



## Appeal Decisions

Hearing held on 4 December 2024

Site visit made on 3 December 2024

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

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### Appeal A Ref: APP/M1710/C/23/3328580

#### Keepers Lodge Basingstoke Road, Beech, Alton GU34 4AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (1990 Act). The appeal is made by Mr Paul O'Brien against an enforcement notice (EN) issued by East Hampshire District Council.
- The EN was issued on 27 July 2023.
- The breach of planning control as alleged in the EN is: without planning permission and within the last 4 years the material change of use of part of the garage for the creation of a separate, self-contained 1 bedroom flat.
- The requirements of the EN are:
  1. To cease the use of the area within the garage on the land shown marked on the attached plan outlined in black as a separate, self-contained 1-bedroom flat.
  2. Remove from the site, the staircase and veranda serving the main access to the upper floor 1 bedroom residential flat.
- The period for compliance with the requirements is: 9 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

**Summary Decision: Appeal A is allowed, the EN is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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### Appeal B Ref: APP/M1710/C/23/3328581

#### Keepers Lodge Basingstoke Road, Beech, Alton GU34 4AB

- The appeal is made under section 174 of the 1990 Act. The appeal is made by Mr Paul O'Brien against an EN issued by East Hampshire District Council.
- The EN was issued on 27 July 2023.
- The breach of planning control as alleged in the EN is: without planning permission and within the last 4 years the creation of a new self-contained, independent residential dwelling.
- The requirements of the EN are:
  1. To cease the use of the building 'known as the Bothy' on the land shown marked on the attached plan outlined in blue and green as a self-contained, independent residential dwellinghouse.
  2. To remove the extension as identified in green on the attached plan and remove all resulting materials from the site.
- The period for compliance with the requirements is: 9 months.
- The appeal is proceeding on the ground set out in section 174(2)(a), (f) and (g) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

**Summary Decision: Appeal B is allowed, the EN is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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### Appeal C Ref: APP/M1710/C/23/3328583

#### Keepers Lodge Basingstoke Road, Beech, Alton GU34 4AB

- The appeal is made under section 174 of the 1990 Act. The appeal is made by Mr Paul O'Brien against an EN issued by East Hampshire District Council.

- The EN was issued on 27 July 2023.
- The breach of planning control as alleged in the EN is: without planning permission and within the last 4 years the material change of use of part of the garage for the creation of a separate self-contained holiday let.
- The requirement of the EN is:
  1. To cease the use of the area within the garage as a separate, self-contained 1-bedroom flat. (Shown marked on the attached plan outlined in a heavy black line).
- The period for compliance with the requirement is: 9 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the 1990 Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

**Summary Decision: Appeal C is allowed, the EN is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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## **Preliminary Matters and Background**

1. As set out above there are three appeals at the above address. They relate to the same appellant but three different ENs. To avoid duplication, I have dealt with them together, except where otherwise indicated. Planning applications<sup>1</sup> to retain similar development to that cited within the three ENs' allegations were refused in 2023 (the 2023 applications).
2. Completed and signed Statements of Common Ground (SoCG) were submitted for all three appeals. Within the SoCG relating to Appeal A it was stated that the Council and the appellant had agreed lesser steps which would be acceptable to both parties and on that basis the appellant had agreed to withdraw his ground (d) appeal. As such, the ground (d) appeal against that EN is not proceeding. I will consider any corrections and/or variations to the EN in the section below.
3. Within the SoCGs copies of emerging policies from the Draft Local Plan (the plan) have been provided. However, that plan is only at stage Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. There is no dispute that the policies of this plan have little weight as it is still in the early stage of preparation.
4. Keepers Lodge is a detached dwellinghouse which lies on the west side of Basingstoke Road (the A339). The three ENs relate to the use/s of a detached garage and the use of a building known as the Bothy (the Bothy). The garage and the Bothy are relatively close to Keepers Lodge. The appellant controls a large area of land adjoining Keepers Lodge that is part of an agricultural holding and contains a caravan and camping site.
5. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. Both main parties have been given the chance to comment on the revised Framework. I have taken into account in my reasoning the revised Framework and any comments received.

## **The Notices**

6. On an appeal any defect, error, or misdescription in an EN may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or

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<sup>1</sup> Ref Nos: 27887/012, 27887/013 and 27887/011

local planning authority. Potential corrections/variations to the ENs and whether there would be injustice to either party were discussed at the Hearing.

### Appeal A

7. There was no dispute at the Hearing that the plan attached to the EN was not precise with regard to the part of the land and garage affected by the EN. The extent of the land affected was agreed by the parties. As a result, I intend to delete the plan attached to the EN and substitute it with Plan A: Drawing No: 2203-PL-10 annexed to this decision. To ensure clarity within section 2 of the EN I intend to delete the wording '*red on attached plan*' in that section and substitute it with '*blue and hatched black on Plan A: Drawing No: 2203-PL-10 annexed to this decision*'. Furthermore, I intend to delete the wording '*black on the attached plan*' in section 3 of the notice and substitute it with '*red on the floor plan – 2203-PL-07 annexed to this decision*'. These are minor defects which have not affected the appellant's understanding of the matters alleged at section 3 of the notice. As such, no injustice would result to any party if I corrected these defects using powers available to me under section 176(1) of the 1990 Act.
8. As stated above both main parties have agreed lesser steps with regards to the requirements of the EN. Therefore, I intend to delete both of the requirements within section 5 of the EN and substitute them with the wording '*To cease using the internal area within the first floor of the garage, together with the associated/external outside areas, as outlined in red on the floor plan 2203-PL-07 annexed to this decision, as a separate self-contained 1-bedroom flat and remove staircase.*' There would be no injustice in varying the terms of the requirements given that both parties have agreed the lesser steps.

