



Appeal Decisions

Site visit made on 5 March 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 MARCH 2026

Appeal A Ref: APP/C1760/W/24/3354301

Merriemead Farm, Church Lane, Braishfield, Romsey, SO51 0QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Wilson against the decision of Test Valley Borough Council.
 - The application Ref is 23/03069/FULLS.
 - The development proposed is described as alterations to and use of outbuilding for holiday let accommodation (retrospective).
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Appeal B Ref: APP/C1760/C/24/3354340

Merriemead Farm, Church Lane, Braishfield, Romsey, SO51 0QH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr John Wilson against an enforcement notice issued by Test Valley Borough Council.
 - The notice was issued on 27 September 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the making of a material change in use of land by forming an additional separate unit of residential accommodation, for use as a dwellinghouse, within Class C3 of the schedule of the Town and Country Planning (Use Classes) Order 1987.
 - The requirements of the notice are to permanently cease the residential use (class C3) of the building, outlined in blue on the attached plan.
 - The period for compliance with the requirement is six months from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) 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.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. It is directed that the enforcement notice is varied by the deletion of the words *"Permanently cease the residential use (Class C3) of the building, outlined in blue on the attached plan"* in section 5, and their substitution with the words *"Permanently cease the use of the building, as outlined in blue on the attached plan, as a separate unit of residential accommodation for use as a dwellinghouse within class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)"*. Subject to the variation, the appeal is dismissed, 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.

Procedural Matter

3. A draft National Planning Policy Framework 'Plan-making and national decision-making policies' was issued by the Government for consultation on 16 December 2025 (Consultation Draft Framework) and with a deadline for comments by 10 March 2026. The Consultation Draft Framework has limited weight as a material planning consideration. In respect of the main issues which are pertinent to the consideration of appeal A and the ground (a) deemed planning application (appeal B), I have continued to afford full weight to the published National Planning Policy Framework 2024 (as amended) (the Framework) and the adopted development plan as a whole from the point of view of determining the appeals. In this case, the Consultation Draft Framework does not alter or outweigh my conclusions below in respect of both appeals.

The Notice

4. The requirement of a notice should match the breach of planning control. In this case, the breach of planning control is the *'making of a material change of use of land by forming an additional separate unit of residential accommodation for use as a dwellinghouse within class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987'*. The requirement of the notice is to *'permanently cease the residential use (class C3) of the building, outlined in blue on the attached plan'*.
5. In the interests of precision, and to ensure that the notice does not prevent the building from reverting to its former ancillary residential use falling within use class C3 of the UCO, I shall vary the requirement so that it reads *'permanently cease the use of the building, as outlined in blue on the attached plan, as a separate unit of residential accommodation for use as a dwellinghouse within class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)'*. I am satisfied that such a variation would not cause injustice to the main parties.

Appeal B – ground (d) appeal

6. The appeal made on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.
7. The evidence is that planning permission was approved for the erection of a detached 3 bay garage with accommodation in the roof space and front facing dormer windows incidental to the main dwelling on 26 May 2011¹ (2011 Permission). Such a building is in the same position as the building which is the subject of appeals A and B. There is no dispute between the parties that the building was initially constructed in accordance with such a planning permission and used for an incidental residential purpose in association with the primary use of Merriemeade Farm as a use class C3 dwellinghouse.
8. On the evidence that is before me, I have no reason to doubt the Council's evidence where it states that the appellant commented that *'the ground floor garage bays had been enclosed circa 10 years ago. None of the invoices provided*

¹ Planning permission reference 11/00635/FULLS

suggest any work was undertaken in 2020 which could be described as 'structural'. While the appellant states that 'the building...underwent structural alterations to facilitate the change of use in March 2020', the Council's evidence above casts doubt about such a claim and, moreover, none of the invoices provided by the appellant demonstrate with sufficient precision that any external work was undertaken in 2020 which could be described as structural.

9. At final comments stage, the appellant commented that *'one of the bays was enclosed circa. 10 years ago, with the balance being done end of 2019 early 2020'*. There is an absence of precise and unambiguous evidence to support this claim, but it is noteworthy, in any event, that the Council is not claiming that any such external alterations are not immune from enforcement action and, moreover, the notice does not require the removal of any possible facilitating operational development relating to the building.
10. There is no dispute between the main parties that the building was initially used for an incidental residential purpose following the grant of the 2011 Permission. There is also no dispute between the main parties that the appellant's daughter and her partner first used and occupied the building for residential purposes at the end of 2019. There is common ground between the main parties that at this time, and for several months thereafter, the appeal building was used in a manner that was part and parcel of the primary use of Merriemead Farm as a dwellinghouse. Indeed, the appellant's statutory declaration dated 18 October 2024 states that *'although my daughter and her fiancé initially moved into Winterberry Barn towards the end of 2019, they were unable to live there independently at that time as it did not have all the facilities needed to do so. It had no washing machine/dryer or much in the way of kitchen facilities and they were still reliant on the main house for these day-to-day needs'*.
11. The statutory declaration dated 18 October 2024 prepared by the appellant's daughter states that *'when the upgrade works were complete in March 2020, we had a fully fitted kitchen with fridge, washing machine, tumble dryer, dishwasher, cooker, microwave and all the kitchenware we could need. We did all our cooking and washing/drying therefore. As a new mum, I didn't want to live with my parents when my son arrived...My parents live next door at Merriemeade Farm. Their house was directly opposite ours and like any daughter with a newborn I was happy to visit them or for them to visit us. We did not sleep in the main house at Merriemeade Farm and my parents did not offer us day to day support with any domestic duties'*.
12. The evidence sufficiently demonstrates that internal works were carried out to the property in March 2020. The evidence includes a photograph from the appellant, dated 17 March 2020, showing a new kitchen being fitted. This marries with the invoice for a new kitchen from 'Wren Kitchens', and an invoice for a new radiator. The radiator is shown as fitted in a photograph at this time. There is also an invoice from a carpentry company providing dates when work was carried out. The evidence is sufficiently precise and unambiguous to demonstrate that some internal works were carried out at this time in respect of a new kitchen, radiator and reference is also made to a bathroom. However, there is no precise or unambiguous evidence before me to indicate that any external structural alterations were carried out at this time. However, I do not doubt that the provision of new internal facilities at this time made the property more desirable and comfortable from a day to day living point of view.

