantially prejudiced in this respect.
16. For these reasons I find that, on the balance of probabilities, copies of Notice 1 and Notice 2 were served as required by section 172 of the 1990 Act as amended. Accordingly, appeals A, B, C and D on ground (e) fail.

Appeals A and B on ground (b)

17. Appeals A and B on ground (b) are that those matters stated in Notice 1 have not occurred. On this ground of appeal, the onus is on the appellants to make out their case to the standard of the balance of probabilities. Having regard to the correction above, the matters stated in Notice 1 are 'without planning permission, the construction of two new buildings to be used as residential dwelling houses as shown in the attached photographs'.
18. In considering this ground of appeal I am mindful that section 174(2)(b) of the 1990 Act as amended is worded in the past tense. Therefore, it is whether the alleged breach **had** occurred **by the date of issue** of Notice 1 (my emphasis).
19. The appellants contend that one of the alleged 'two new buildings' has been constructed for the purpose of garaging and not to be used as a residential dwelling house. They set out that the internal layout is currently unfinished, but the intention is that it would be used for housing vehicles and associated storage and, in support of this, cite their application for the 'reconstruction of derelict building to form detached garage and store' Ref: 22/04049/FUL.
20. Against this, the Council considers the building 'to be a dwelling house and not a garage'⁶ because it does not include any garage doors and is incapable of being accessed by a vehicle. Additionally that, internally, it has been finished to a higher specification than would be expected for a garage with photographic evidence illustrating 'spotlights and what appears to be a first fix for a kitchen'⁷.

⁶ Email dated 22 May 2024.

⁷ Photos dated 12 December 2022 prior to Notice 1 being issued.

21. When on site I noted that the building's south elevation possessed a central door with slim vertical windows either side. To the left and right of this were tripartite, fully glazed doors, both of which had a step up into them. In one gable was a single window and in the other gable was a door and window. These openings are as shown in the Council's photos. Four rooflights on the southern pitch of the roof shown in the Council's photos were not present at the time of my visit.
22. There is no definition of the term 'dwelling house' in the 1990 Act as amended, but it was accepted in *Gravesham BC v SSE & O'Brien* [1983] JPL 306, that the distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-to-day private domestic existence.
23. The tripartite, fully glazed door openings are not standard garage door openings, and the step up into them would limit easy access by vehicles. This raises doubt as to the building's use as a garage/store by the date of issue of Notice 1. Nonetheless, whilst I acknowledge the Council's comments regarding the more external and internal domestic form and character of the structure, from the submitted evidence, the building did not meet the *Gravesham* test as a dwelling house at the date of issue of Notice 1. Furthermore, it does not demonstrate the intention of the appellants to install all of the facilities required for day-to-day private domestic existence, to allow the building 'to be used as a residential dwelling house' as alleged in Notice 1.
24. I acknowledge that by the date of issue of Notice 1 the building did not have the outward appearance of a garage/store. Indeed, what has been built does not match that applied for under application Ref: 22/04049/FUL, which I note was refused by the Council in February 2023. However, as a matter of fact and degree, given the absence of facilities within it, I find that the building was not a separate dwelling house at the date of issue of Notice 1. Whether it was intended 'to be used' as a residential dwelling house is less clear; that may be the case, but equally, it could have been intended to use the building as ancillary accommodation related to the use of the adjacent dwelling. It appears to me that the breach described in Notice 1 should focus on what had occurred at the time of issue as opposed to the Council's fears as to what may happen in the future.
25. Drawing all of the above together, I find that, on the balance of probabilities, those matters stated in Notice 1 have not occurred. The alleged breach is a misstatement of fact, in that by the date of issue, one of the two new buildings had not been constructed to be used as a residential dwelling house. Accordingly, appeals A and B on ground (b) succeed to that extent.
26. Nonetheless, success in that regard does not mean that Notice 1 must be quashed, and I find that the alleged breach can be corrected so it reads 'without planning permission, the construction of two new buildings as shown in the attached photographs'. This aligns with Part i of Paragraph 5 of Notice 1, which requires the appellants to 'Demolish the 2 new buildings on the land. Given that the parties have had an opportunity to comment on this matter and having regard to the power under section 176(1)(a) of the 1990 Act as amended, I am satisfied that no injustice would be caused by me correcting Notice 1 in the above respect.

