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## Appeal Decisions

Site visit made on 5 January 2026

**by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP**  
an Inspector appointed by the Secretary of State

**Decision date: 27 January 2026**

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### **Appeal A: Ref APP/T2215/C/24/3345526**

**Land at Benlin Farm Cottage, Trollingdown Hill, Green Street Green Road, Darenth, Kent DA2 6NR shown edged red on the notice plan**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr B Ayres against an enforcement notice issued by Dartford Borough Council on 9 May 2024.
  - The breach of planning control as alleged in the notice is:  
Without planning permission, the erection of a dwellinghouse, in the approximate position shown outlined in red on the attached plan.
  - The requirements of the notice are to:  
(1) Demolish the dwelling, shown outlined in blue on the attached plan.  
(2) Permanently remove from the land all building materials and rubble arising from compliance with steps 1 of this Notice.
  - The period for compliance with the requirements is 9 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (b) (f) (g) of the Town and Country Planning Act 1990 as amended (the Act).
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### **Appeal B: Ref APP/T2215/W/24/3355985**

**Benlin Farm Cottage, Trollingdown Hill, Green Street Green Road, Darenth, Kent DA2 6NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr B Ayres against the decision of Dartford Borough Council.
  - The application Ref DA/24/00794/FUL, dated 10 July 2024, was refused by notice dated 25 October 2024.
  - The development was described in the application form as change of use and partial conversion/partial retrospective repair/reconstruction of an existing barn to create a residential dwelling, with associated amenity space, parking and landscaping.
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## **Decisions**

1. It is directed that the enforcement notice be corrected by replacing the word "red" with "blue" in section 3, and by replacing the word "steps" with "step" in section 5. Subject to these corrections, Appeal A is dismissed and the enforcement notice is upheld.
2. Appeal B is allowed and planning permission is granted for demolition of existing barn and erection of a residential dwelling, with associated amenity space, parking and landscaping at Benlin Farm Cottage, Trollingdown Hill, Green Street Green Road, Darenth, Kent DA2 6NR in accordance with the terms of the application, DA/24/00794/FUL, dated 10 July 2024, and the plans submitted with it (2346-01; 2346-02; 2346-03; 2346-04; 2346-05; 2346-06; 2346-07; 2346-08), subject to the conditions in the attached schedule.

## **Procedural Matters**

3. It is clear from the plan attached to the notice, and step 1 of its requirements, that the dwellinghouse targeted by the enforcement action is outlined in blue and not red. I am accordingly using my powers to correct the simple mistake in the allegation without injustice to any party, since a recipient would have known – in the overall context – what was said to be wrong and what was required to be put right. It is clear from the appellant's appeal submissions that he did. Further, and similarly without injustice, I am correcting a simple typographical error to correct the word "steps" where pluralisation is unneeded.
4. Notwithstanding the description of development set out in the banner heading above in respect to Appeal B, which is taken from the application form, it is clear from all the evidence (leading to my finding on ground (b) of Appeal A) that the development comprises the demolition of existing barn and erection of a residential dwelling, with associated amenity space, parking and landscaping. The Council dealt with the application on that basis and so have I.

## **Appeal A Ground (b)**

5. For success on this ground, I must be satisfied on the balance of probabilities that matters stated in the notice said to constitute a breach of planning control have not in fact occurred. The burden of proof rests with the appellant.
6. The appellant's fundamental case in this regard is that he says that a new dwellinghouse has not been erected, but rather that the previous redundant outbuilding (barn) has been converted and reconstructed into the dwellinghouse that exists today.
7. The structural survey pre-dates the development and therefore cannot assist in the extent of the works actually undertaken, nor advise as to the extent of what in fact has been retained.
8. The photographs provided with the appeal appear to suggest that there has been a degree of retention of elements of the former barn's structure, such as timber posts. However, while I accept that the as-built development probably incorporates some parts of the pre-existing structure, it seems to me that substantial operational development (including the installation of walls and a roof) have been undertaken to create the new home. Accordingly, as a matter of fact and degree, I find that a new dwellinghouse has been erected.
9. Accordingly, I am not satisfied on the balance of probabilities that the alleged breach of planning control has not occurred. Ground (b) does not succeed.