### Appeal B

9. As with Appeal A there was no dispute at the Hearing that the plan attached to this EN was not precise regarding the part of the land affected by the EN. I therefore intend to delete the plan attached to the EN and substitute it with Plan B: Drawing No 2203-PL-10 annexed to this decision. To ensure clarity within section 2 of this EN I intend to delete the wording '*red on attached plan*' in that section of the notice and substituted it with '*blue and hatched black on Plan B: Drawing No 2203-PL-10 annexed to this decision*'.
10. The allegation in this notice cites the '*creation*' of a '*new self-contained independent residential dwelling*'. Section 55 of the 1990 Act states, amongst other things, that "development," means the making of any material change in the use of any building. The description of the alleged breach should reflect section 55 of the 1990 Act. Moreover, it is clear from the requirements of the EN and the oral evidence at the Hearing that the Council considers that the '*creation*' of the dwelling included an extension to the Bothy. The appellant does not consider that the extension is affected by the allegation as it is currently described. In my judgement requirement 2 of the EN combined with the reasons for issuing the notice indicate that the operational development of the extension is targeted by the EN as well as the material change of use. In addition, it is clear from the evidence, including the documentation associated with the 2023 applications, that the appellant understood that the extension of the Bothy formed part of the development that the Council considered was unauthorised. Therefore, I intend to delete the wording '*the creation of a new self-contained independent residential dwelling, (known as the*

*bothy)*’ in section 3 of the notice and its substitution with *‘the material change of use to a single dwellinghouse of the building known as the bothy and an extension to that building’*.

11. To ensure clarity between sections 3 and 5 of the EN I intend to delete the wording *‘on the land shown marked on the attached plan outlined in blue and green as a self-contained, independent residential’* and substitute it with the wording *‘as a single dwellinghouse’* in requirement 1 of section 5. I also intend to delete the wording *‘on the attached plan’* and substitute it with *‘on Plan B: Drawing No 2203-PL-10 annexed to this decision’* in requirement 2 of section 5.
12. All these defects have not affected the appellant’s understanding of the matters alleged at section 3 of the EN and as such, I can carry out these corrections and variations without injustice to the parties.

### *Appeal C*

13. As with Appeal A there was no dispute at the Hearing that the plan attached to this EN was not precise with regard to the part of the land and garage affected by this EN. Therefore, I intend to delete the plan attached to the notice and substitute it with Plan C: Drawing No: 2203-PL-09 Rev A annexed to this decision. To ensure clarity within section 2 of the EN I intend to delete the wording *‘red on attached plan’* in that section of the EN and substitute it with *‘blue and hatched black on Plan C: Drawing No: 2203-PL-09 Rev A annexed to this decision’*.
14. To also ensure clarity between sections 3 and 5 of the EN I intend to delete the wording *‘are within the garage as a separate, self-contained 1-bedroom flat. (Shown marked on the attached plan outlined in a heavy black line).’* in requirement 1 of section 5 and substitute it with *‘area within the garage, shown as edged red on the floor plan 2203-PL-07 Rev A annexed to this decision, as a separate self-contained holiday let’*.
15. All these defects have not affected the appellant’s understanding of the matters alleged at section 3 of the EN and as such, I can carry out these corrections and variations without injustice to the parties.

## **Appeals A, B and C - The ground (a) appeals and deemed planning applications**

### **Main Issues**

16. The use of planning conditions in mitigating any adverse effects will be a consideration in assessing the main issues in respect of the ground (a) appeals. The Framework states planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In these appeals the main issues are:
  - Whether the appeal sites are suitable locations for the alleged breaches of planning control, with regard to relevant development plan policies; (Appeals A and B)
  - The effect of the alleged breaches of planning control on the character and appearance of the surrounding area; (Appeals A, B and C)

- The effect of the alleged breaches of planning control on the living conditions of the occupiers of Keeper's Lodge; (Appeals A, B and C)
- The effect of the alleged breaches of planning control on the living conditions of the occupiers of the development; (Appeals A and B)
- Whether the developments provide sufficient parking and refuse facilities; (Appeals A, B and C)
- Whether the personal circumstances of the current occupier/s overcome any identified harm. (Appeals A and B)

## **Reasons**

### *Suitable location (Appeals A and B)*

17. Policy CP2 of the East Hampshire District Local Plan: Joint Core Strategy (JCS) states, amongst other things, that *'New development growth in the period up to 2028 will be directed to the most sustainable and accessible locations in the District in accordance with the Spatial Strategy shown on the Key Diagram'*. The supporting text to this policy states at paragraph 4.18 that Alton (market town) and Liphook (large local service centre) will also be focusses for further development in the north of the South Downs National Park part of the District. It goes onto indicate that Beech is a level 4 other settlement with a settlement policy boundary.
18. JCS Policy CP6 states, amongst other things, that development will be permitted: For the conversion of rural buildings for appropriate uses, including: affordable housing; commercial use; tourism facilities and accommodation; community use; general residential use, where appropriate and where assessment shows that the use for the above purposes is not possible or is unsuited.
19. JCS Policy CP10 states, amongst other things, that housing should be accommodated through development and redevelopment opportunities within existing settlement policy boundaries in the first instance.
20. JCS Policy CP19 states, amongst other things, that the approach to sustainable development in the countryside, defined as the area outside settlement policy boundaries, is to operate a policy of general restraint in order to protect the countryside for its own sake. The only development allowed in the countryside will be that with a genuine and proven need for a countryside location.
21. LP Policy C14 relates to the conversion of buildings in the countryside and includes numerous criteria (a through to n) to be met for the change of use and/or conversion of buildings in the countryside for residential purposes to be permitted.
22. Policy BP02 of the Beech Neighbourhood Plan (BNP) states, amongst other things, that *'land outside the Beech Settlement Policy Boundary will be considered as countryside. Sustainable development which has a proven need to be located in a countryside location, either for the purposes of agricultural, forestry or other rural enterprise or rural conservation needs; or is for rural exception site housing or other housing promoted by national and District level policies will be supported provided that its effect on the countryside and its intrinsic character and beauty is acceptable.'*