Appeals A and C on ground (a) and the deemed planning applications

27. Appeals A and C on ground (a) seek that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
28. In relation to Appeal A there are differences between some of the photos attached to Notice 1, and between what I observed at the time of my site visit. In the photos, the building adjacent to the highway has a single window in the western gable in one photo and two windows in the same gable in another photo. At the time of my site visit there was a single window in this gable. The photos also show four rooflights to the southern roof pitch of this building, whereas, at the time of my site visit there were none. The general footprint, height and volume of the building as shown in the photos attached to Notice 1 appeared to be the same in my observations on site.
29. In relation to Appeal C there are differences between the alleged breach and the photos attached to Notice 2, and what I observed at the time of my site visit. The alleged breach and photos refer to the construction of 4 no. dormer window extensions on the south (rear) elevation of the barn. At the time of my site visit these were not present and rooflights were installed in similar positions. With the exception of the dormer windows, the general footprint, height and volume of the building as shown in the photos attached to Notice 2 appeared to be the same in my observations on site.
30. Neither party has referenced these changes in their evidence, with the appellants only stating with regard to Notice 2, that an application to remove the dormer windows was submitted to the Council, which the Council confirm was refused⁸. Nor have the appellants requested that the alterations are considered as part of the appeals. Consequently, as required, I have assessed the appeals on whether planning permission ought to be granted for the breaches of planning control which may be constituted by the matters stated in Notice 1 and Notice 2, based on the development that had occurred at the time they were served.

Main Issues

31. The main issues for appeals A and C on ground (a) are:
- Whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the landscape character of the area; and
 - Whether any harm by reason of inappropriateness, and any other harm, are clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

⁸ Application Ref: 22/04935/FUL- Residential development of two dwellings (amended scheme to 22/00817/FUL), Refused 16 February 2023.

Reasons

Whether inappropriate development in the Green Belt

32. Appeal sites A and C lie within the Green Belt. Paragraph 142 of the Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
33. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions. Additionally, paragraph 155 states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
34. No development plan policies relating to development in the Green Belt are cited in the reasons for issuing the Notices or in the parties' evidence. However, Policy GB1 of the Replacement Unitary Development Plan (2005) has been submitted by the Council. Nonetheless, as Policy GB1 does not fully reflect the Framework, I have used the policies within the Framework as a basis for determining the appeals on ground (a).

Appeal A

35. There are inconsistencies in both parties' evidence as to the 'exception(s)' and 'form of development' that the buildings have been assessed against⁹. However, from the cases advanced and having regard to paragraphs 154 and 155, I find the most relevant to be 154(d), 154(g), and 155(d).
36. Taking these and the buildings in turn, 154(d) is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The appellants submit that the building adjacent to the highway replaced a previous building in this location. The only evidence to support this is a single photograph¹⁰ of what appears to be partial walls/ remains of some form of stone structure, of no confirmed use, and of a size and position which do not match the building shown in the photos attached to Notice 1. On this basis, I am not persuaded that what is shown in the photos attached to Notice 1, constitutes the 'replacement of a building'. Moreover, even if I accept that this is the case, which from the limited evidence before me I do not, it has not been demonstrated that the new building is in the same use and, in all probability, is materially larger than the one it replaced. As such, it does not constitute the exception under 154(d).
37. With regard to the building further south, whilst it could reasonably be concluded to be the 'replacement of a building', from the submitted evidence, what has been built is not in the same use as the previous outbuilding and is materially larger in footprint and volume than the one it 'replaced'. Consequently, it does not constitute the exception under 154(d).