## **Appeal A ground (f)**

10. To succeed on this ground, I must be satisfied that the requirements of the notice are excessive in achieving its purpose.
11. It seems to me from the way the notice is drafted is that its purpose is to remedy the breach of planning control. It does that by requiring the demolition of the new dwelling – as the breach of planning control – and I find there is nothing excessive in that. The appellant says that the notice should allow for the building approved under reference DA/22/01355/FUL<sup>1</sup> to be instated in the

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<sup>1</sup> *Change of use and conversion of existing barn to create a residential dwelling, with associated amenity space, parking and landscaping.*

manner and position as consented. However, as the barn no longer exists, it is no longer possible to implement a planning permission which relates to its conversion. Accordingly, ground (f) does not succeed.

### **Appeal A ground (g)**

12. For success on this ground, I must be satisfied that the 9 month compliance period of the notice falls short of reasonable.
13. The appellant requires 2-3 years to carry out the steps of the notice, and for the occupants to source alternative accommodation and relocate. Very limited evidence has been submitted to substantiate why such a long period is necessary and reasonable to achieve these outcomes and, in the absence of sufficient supporting evidence, it seems to me that compliance with the notice can reasonably be achieved within 9 months.
14. As far as it is relevant, given my Decision on Appeal B and the effect of section 180 of the Act, ground (g) does not succeed.

### **Appeal B**

#### *Main Issues*

15. The main issues in the appeal are:
  - whether or not the erection of the dwelling comprises inappropriate development in the Green Belt;
  - the effect of the development on the character and appearance of the area; and
  - the sustainability of the location.

#### *Reasons*

#### Green Belt

16. The appeal site falls within the Green Belt. The National Planning Policy Framework (Framework) says that development in the Green Belt is inappropriate, apart from certain specified exceptions.
17. One of the Framework exceptions (at paragraph 154.g)) is limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause **substantial** harm to the openness of the Green Belt.
18. The Council accepts that the site constitutes previously developed land (as is explicit in its Decision Notice) and I have no good reason to find otherwise.
19. The demolition of the existing barn<sup>2</sup> (albeit smaller in scale and situated further north-west within the site) created an increase in openness of the land which must be weighed in the balance. To the land has been added a residential dwellinghouse which is limited in its effects on openness due to its single storey nature and largely flat roof (with a small, pitched roof element on the side of the building furthest away from the more open land to the south and east).

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<sup>2</sup> Notably used in the description of development chosen to be used by the Council.

These factors attenuate impact upon the Green Belt, particularly when the development is seen - including in views from the lower open countryside to the south - in the context of the neighbouring built form on both sides of the site along the access track, and against the substantial backdrop of built-up urban development constituted by the Dartford Fleet Estate across the access track to the north.

20. Taking all into account (including the position, footprint and volume of the new building), I find that the development causes some moderate harm to the openness of the Green Belt (being of a greater impact than the pre-existing barn) but not substantial harm. Consequently, the development is not inappropriate development in the Green Belt as set out in the Framework.
21. I note that Policy M12 of The Dartford Plan: Dartford Borough's Local Plan to 2037 (LP) was adopted in April 2024 and is out of date with the Framework's Green Belt Chapter. In particular, it says that proposals for the infilling or redevelopment of previously developed sites must not have a greater impact on the openness of the Green Belt than existing development **or** cause substantial harm to it [my emphasis]. As the Policy is inconsistent with the current Framework in this respect, and also noting that the Policy also says "Inappropriate development in the Green Belt will be resisted in accordance with national planning policy", I give the conflict with it no weight.