23. The flat (Appeal A) is located within part of the roof area of a pre-existing, relatively large, detached garage building. Access is via an external staircase and across a decked area. As such, the development relates to the change of use of part of the garage building to residential use. The Bothy (Appeal B) is a detached building near to the access from Medstead Road and it has been extended to enable change of use to residential use.
24. There is no dispute that the appeal sites are not within the settlement boundary of Beech. They are treated for policy purposes as being within the countryside. The evidence before me indicates that the overall site controlled by the appellant and additional land forms an agricultural holding. The appellant considers that the rent from the developments helps to support that agricultural holding. However, there is little evidence before me to indicate how or why the rental income supports the agricultural use. It has not been demonstrated that there is a need for the developments to be in a countryside location. Considering the above, the developments are in conflict with JCS Policies CP10 and CP19.
25. However, JCS Policy CP10 states that housing should be accommodated within existing settlement boundaries **in the first instance** (my emphasis in bold). Furthermore, the conversion of rural buildings for appropriate uses is supported by JCS Policy CP6. Given, the relatively close proximity of the flat and the Bothy to Keepers Lodge, in my judgement, those buildings are not suited to commercial or community use. I heard at the Hearing that there is insufficient demand for more than one holiday let given that there is also caravan and camping facilities on the overall site. I have found below that the developments would not harm the character and appearance of the surrounding area. However, there is no dispute that the residential units cannot be treated as affordable housing as defined within the glossary to the Framework. I acknowledge that both flat and the Bothy appear to provide relatively low cost rented accommodation. However, there is little substantiated evidence to indicate why it is not possible to transfer them to a registered provider to enable their use as affordable housing as defined in the Framework. Therefore, the general residential use of the flat and the Bothy is not strictly in compliance with this policy.
26. Yet, LP Policy C14 also relates to the conversion of buildings in the countryside and with regards to its relevant criteria; I was told at the Hearing that the bothy was in a state of disrepair prior to the change of use and it has been extended. Yet there is little substantiated evidence to indicate that the garage or the bothy have been substantially reconstructed; I have found below that the developments do not/would not harm the character and appearance of the surrounding area therefore criteria b, c, h and i are/would be met; as stated above due to their locations the flat and the Bothy are not suited to employment or community uses and with additional landscaping they would be appropriately screened from the wider countryside.
27. Alton is a Market Town and therefore it has numerous services and facilities within it. The central area of Alton lies approximately 2km to the southeast, but the edge of the town lies about 0.7km from the appeal sites. There is a lit footpath on the opposite side of the A339 that leads towards Alton. I heard at the Hearing that one of the occupants does not drive and that they walk to work at the local hospital and use a wheeled trolley to purchase and transport their shopping. The services and facilities within Alton are within walking and easy cycling distance of the appeal

sites. There are also bus stops close to the sites but it is unclear how regular any service is from those stops. I was told that there are more regular bus services nearer to Alton centre. Consequently, there are a choice of transport modes for existing and future residents of the flat and the Bothy and criteria e and f are met. In my judgement, taking into account all of the above the developments would comply with LP Policy C14.

28. The LP was adopted in 2006 and the JCS in 2014 and they therefore predate the current Framework. The overall approach of a general restraint on development in the countryside, which JCS Policy CP19 explains is to protect the countryside for its own sake, is out of step with the current national planning policy, which seeks to recognise the intrinsic character and beauty of the countryside and promote sustainable development in rural areas. From that perspective, in respect of their degree of consistency with the Framework, I attribute only moderate weight to the conflict that I have identified with JCS Policy CP19. JCS Policy CP 10 is broadly consistent with the Framework and the conflict with that policy has significant weight.
29. JCS Policy CP6 and LP Policy C14 broadly accept the principle of reusing/converting buildings in the countryside. However, JCS Policy CP6 states that the conversion of rural buildings for general residential use will be permitted where assessment shows that use for a number of other purposes including affordable housing is not possible or is unsuited. This is not fully consistent with chapters 5 and 11 of the Framework which promote sustainable development in rural areas and effective use of land in meeting the need for homes. Therefore, the conflict with JCS Policy CP6 has moderate weight.
30. Paragraph 83 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. However, the contribution the 2 dwellings and their occupants make to the vitality of the rural community is likely to be modest.
31. Paragraph 84 of the Framework states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of certain circumstances apply. The appeal sites are relatively close to other buildings and dwellings that form the settlement of Beech. Consequently, I do not consider that the flat and the Bothy results in the development of isolated dwellings.
32. I have found that the developments conflict with JCS Policies CP6 and CP19 but that conflict has moderate weight. They also conflict with JCS Policy CP10 but I have also found that they comply with LP Policy C14. I consider that the compliance with LP Policy C14 means that the developments also comply with BNP Policy BPC02. Overall, I consider, the compliance with the latter policies signifies, that the appeal sites are suitable locations for the flat and the Bothy, with regard to relevant development plan policies.

#### *Character and appearance (Appeals A, B and C)*

33. JCS Policy CP20 states, amongst other things, that *'the special characteristics of the district's natural environment will be conserved and enhanced.'* A number of criteria are then set out for development to meet and these include: *'protect and enhance local distinctiveness sense of place; protect and enhance settlements in the wider landscape'*.