⁹ The Council refer to exception 154(e), but assess the development against 154(d). The appellants refer to 154(e) but assess the development against 154(g).

¹⁰ Document 6.

38. The exception under 154(g) reads, limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
39. The appellants submit that the development is the limited infilling or the partial or complete redevelopment of previously developed land (PDL). The first part of this assessment is whether the site constitutes PDL. PDL is defined in the Glossary of the Framework as Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure, which it could reasonably be concluded to relate to the appeal site. However, exclusions to this include land that is or was last occupied by agricultural or forestry buildings.
40. From the submitted evidence, the building to the south was a former outbuilding associated with Yews Green Farm and there is nothing before me which demonstrates that the 'derelict building' had anything other than an agricultural use. As such, the site does not meet the definition of PDL and both buildings do not meet the exception under 154(g).
41. The form of development referenced in 155(d) is the re-use of buildings provided that the buildings are of permanent and substantial construction. I am not persuaded that the structure comprising the partial remnants of stone walls with no roof as shown in Document 6 of the appellants' evidence could reasonably be described as being a building of 'permanent and substantial construction' to warrant assessment under this part of the Framework. As such, it does not constitute the form of development set out under 155(d) to then require consideration of whether it preserves the openness of the Green Belt and whether it conflicts with the purposes of including land within it.
42. In relation to the building further south, it could reasonably be argued that the 'outbuilding' was of permanent and substantial construction. However, the submitted evidence highlights the considerable extent of demolition which occurred to the outbuilding as part of the development which is the subject of this appeal¹¹. Moreover, what has been built is a substantial deviation from the outbuilding's footprint, height and form, resulting in a building of much greater size, scale and massing. Taking these factors together, the development cannot reasonably be described as the 're-use' of a building to justify assessment under this part of the Framework, because, as a matter of fact and degree, it is a different building. As such, it does not constitute the form of development set out under 155(d) to then necessitate consideration of whether it preserves the openness of the Green Belt and whether it conflicts with the purposes of including land within it.
43. Accordingly, I conclude that the development which is the subject of Appeal A constitutes inappropriate development in the Green Belt, having regard to paragraphs 154 and 155 of the Framework.

¹¹ As set out in letter by Stuart Lumb Limited Joinery & Building dated 13 May 2023.

Appeal C

44. In relation to Appeal C, it is common ground between the parties that the relevant exception in paragraph 154 is (c) namely, the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building¹².
45. This requires consideration of whether the development, when taken in combination with any previous additions to the original building, results in a disproportionate addition in terms of its size. That said, the Framework does not define what constitutes 'disproportionate'. In undertaking this exercise, it is reasonable to have regard to the overall size increase in terms of volume and external dimensions, as well as floorspace.
46. Neither party has provided any figures or calculations to assist this process in relation to the volume and/or floorspace of: the original building; any previous additions to the original building; or the development as shown in the photos attached to Notice 2. However, having regard to the 'existing floor plans and elevations' submitted with the 2017 permission, a general assessment can be made.
47. The heights of the building's peak of the ridge and eaves to the north elevation have not changed, nor has its footprint. Nonetheless, the height of the eaves to the south elevation has been increased by 1.87m from 3.13m to 5m across the whole width of the elevation, and four dormer windows have been added.
48. The appellants assert that this increase in height and changes to form are modest. However, taken together, the development has considerably increased the volume, floorspace and thus overall size of the original building. In my opinion, this has resulted in a disproportionate addition to the original building.
49. Consequently, I conclude that the development which is the subject of Appeal C constitutes inappropriate development in the Green Belt, having regard to paragraph 154 of the Framework.