#### Character and appearance

22. For the same reasons as above, the development is not particularly prominent in views and (notwithstanding the design of its domestic fenestration) it blends in sufficiently with nearby residential development. The close proximity of the large built-up urban area means that the appeal development causes no harm to any rural character said to exist. I also accept that the appeal development has tidied up a commercial storage site.
23. Potential light spillage from the property which might affect the surrounding area can be made acceptable by the imposition of a condition requiring a scheme to be approved by the Council. Landscaping, boundary treatments and external finishing materials can be conditioned and controlled in the same way.
24. Accordingly, the development would not cause harm to the character and appearance of the area and would not conflict with Policy M1 of the LP.

#### Location

25. Policy S5 (Sustainable Housing Locations) of the LP says that residential development will be supported where the benefits of the proposal outweigh the disbenefits, including the sustainability of the site's location.
26. The site is located on an unlit access track which is unmade in places, with a steep incline towards its western end and therefore would not encourage walking to and from the site. However, there is a secondary school around 1km from the site (which is not an unreasonable distance to which to walk or cycle) and there is also a bus stop a similar distance from the site.
27. The appeal development produces the benefit of creating a family dwelling on previously developed land, which is supported by the Framework<sup>3</sup>.

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<sup>3</sup> "The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist" (Paragraph 89)

28. Taking all into account, I find that the benefits of the proposal outweigh the disbenefits, including the sustainability of the site's location. Therefore the residential development is supported by Policy S5 of the LP and does not conflict with it.

*Conclusion on Appeal B*

29. The appeal development accords with the development plan as a whole, save for a technical conflict due to a Green Belt policy which is out-of-date with the Framework - and to which I assign no weight. The conflict is outweighed by other considerations including accordance with the Framework and the provision of a family dwelling on previously developed land. I shall grant conditional planning permission.
30. Condition 1 is imposed to ensure that the required details are submitted, approved and implemented so as to make the development 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 outstanding matters before the development takes place. The condition 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. As well as the details required to protect character and appearance (highlighted in my Reasons), the condition also provides for a scheme for ecological enhancement which was recommended by the Kent County Council Biodiversity team when consulted on the application (and which I find meets the tests for conditions).
31. Condition 2 is imposed to control further impact upon the Green Belt which might otherwise be caused by the implementation of permitted development rights. I am satisfied that there is clear justification to do so due to the need to protect an area of particular importance (Green Belt land).
32. I am attaching Condition 3 to the permission to ensure that adequate parking is provided and retained at the site, in accordance with the LP.

**Conclusions**

33. For the reasons given above, I consider that Appeal A should not succeed. I uphold the enforcement notice (as far as it is now relevant, given my Decision on Appeal B and the effect of section 180 of the Act).
34. For the reasons given above, I conclude that Appeal B should be allowed.

*Andrew Walker*

INSPECTOR

**Appeal B - APP/T2215/W/24/3355985 – schedule of conditions**

1. The dwelling hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 9 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - (i) Within 3 months of the date of this Decision, schemes for:
    - (a) lighting (so as to restrict slippage beyond the site);
    - (b) hard and soft landscaping (including its management);
    - (c) boundary treatments and enclosures;
    - (d) external finishing materials; and
    - (d) ecological enhancementshall have been submitted for the written approval of the local planning authority and the schemes shall include timetables for their implementation.
  - (ii) If within 11 months of the date of this decision the local planning authority refuse to approve a scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - (iv) The approved schemes shall have been carried out and completed in accordance with their approved timetables.

Upon implementation of the approved schemes specified in this condition, the schemes shall thereafter be maintained/retained/remain in use (as regards the landscaping scheme, it is to be maintained for a period of 5 years - any trees, shrubs or grassed areas which die, are removed or become seriously damaged or diseased within this period shall be replaced within the next planting season with plants of similar species and size to that approved).

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. 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 outbuildings shall be erected and no extensions or other form of enlargement shall take place on site other than those expressly authorised by this permission.
3. The parking spaces as shown on the approved plans shall be provided within 2 months of the date of this Decision and shall thereafter be permanently retained for such use.