34. JCS Policy CP29 states, amongst other things, that *'all new development will be required to respect the character, identity and context of the district's towns, villages and countryside and must help to create places where people want to live, work and visit.'* A number of criteria are then set out for development to meet.
35. BNP Policy BPC03 relates to preventing coalescence with Alton. It states that development will not be permitted in the non-coalescence area if, individually or cumulatively, it would result in reducing the visual and/or physical separation between Beech and Alton or otherwise diminish their separate and distinctive identities. There is no dispute that the garage and the Bothy are within the non-coalescence area.
36. BNP Policy BPC06 relates to, amongst other things, any new development outside the Settlement Policy Boundary which gains access from Medstead Road. It then lists the design considerations that should be taken into account and these include: *'development proposals should not change the predominantly linear architectural character of the settlement within Beech's valley.'* BNP Policy BPC07 relates to building design and character and reflects the criteria of JCS Policy CP29.
37. Keepers Lodge is a detached dwelling set in a substantial plot close to the junction of the A339 and Medstead Road. The garage building, of which one part is in use as the flat and another part as the holiday let, is a relatively large outbuilding that is located adjacent to the boundary with the A339. The Bothy is a smaller outbuilding near to the boundary with Medstead Road. Both the garage and the Bothy appear to be located within the substantial plot that, prior to the alleged breaches occurring, was associated with the residential use of Keepers Lodge. Part of the garage appears to still be in use as a garage associated with the residential use of Keepers Lodge.
38. The overall site controlled by the appellant covers a large area to the north and west of Keepers Lodge. To the north of this site is a commercial storage centre, wedding venue and café. To the east and west are fields, paddocks and woodland. On the opposite side of Medstead Road is Wyards Farm. The area immediately surrounding the overall site is therefore characterised by linear development alongside rural roads with relatively large fields and areas of mature woodland between.
39. Due to mature trees and landscaping along and adjacent to the boundaries of the overall site views of the Bothy are restricted to near/middle distance views along the access drive from Medstead Road. Moreover, views of the garage are also restricted to near/middle distance views from the A339, through gaps in the landscaping. The garage and the Bothy are located within part of the garden/grounds that were associated with Keepers Lodge. The residential and holiday let use of those buildings is not apparent from the public realm.
40. The external staircase to the flat is somewhat unsympathetic to the overall design of the garage. Additionally, the rooflights facing the A339 can be viewed from that road. Nevertheless, the garage building still has the appearance of a domestic outbuilding and does not appear incongruous in this setting. Moreover, the appellant has indicated that he proposes to infill the gaps in the landscaping with additional planting. Furthermore, plans have been submitted, within the SoCGs, to indicate where an amenity area for the flat, parking spaces for the flat and holiday let would be and where cycle and refuse storage would be provided. All those

details could be secured through planning conditions if I were minded to allow the appeals. The amenity area for the flat would be close to the boundary with the A339 and the details of its boundary treatment could also form part of the planning conditions to be imposed if I were minded to allow the appeals.

41. A single storey, flat roofed extension has been constructed on the Bothy. That extension has an appreciably larger footprint when compared to that of the Bothy prior to it being extended. Nonetheless, due to the extension's flat roof design, location and materials it does not dominate views of the Bothy when viewed from within the overall site. Furthermore, the extension and the Bothy are only seen in glimpse views through landscaping from the public realm. An amenity area for the Bothy is proposed within part of the garden area to Keepers Lodge. Additionally, planning conditions could be imposed with regards to additional landscaping including boundary treatment for the proposed amenity area, parking and refuse/cycle storage if I were minded to allow the appeal.
42. The parking, refuse and cycle storage for the developments would be provided adjacent to the existing access drive. With sympathetic boundary treatments to the amenity areas the grounds of Keepers Lodge would retain the character and appearance of a substantial house with ancillary outbuildings. As such, the linear architectural character and appearance of the area would be preserved and the visual and physical separation between Beech and Alton would be unaffected. It follows that the developments with the proposed mitigation would comply with JCS Policies CP20 and CP29 and BNP Policies BPC03, BPC06 and BPC07. It would also comply with paragraph 135 c) of the Framework which states that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting.

*Living conditions – Keepers Lodge (Appeals A, B and C)*

43. JCS Policy CP27 states, amongst other things, that development will not be permitted if it would have an unacceptable effect on the amenity of neighbouring occupiers through loss of privacy or through excessive overshadowing. BNP Policy BPC07 states, amongst other things, that the design of new buildings should ensure that the living conditions of neighbouring residents (including privacy, daylight, sunlight and outlook) are not adversely affected.
44. The staircase to the flat is on the opposite side of the garage to Keepers Lodge as such it has no impact on the living conditions of the occupiers of Keepers Lodge with regards to overshadowing and outlook. Due to the location of the Bothy's extension and its single storey height it also has no impact on those living conditions with regards to overshadowing and outlook.
45. There is a landing window within the holiday let that provides oblique views towards the garden areas of Keepers Lodge. Given that it is to a landing area and the oblique nature of the views in my judgement there is no reduction to the privacy enjoyed by the occupiers of Keepers Lodge in this respect.
46. There is a decked seating area between the staircase and the door to the flat and there are oblique views towards Keepers Lodge when standing near to the edge of that area. Nevertheless, given the distance involved and the oblique nature of those views in my judgement there is no reduction to the privacy enjoyed by the occupiers of Keepers Lodge in this respect.