Openness of the Green Belt

50. Openness is an essential characteristic of Green Belts and has both spatial and visual aspects.

Appeal A

51. The building adjacent to the highway is of a considerable footprint and volume, which, are more likely than not, considerably greater than the remains of any previous structure in or near this position. Additionally, the building further south is also of a sizeable footprint and volume which are greater than the previous outbuilding or that approved under the 2017 permission.
52. Both buildings have introduced substantial and permanent built form onto land and into space where previously there was none. The existing stone boundary wall to Yews Green provides some screening of the development. However, the size, scale and massing of the structures in conjunction with the topography of the site and surrounding land, mean that they are highly visible and unduly

¹² The Framework Glossary defines 'original building' as, a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

conspicuous in short range views from Yews Green, and in longer range views from Cockin Lane and Brow Lane. In these respects, the development has a harmful effect on the openness of the Green Belt to the extent that it is not preserved.

53. I conclude that the development does not preserve, and has a harmful effect on, the openness of the Green Belt. As such, it conflicts with the provisions within the Framework which aim to protect the openness of the Green Belt.

Appeal C

54. The increase in height of the whole width of the south elevation and addition of four dormer windows have added considerably to the overall bulk and massing of the building and introduced substantial built form into space where previously there was none.
55. Whilst the development and its effects are screened to a degree by the building further south when viewed from Brow Lane, they are still highly apparent and readily perceived when viewed from the public route of Yews Green. In these regards, the development has a harmful effect on the openness of the Green Belt to the extent that it is not preserved.
56. I conclude that the development does not preserve, and has a harmful effect on, the openness of the Green Belt. As such, it conflicts with the provisions within the Framework which aim to protect the openness of the Green Belt.

Landscape character

Appeals A and C

57. The site lies within the Landscape Character Area of Thornton and Queensbury, as identified within the Council's Landscape Character Supplementary Planning Document, 2008 (the LC SPD). It is stated that, within this area, 60% of the land is characterised as 'mixed upland pasture'. Overall, it is concluded that the 'landscape has moderate strength of character, medium historic continuity, and is prominent and open. It can therefore be seen to be sensitive to change'.
58. The land surrounding the sites, particularly to the south, generally displays the distinct and identified characteristics of being prominent and open. It falls away gently to the south, allowing expansive views over a verdant and undulating pastoral landscape which, in reverse, also permits clear views of the sites. Built form within the area is predominantly characterised by traditional, robust, stone and slate structures, either domestic or agrarian, which largely assimilate well into the dramatic topography.
59. I acknowledge the historic presence of the barn and outbuilding within the sites. I also note the use of complementary materials of stone and slate in the development which is the subject of Notice 1 and Notice 2. Nevertheless, the sites' prominent position adjacent to the highway and within such an open and expansive landscape, in conjunction with the substantial size, scale and massing of the buildings as shown on the photos attached to the Notices, cause the development to be unduly conspicuous and erode the positive open and verdant qualities of the landscape within which the sites sit.

60. Moreover, the overtly domestic form and design of the resultant buildings, particularly the large sections of glazing and inclusion of dormer windows, have markedly weakened the robust agrarian form and character of the buildings historically on the sites. Consequently, they do not sit comfortably within this context.
61. Given the sensitivity of the landscape to change, the development results in adverse landscape and visual effects. These are highly apparent in short to medium range views from Yews Green, Cockin Lane and Brow Lane as well as longer range views across the landscape.
62. The appeal sites or the land surrounding them are not specifically mentioned in the LC SPD. However, they display some of the identified characteristics of the area which are worthy of conservation, and any development within them are required to be assessed against the relevant Local Plan policies.
63. Accordingly, the development which is the subject of Notice 1 and Notice 2 has a harmful effect on the landscape character of the area. As such, it conflicts with Policies EN4, DS1 and DS2 of the Bradford Core Strategy Development Plan Document, adopted 2017. Together these policies seek that development proposals, make a positive contribution towards the conservation, management and the diversity of landscapes; contribute to achieving good design and high quality places; and integrate development into the wider landscape.