47. There are small windows in the bedrooms to the Bothy that look towards part of Keepers Lodge's garden area. However, views into that garden area are mainly screened by existing landscaping. I was told at the Hearing that the areas to the south and east of Keepers Lodge are used as its private garden areas and those to the west, the grassed area, is utilised communally like a front garden. Additional landscaping would ensure that there would be no reduction to the privacy enjoyed by the occupiers of Keepers Lodge when in their private garden areas. The implementation and maintenance of that landscaping could be secured through the imposition of planning conditions if I were minded to allow the appeal.
48. Given the location of the proposed parking spaces for the flat, holiday let and the Bothy any parking associated with them would not affect the amount of privacy enjoyed by the occupiers of Keepers Lodge.
49. Overall, in my judgement the residential use associated with the flat and the Bothy and the holiday accommodation use of the holiday let would not harm the living conditions of the occupiers of Keepers Lodge. It follows that the developments would comply with JCS Policy CP27 and BNP Policy BPC07. They would also comply with paragraph 135 f) of the Framework which states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

*Living Conditions – the developments (Appeals A and B)*

50. A national system of housing standards commenced in 2015. However, these internal space standards can only be applied if there is a relevant development plan policy that makes use of the Nationally Described Space Standard (NDSS). I acknowledge that paragraph 7.74 of JCS Policy CP29 states that *'future developments must be fit for purpose for many years and meet the changing circumstances and needs of everyone.'* However, the policy does not make any reference to the NDSS and I have no evidence to indicate that there is a relevant policy within the JCS. Nonetheless, the NDSS provides an established benchmark against which to evaluate developments. I have therefore taken it into account when assessing the internal size of the living space provided within the flat and the Bothy with regard to the living conditions of the existing and future occupiers of those units.
51. The flat has one bedroom which is of sufficient size to accommodate a double bed. The Bothy has 2 bedrooms both of which can accommodate double beds. Nevertheless, I was told at the Hearing that the flat is leased on an assured short-term tenancy (AST) for one person and the Bothy on ASTs for 2 people. I acknowledge that planning conditions to restrict the occupancy of the flat and Bothy would be very difficult to monitor and enforce. However, it is reasonable to consider that the occupancy of the units would remain as it has been since the developments commenced.
52. The minimum gross internal floor areas (GIA) included within the NDSS are 37m<sup>2</sup> for a 1bed 1 person flat and 50m<sup>2</sup> for a 1 bed 2 person flat. There is no standard for a 2 bed 2 person flat, the minimum GIA for a 2 bed 3 person flat is 61m<sup>2</sup>. As the provision of a 2<sup>nd</sup> bedroom would necessitate an increase in a GIA due to the provision of an extra room therefore, I consider that the relevant standard to assess the Bothy against is a 2bed 3 person flat. The appellant has stated that the GIA of

the flat is 31.6m<sup>2</sup> and the GIA of the Bothy is 52.76m<sup>2</sup>. Within the Council's Enforcement Officer Reports the GIAs are noted as 30 and 50m<sup>2</sup> respectively.

53. There is very little difference between the appellant's and Council's GIA figures for the flat and the Bothy. Even if I took the GIA's to be that of the appellants, those GIAs do not meet that within the NDSS for a 1 bed 1 person flat, in respect of the flat, or a 2 b 3 person flat in respect of the Bothy.
54. During my visit, I saw that the bedroom within the flat is of a good size, containing a double bed whilst leaving ample space for circulation and the storage of items such as personal effects. Nevertheless, as it is within the roof space it does not contain a window and as such the outlook experienced by the occupier of that room is restricted. Yet there is a rooflight that provides sunlight/daylight to that room and due to its low level it also provides some outlook. The kitchen and living areas are combined in one room and there appears to be space available for circulation, cooking and sitting and watching the television. A glazed door and low level rooflights provide outlook, daylight and sunlight for the occupier. Moreover, there is an external decked area for sitting out on and a small shed for the storage of household items. The overall impression of this unit is that it does not feel cramped due to its internal size.
55. The bedrooms in the Bothy are of sufficient size to accommodate a double bed, in each one, with some space for circulation. There is restricted space for the storage of personal items and with regard to bedroom 1 the only daylight, sunlight and outlook is provided by a small window. The kitchen and living areas are combined in one room and there appears to be the space available for circulation, cooking and sitting and watching the television. There are windows and rooflights that provide ample sunlight, daylight and outlook to that area. Whilst one of the bedrooms has reduced levels of daylight, sunlight and outlook the overall impression of this unit is that it does not feel cramped due to its internal size.
56. Furthermore, at the Hearing I was told passionately by the tenants why they liked living at the site, how the accommodation had provided each of them a lifeline for different reasons and that all of them had lived there for some time. In my judgement that evidence supports my site visit observations that the flat and the Bothy do not feel cramped and when considered overall provide a high standard of amenity for existing and future users. It follows that the developments comply with paragraph 135 f) of the Framework in this respect.

#### *Parking and Refuse (Appeals A, B and C)*

57. The plans provided within the SoCGs indicate that parking spaces, refuse and cycle storage facilities would be provided adjacent to the access drive. The provision of those items can be secured by way of planning conditions if I were minded to allow the appeal. As such the developments would comply with JCS Policy CP31 which states, amongst other things, that development proposals will be required to provide adequate, convenient and secure vehicle and cycle parking. They would also comply with BNP Policy BPC12 which relates to planning for parking.

#### **Other Matters**

58. There is no need to consider whether the personal circumstances of the current occupier/s overcome any identified harm as I have not identified any harm above.

59. The references to other development plan policies have been noted. However, the development plan policies to which I have referred are considered the most relevant to this appeal.
60. The fact that the developments have been constructed without permission is not a reason in itself to dismiss the appeals. The developments should be judged against material planning considerations.