Other Considerations/Very Special Circumstances

64. The Framework is clear that substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations¹³.

Appeal A

65. In support of Appeal A on ground (a) the appellants have submitted details¹⁴ of other developments in the vicinity of the site which they consider are capable of being material considerations¹⁵. I have had regard to the schemes cited and viewed some of them from public routes when on site.
66. I acknowledge the similarities between those referenced and the development before me, including the types of development and their location within the same local planning authority, Green Belt and Landscape Character Area.
67. However, of the cases cited, Field House/Gazella Villa was assessed to not be inappropriate development against what is now paragraph 154(g) and, whilst the development was of a greater height, there was a reduction in the overall footprint of development on the site.
68. Regarding the detached garage at Cockin Lane Farm, it is not clear what exception or form of development this scheme was assessed against. However, it appears a fairly modest structure/extension in relation to the dwelling.

¹³ Paragraph 153.

¹⁴ Plans, Officer Reports and Decision Notices.

¹⁵ Appeal A ground (a): Field House/Gazala Villa, Application Ref: 17/06658/FUL; Cockin Lane Farm, Application Ref: 14/04087/HOU; West Scholes Mill, Application Ref: 20/05859/FUL; and Greenhead Farm, Application Ref: 20/00926/FUL. Appeal C (ground (a)): Field House and Broomfield.

69. Concerning the site of the former West Scholes Mill on Brewery Lane, whilst the planning permission cited was granted in March 2021 for the construction of five detached dwellings with garages, there were previous approvals for development on the site which were kept extant and which provided a fallback position against which the revised scheme was considered acceptable.
70. In relation to Greenhead Farm, the development referred to for a change of use of land to residential curtilage was considered to be inappropriate, but mitigating circumstances concerning the preservation/conservation of a designated heritage asset meant it was accepted.
71. Consequently, none of the specifics and/or circumstances of the cases cited above are directly comparable to Appeal A on ground (a) before me. As such, I give them very little weight.
72. The development involves the provision of one dwelling with garage/store. This would contribute to the local housing mix and supply. I am aware of the Government's support for boosting the housing supply, which is reinforced by recent consultation documents¹⁶ and highlighted by the appellants. However, given the single unit of housing provided, this carries little weight in the appeal.
73. The construction phase of one dwelling and garage/store as part of the development would have generated some economic benefits. Moreover, there would be potential for additional social and economic benefits to accrue from the dwelling's occupation and the subsequent support for local services and facilities by any occupants. Although, given the extent of the development, these would be fairly modest and carry little weight.
74. Any 'fallback position' or what is likely to happen should the notice be upheld is an important material consideration on the merits of a deemed planning application. In this regard I am mindful of the 2017 permission. However, a requirement of Notice 1 is to 'demolish the 2 new buildings on the land', which I conclude on the appeals on ground (f) does not exceed what is necessary to remedy the breach of planning control. As this would mean that there would be no 'outbuilding' to convert and extend as granted under the 2017 permission, there is no fallback position in relation to appeal A.

Appeal C

75. In support of Appeal C on ground (a) the appellants have cited two schemes involving the incorporation of dormer windows which they consider are capable of being material considerations¹⁷.
76. I have had regard to the schemes referenced, however, from the limited information submitted, neither of the buildings involved a dwelling or dwellings formed from the conversion of a barn. Therefore, the specifics of the cases cited are not directly comparable to Appeal C before me. As such, I give them very little weight.
77. The development involves the provision of two dwellings. These would contribute to the local housing mix and supply. As above, the Government's

¹⁶ Published for Consultation, dated July 2024: 'Proposed reforms to the Framework and other changes to the planning system' and the 'Framework: draft text for consultation', along with a Written Ministerial Statement 'Building the homes we need'.

¹⁷ Appeal C (ground (a)): Field House and Broomfield.

support for boosting the housing supply, the recent consultation documents and the appellants' reference to this matter are acknowledged. However, given the quantum of two units of housing provided, I attach little weight to this in the appeal.