### **Conditions**

61. At the Hearing the wording of suggested conditions that could be imposed if I were minded to grant planning permission for the developments was discussed and both main parties had the chance to comment on that wording.

### ***Appeal A and Appeal B***

62. The suggested conditions in relation to details of parking and cycle storage arrangements are required to ensure that the developments provide sufficient vehicle and cycle parking spaces to comply with JCS Policy CP31. The details of refuse facilities are required to protect the character and appearance of the area. The details of hard and soft landscaping are required to ensure that the character and appearance of the area is not harmed and to protect the living conditions of the occupiers of Keepers Lodge. JCS Policy CP24 states, amongst other things, that planning permission will be granted for development that provides at least 10% of energy demand from decentralised and renewable or low carbon energy sources. Therefore, a condition requiring the details of energy efficiency measures is necessary.
63. The above conditions are imposed to ensure that the required details are submitted, approved and implemented so as to make the developments acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the required details before the development takes place. The conditions will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.
64. With regards to the Bothy a condition restricting permitted development rights with regard to Classes A, AA, B, C and E of Part 1, Schedule 2 and Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 are required to protect the character and appearance of the Bothy and the surrounding area.

### ***Appeal C***

65. The suggested conditions in relation to details of parking and cycle storage arrangements are required to ensure that the developments provide sufficient vehicle and cycle parking spaces to comply with JCS Policy CP31. The details of refuse facilities are required to protect the character and appearance of the area. The reason for the form and wording of that condition is given above.

66. A condition restricting the development to be only used as holiday accommodation is required to ensure that the development complies with JCS Policies CP6, CP9 and CP19.

### **Conclusions**

67. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is at the heart of the planning balance.

### *Appeal A and Appeal B*

68. I have found that the developments of the flat and the Bothy conflict with JCS Policies CP6 and CP19, but that conflict has moderate weight. I have also found that they conflict with JCS Policy CP10 and that conflict has significant weight. Nonetheless, they comply with LP Policy C14 and JCS Policies CP20, CP27, CP29 and CP31 and BNP Policies BNP Policy BPC02, BPC03, BPC06, BPC07 and BPC12. As such, in my judgement the compliance with these policies outweighs the identified policy conflict and the developments would comply with the development plan as a whole.
69. Moreover, even if I considered that the developments did not comply with the development plan as a whole paragraph 11 d(ii) of the Framework applies to these appeals. This is because it is common ground that the Council cannot demonstrate a five-year supply of deliverable housing sites, with an appeal decision indicating that it can only demonstrate 3.59 years of supply. The developments have resulted in the provision of a 1bed and a 2bed unit in an area where there appears to be a demand for this type of residential accommodation. I have found that the developments would make a modest contribution to the vitality of the rural community and that they would not lead to the development of isolated homes in the countryside. Paragraph 110 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. I have found that there is a choice of transport modes for existing and future residents of the flat and the Bothy. I therefore consider that the developments are in a relatively sustainable location for a rural area. I have also found that the developments of the flat and the bothy would comply with paragraphs 135 c) and f) of the Framework.
70. Therefore, there are no adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. There are no material considerations to indicate anything other than granting planning permission for the developments.
71. For the reasons given above I conclude that the appeals should be allowed and the appeals on grounds (f) and (g) do not fall to be considered.

### *Appeal C*

72. I have found that the development with the proposed mitigation would comply with JCS Policies CP20, CP27, CP29 and CP31 and BNP Policies BPC03, BPC06 and BPC07. The development would comply with the development plan as a whole and there are no material considerations to indicate otherwise.

73. For the reasons given above I conclude that the appeal should be allowed.

### **Formal Decisions**

#### **Appeal A**

74. It is directed that the enforcement notice is corrected by:

- the deletion of the words " red on attached plan " and their substitution with the words "blue and hatched black on Plan A: Drawing No: 2203-PL-10 annexed to this decision" in section 2 of the EN; and
- the deletion of the words "black on the attached plan" and their substitution with the words "red on the floor plan – 2203-PL-07 annexed to this decision" in Section 3 of the EN; and
- the substitution of the Plan A: Drawing No: 2203-PL-10 annexed to this decision for the plan attached to the EN;

and varied by:

- the deletion of the words of both requirements and substitute them with the words "To cease using the internal area within the first floor of the garage, together with the associated/external outside areas, as outlined in red on the floor plan 2203-PL-07 annexed to this decision, as a separate self-contained 1-bedroom flat and remove staircase."

75. Subject to the corrections and variations, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the material change of use of part of the garage for the creation of a separate, self-contained 1 bedroom flat at Keepers Lodge Basingstoke Road, Beech, Alton GU34 4AB as outlined in red on the floor plan-2203-PL-07 annexed to this decision and subject to the conditions in the attached schedule.

#### **Appeal B**

76. It is directed that the enforcement notice is corrected by:

- the deletion of the words "the creation of a new self-contained independent residential dwelling, (known as the bothy)" and substitute them with the words "the material change of use to a single dwellinghouse of the building known as the bothy and an extension to that building" in Section 3 of the EN; and
- the deletion of the words "on the land shown marked on the attached plan outlined in blue and green as a self-contained, independent

residential” and its substitution with “as a single dwellinghouse” in requirement 1 in Section 5 of the EN; and

- the deletion of the words “on the attached plan” and its substitution with on “Plan B: Drawing No 2203-PL-10 annexed to this decision” in requirement 2 in Section 5 of the EN; and
- the substitution of the Plan B: Drawing No 2203-PL-10 annexed to this decision for the plan attached to the EN.

77. Subject to the corrections, Appeal B is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the material change of use to a single dwellinghouse of the building known as the bothy and an extension to that building at Keepers Lodge Basingstoke Road, Beech, Alton GU34 4AB as shown on Plan B: Drawing No 2203-PL-10 annexed to this decision and subject to the conditions in the attached schedule.

### **Appeal C**

78. It is directed that the enforcement notice is corrected by:

- the deletion of the words “are within the garage as a separate, self-contained 1-bedroom flat. (Shown marked on the attached plan outlined in a heavy black line).” And their substitution with the words “area within the garage, shown as edged red on the floor plan 2203-PL-07 Rev A annexed to this decision, as a separate self-contained holiday let” in requirement 1 in Section 5 of the EN; and
- the deletion of the words “red on attached plan” and their substitution with the words “blue and hatched black on Plan C: Drawing No: 2203-PL-09 Rev A annexed to this decision”; and
- the substitution of the Plan C: Drawing No: 2203-PL-09 Rev A annexed to this decision for the plan attached to the EN;

79. Subject to the corrections, Appeal C is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the material change of use of part of the garage for the creation of a separate self-contained holiday let at Keepers Lodge Basingstoke Road, Beech Alton, GU34 4AB as shown on Plan C: Drawing No: 2203-PL-09 Rev A annexed to this decision and subject to the conditions in the attached schedule.

*D Boffin*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                     |                            |
|---------------------|----------------------------|
| Mr Andy Partridge   | Southern Planning Practice |
| Mr Paul O'Brien     | Appellant                  |
| Mrs Kathryn O'Brien | Appellant's Wife           |
| Olive Unekwojo      | Tenant                     |
| Peter Rickis        | Tenant                     |
| Philip Pass         | Tenant                     |

### **FOR THE COUNCIL:**

|               |                              |
|---------------|------------------------------|
| Sean Baldock  | Planning Enforcement Manager |
| Summer Sharpe | Principal Planning Officer   |

## SCHEDULE OF CONDITIONS

### Appeal A

1. Unless within 3 months of the date of this decision a scheme for the parking, refuse and cycle storage arrangements, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the residential use of the flat shall cease until such time as a parking, refuse and cycle storage arrangements scheme is approved and implemented.
  - i) If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the flat shall cease until such time as a scheme approved by the local planning authority is implemented.
  - ii) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.
  - iii) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
2. Unless within 3 months of the date of this decision a landscaping scheme, is submitted in writing to the local planning authority for approval, and unless the approved landscaping scheme is carried out in the first planting and seeding seasons following the local planning authority's approval, the residential use of the flat shall cease until such time as a landscaping scheme is approved and implemented.
  - i) If no landscaping scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the flat shall cease until such time as a scheme approved by the local planning authority is implemented.
  - ii) Upon implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be maintained.
  - iii) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
3. Unless within 3 months of the date of this decision a scheme for energy efficiency, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the residential use of the flat shall cease until such time as a scheme for energy efficiency is approved and implemented.
  - i) If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the flat shall cease until such time as a scheme approved by the local planning authority is implemented.
  - ii) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.
  - iii) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

## Appeal B

1. Unless within 3 months of the date of this decision a landscaping scheme, is submitted in writing to the local planning authority for approval, and unless the approved landscaping scheme is carried out in the first planting and seeding seasons following the local planning authority's approval, the residential use of the bothy shall cease until such time as a landscaping scheme is approved and implemented.
  - i) If no landscaping scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the bothy shall cease until such time as a scheme approved by the local planning authority is implemented.
  - ii) Upon implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be maintained.
  - iii) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
2. Unless within 3 months of the date of this decision a scheme for energy efficiency, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the residential use of the bothy shall cease until such time as a scheme for energy efficiency is approved and implemented.
  - i) If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the bothy shall cease until such time as a scheme approved by the local planning authority is implemented.
  - ii) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.
  - iii) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
3. Unless within 3 months of the date of this decision a scheme for the parking, refuse and cycle storage arrangements, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the residential use of the bothy shall cease until such time as a parking, refuse and cycle storage arrangements scheme is approved and implemented.
  - i) If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the bothy shall cease until such time as a scheme approved by the local planning authority is implemented.
  - ii) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.
  - iii) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by Classes A, AA, B, C and E of Part 1, Schedule 2 and Class A of Part 2, Schedule 2 of that Order shall be carried out without the prior written consent of the Local Planning Authority.

## Appeal C

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) the development hereby approved shall only be used as holiday accommodation, shall not be used for as any individual's main or sole residential dwelling, and shall not be sold or otherwise disposed of separately from the property known as Keepers Lodge, shown on Plan C: Drawing No: 2203-PL-09 Rev A annexed to this decision. The applicant, or their successor(s) in title, shall maintain a comprehensive up-to-date register listing occupiers of the holiday accommodation hereby approved, their main home addresses and the dates of occupation at the site. The said register shall be made available for inspection by the Local Planning Authority at reasonable notice.
2. Unless within 3 months of the date of this decision a scheme for the parking, refuse and cycle storage arrangements, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the use as holiday accommodation shall cease until such time as a parking, refuse and cycle storage arrangements scheme is approved and implemented.
  - i) If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use as holiday accommodation shall cease until such time as a scheme approved by the local planning authority is implemented.
  - ii) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.
  - iii) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.