78. The construction phase of the development would have generated some economic benefits. Additionally, there would be potential for social and economic benefits to accrue from the dwellings' occupation and the subsequent support for local services and facilities by any occupants. Although, as above, given the extent of the development, these would be fairly modest and carry little weight.
79. The change of use and conversion of the barn to form two dwellings as part of the 2017 permission could still be implemented if Notice 2 was upheld. This forms a fallback position for which I find that there is more than a merely theoretical prospect of it being undertaken. Nonetheless, for all the reasons set out above, this fallback position would be less harmful than the development before me. As such, it carries little weight.

Other Matters

80. The Council's reasons for issuing Notice 1 and Notice 2 focus on the effects of the development on the Green Belt and landscape character. These are reflected in the main issues above. As it was not a reason for issuing the Notices, I have not included the matter of highway safety¹⁸. In any event, given my conclusions on the main issues, this matter is not determinative.
81. I note the appellants' comments concerning the Council's conduct during the course of the applications, enforcement action and the appeals. However, these matters are not within the remit of my considerations in relation to appeals under section 174 of the 1990 Act as amended.

Planning balance and conclusion on Appeals A and C on ground (a) and the deemed planning applications

Appeal A on ground (a)

82. In summary, I find that the development is inappropriate development in the Green Belt, which is harmful by definition. It also does not preserve, and has a harmful effect on, the openness of the Green Belt. I also find that it has a harmful effect on the landscape character of the area. The Green Belt harm and 'other harms' carry substantial weight against the appeal.
83. I have had regard to other considerations cited in support of the development. However, I find that, either individually or collectively, they do not clearly outweigh the substantial weight which must be given to Green Belt harm and any other harm. As a result, the very special circumstances necessary to justify the development do not exist.
84. The appellants submit that the Council cannot demonstrate a five-year housing land supply. This has not been challenged by the Council. On this basis, having regard to footnote 8 of the Framework, paragraph 11(d) is triggered. Nonetheless, with reference to footnote 9 of the Framework, given my

¹⁸ As referenced in the Council's Appeal Statement.

conclusions above, the application of policies in the Framework that protect areas or assets of particular importance, which includes land designated as Green Belt, provides a clear reason for refusing the development.

85. Accordingly, the development is contrary to the relevant policies of the development plan and the Framework and no material considerations of sufficient weight have been advanced to justify a decision other than in accordance with the development plan. Therefore, I conclude that planning permission ought not to be granted for the matters stated in Notice 1. Consequently, Appeal A on ground (a) fails.

Appeal C on ground (a)

86. In summary, I find that the development is inappropriate development in the Green Belt, which is harmful by definition. It also does not preserve, and has a harmful effect on, the openness of the Green Belt. I also find that it has a harmful effect on the landscape character of the area. The Green Belt harm and 'other harms' carry substantial weight against the appeal.
87. I have had regard to other considerations cited in support of the development. However, I find that, either individually or collectively, they do not clearly outweigh the substantial weight which must be given to Green Belt harm and any other harm. As a result, the very special circumstances necessary to justify the development do not exist.
88. As above, the appellants submit that the Council cannot demonstrate a five-year housing land supply. This has not been challenged by the Council. On this basis, having regard to footnote 8 of the Framework, paragraph 11(d) is triggered. Nonetheless, with reference to footnote 9 of the Framework, given my conclusions above, the application of policies in the Framework that protect areas or assets of particular importance, which includes land designated as Green Belt, provides a clear reason for refusing the development.
89. Accordingly, the development is contrary to the relevant policies of the development plan and the Framework and no material considerations of sufficient weight have been advanced to justify a decision other than in accordance with the development plan. Therefore, I conclude that planning permission ought not to be granted for the matters stated in Notice 2. Consequently, Appeal C on ground (a) fails.

Appeals A and B on ground (f)

90. The appeals on ground (f) are 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 which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
91. When an appeal is made on ground (f), the starting point is to identify the purposes of the notice. Section 173(4) of the 1990 Act as amended sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place, or (b) remedying any injury to amenity which has been caused by the breach.