Planning Inspectorate

## Plan A: Drawing No: 2203-PL-10

This is the plan referred to in this decision dated: 13 March 2025

by **D Boffin**

**Land at: Keepers Lodge Basingstoke Road, Beech, Alton, GU34 4AB**

**Reference: APP/M1710/C/23/3328580 (APPEAL A)**

Scale: Not to Scale





Planning Inspectorate

## Floor Plan-2203-PL-07

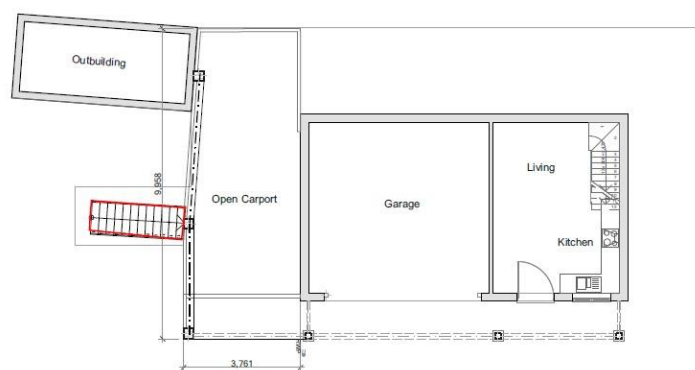
This is the plan referred to in this decision dated: 13 March 2025

by D Boffin

Land at: Keepers Lodge Basingstoke Road, Beech, Alton, GU34 4AB

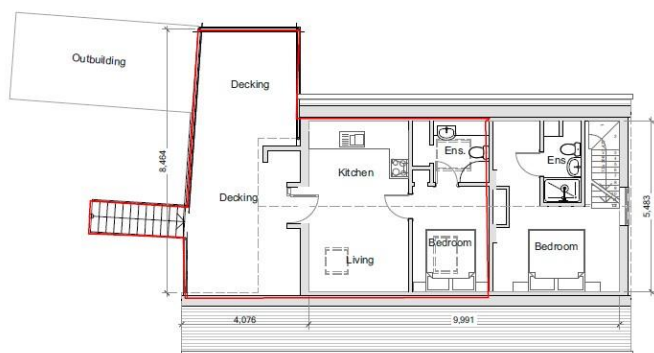
Reference: APP/M1710/C/23/3328580 (APPEAL A)

Scale: Not to Scale



Ground Floor Plan

1:100



First Floor Plan

1:100

| Rev. | Date | Description | Initials |
|------|------|-------------|----------|
|------|------|-------------|----------|



VOLLER ARCHITECTURAL DESIGN

Client: Mr & Mrs. P. O'Brien

Project: Proposed Outbuilding at:

Keepers Lodge, Basingstoke Road,  
Alton, Hampshire, GU34 4AB

Title: Garage Flat

Scale: 1:100 @A3

Date: February 2022

Drawing No: 2203-PL-07

Drawn by: JLV



Planning Inspectorate

## Plan B: Drawing No: 2203-PL-10

This is the plan referred to in this decision dated: 13 March 2025

by **D Boffin**

**Land at: Keepers Lodge Basingstoke Road, Beech, Alton, GU34 4AB**

**Reference: APP/M1710/C/23/3328581 (APPEAL B)**

Scale: Not to Scale





Planning Inspectorate

## Plan C: Drawing No: 2203-PL-09 Rev A

This is the plan referred to in this decision dated: 13 March 2025

by **D Boffin**

**Land at: Keepers Lodge Basingstoke Road, Beech, Alton, GU34 4AB**

**Reference: APP/M1710/C/23/3328583 (APPEAL C)**

Scale: Not to Scale





Planning Inspectorate

## Floor Plan-2203-PL-07 Rev A

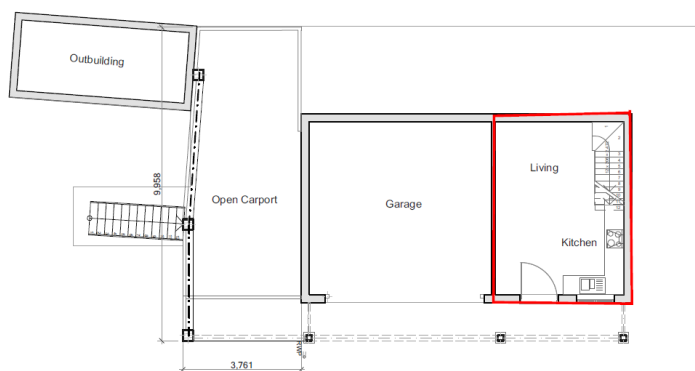
This is the plan referred to in this decision dated: 13 March 2025

by **D Boffin**

**Land at: Keepers Lodge Basingstoke Road, Beech, Alton, GU34 4AB**

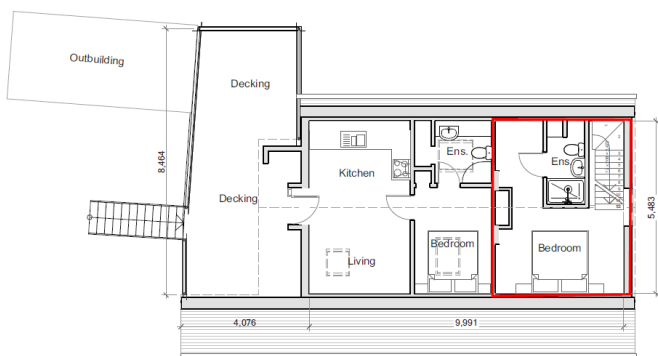
**Reference: APP/M1710/C/23/3328583 (APPEAL C)**

Scale: Not to Scale



Ground Floor Plan

1:100



First Floor Plan

1:100

| Rev. | Date | Description | Initials |
|------|------|-------------|----------|
|------|------|-------------|----------|



VOLLER ARCHITECTURAL DESIGN

Client: Mr & Mrs. P. O'Brien  
Project: Proposed Outbuilding at:  
Keepers Lodge, Basingstoke Road,  
Alton, Hampshire. GU34 4AB

Title: Holiday Let

Scale: 1:100 @A3

Date: February 2022

Drawing No: 2203-PL-07 A

Drawn by: JLV