92. In this case the requirements of Notice 1 are to: 5. i. Demolish the 2 new buildings on the land; ii. Make good any damage caused to the land as a result of compliance with the requirements of this Notice; and iii. Remove all arising materials from the land. The purpose of the notice must therefore be to remedy the breach of planning control that has occurred by restoring the land to its condition before the breach took place.
93. The appellants submit that the requirement to demolish the buildings is disproportionate and excessive. This is because there is a planning permission in place for the conversion of the outbuilding, and should Appeal A on ground (a) not succeed, there are lesser steps that could be taken, namely, that the outbuilding could be required to be constructed in accordance with the approved plans in the 2017 permission.
94. The enforcement regime is intended to be remedial and not punitive. I acknowledge the 2017 permission, and note the appellants' assertions that the outbuilding was not totally demolished as part of the development. However, the building adjacent to the highway included in Notice 1 did not form part of the 2017 permission and does not have planning permission. Moreover, as set out above, the 'outbuilding' further south was largely demolished, and what has been built is a substantial deviation to what was previously there and/or what was approved as part of the 2017 permission, resulting in what is, as a matter of fact and degree, a different building.
95. If I varied the requirements of Notice 1 as advanced by the appellants it would not address the construction without planning permission of the building adjacent to the Highway. Moreover, given the disparity between the 2017 permission and the building that has been constructed further south, to change the requirements in this way would, of itself, require the substantial demolition of the building.
96. Crucially, varying the requirements in this way would not remedy the alleged breach. Given that the purpose of the notice is to remedy the breach of planning control, the requirement to demolish the two buildings does not, in my view, exceed what is necessary. I have considered whether there are any other suitable alternatives to the requirements stated in Notice 1 which would achieve the purpose of Notice 1 with less cost or disruption to the appellants, but none are obvious to me.
97. I therefore conclude that the steps required by the notice to be taken do not exceed what is necessary to remedy the breach of planning control, but are proportionate given the purposes of Notice 1. Accordingly, Appeals A and B on ground (f) fail.

Appeals A and B on ground (g)

98. The appeals on ground (g) are that any period specified in the notice in accordance with section 173(9) of the 1990 Act as amended falls short of what should reasonably be allowed. The period specified in Notice 1 is six calendar months, whereas the appellants consider 12 months would be more reasonable, given the nature and scale of the works involved.

99. In considering this ground of appeal, there is a need to balance the public interest in securing the expeditious compliance with the notice against the private interest bound up in the development subject to the notice.
100. I have found that the requirements of Notice 1 do not exceed what is necessary to remedy the breach of planning control. Additionally, I see no reason why the physical work could not be achieved within 6 months. Nonetheless, I recognise that some time would be needed for the appellants to engage a contractor to undertake the work, so an additional 3 months is reasonable to allow for that.
101. I am therefore persuaded that a period of six months for compliance is not reasonable and results in a disproportionate burden. Whilst I find the suggested twelve months to be excessive, I am satisfied that a time between the two suggested periods of nine months is a reasonable and proportionate response to the breach of planning control that has occurred.
102. Consequently, I conclude that the time for compliance specified in Notice 1 falls short of what should reasonably be allowed. The appeal on ground (g) succeeds to that extent and I will vary Notice 1 accordingly. Having regard to section 176(1)(b) of the 1990 Act as amended, I am satisfied that no injustice would be caused by varying the notice in this respect.

Conclusions Appeals A and B:

103. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Conclusions Appeals C and D:

104. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decisions Appeals A and B:

105. It is directed that the Notice is corrected by:
- In Paragraph 3, the deletion of the word 'unauthorised'.
 - In Paragraph 3, the deletion of the words 'to be used as residential dwelling houses'.
106. It is directed that the Notice is varied by:
- In Paragraph 6, the deletion of the word 'six' and insertion in its place of the word 'nine'.
107. Subject to the corrections and variation, the appeals are dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decisions Appeals C and D:

108. The appeals are dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

F Cullen

INSPECTOR