13. I have little information about the former kitchenette in the appeal building and how it and its facilities compare with the kitchen and its facilities that are in situ now and shown as being fitted in the photograph dated 17 March 2020. While I do not have any evidence before me to contradict the appellant's claim that there was no washing machine or dryer, or that there was not *'much in the way of kitchen facilities'*, the appellant's evidence lacks precision in terms of the facilities that existed before March 2020 and those that existed after the contractors had left. However, this is not a matter that is determinative in terms of this appeal. I base this view on the fact that merely adding or expanding facilities need not automatically mean that the appeal building was then used as a separate dwellinghouse falling within its own planning unit.
14. While the evidence sufficiently demonstrates that the appellant's daughter, fiancé and baby did continue to occupy the property after the March 2020 internal works were carried out, and until September/October 2020 when they moved out to property elsewhere, I do not find that the evidence supports the contention that a material change of use occurred when the internal works were carried out.
15. While I accept that the evidence does indicate that the appeal building did have all the facilities needed for day to day living in late March 2020 and in accordance with the judgement of *Gravesham BC v SSE and O'Brien* (1983) JPL 306, the following remained consistent between the use of the appeal building before the internal works and then after the internal works: the building continued to be occupied by immediate family members (including the arrival of a baby); the rent arrangement remained the same and on a sporadic and relatively low level basis; Council tax was not paid; the occupants continued to receive post (e.g. bank statements) addressed to Merriemead Farm; there remained no physical delineation between the appeal building and Merriemead Farm; and the appellant continued to offer the occupants of the appeal building *'support in the same way any family would in terms of occasional babysitting'*.
16. In my judgement, and, as a matter of fact and degree, the above evidence indicates that upon completion of the internal works in March 2020, the building continued to be occupied and used in a manner that was integral to or part and parcel of the primary use of Merriemead Farm as a C3 dwellinghouse. I find that the appeal building continued to be used on an ancillary basis to the primary use of Merriemead Farm as a single dwellinghouse and falling within one planning unit. My finding in terms of this matter is not inconsistent with the judgement of *Uttlesford DC v SSE and White* (1992) JPL.
17. There is no dispute between the main parties that the appeal building has been used for holiday let purposes (an 'Airbnb') since October 2020 and after the appellant's daughter, fiancé and baby moved out. The evidence sufficiently supports this position in the form of Airbnb feedback reviews, the statutory declarations, and the list of bookings by dates, number of nights and earnings. This is the point when I find that a material change in the use of the building occurred such that the property was being used as a self-contained and separate holiday let use, and within its own planning unit.
18. Indeed, I consider that the character of activities associated with the use of the appeal property changed when it started to be used as a holiday let. At this point and thereafter it was used/occupied by transient people who had no family connection with those that occupied Merriemead Farm; there was a formality in the

payment of rent through a third party web site; the occupants did not have access to Merriemead Farm; there was an absence of the same kind of support from the family next door including babysitting; a fence and plant pots were provided to physically separate/delineate the holiday let unit from the dwellinghouse known as Merriemead Farm thereby providing private as distinct from shared private outside amenity space; and the evidence is that signs were erected in Church Lane directing visitors to 'Cozy Club', 'Winterberry Barn; (i.e., the appeal property) and 'Merriemead Farm' as separate entities.

19. While the appellant has commented in respect of the direction signs that the Council has '*nothing to demonstrate when the directional signs were erected*', the onus is on the appellant to provide precise and unambiguous evidence in respect of the ground (d) appeal and this matter. The appellant will be well placed to know when the directional signs were erected. Given that the appeal building is referenced as 'Winterberry Barn' on the Airbnb website, I consider that this sign was likely erected on or after October 2020, i.e., when the subject building started to be used as a holiday let.
20. In my judgement, a separate holiday let use falling within its own planning unit was created in respect of the appeal building in October 2020. From this time, and, as a matter of fact and degree, it was a separate unit of occupation, and its use was physically and functionally separate from use of Merriemead Farm. At this point, the holiday let use was not integral to or part and parcel of the primary use of Merriemead Farm.
21. The notice was issued on 27 September 2024. For the breach of planning control to be immune from enforcement action it is necessary to demonstrate that the breach of planning control has continued for a period of four years given section 171(B) of the Act. A period of four years has not elapsed in respect of the material change of use of the building from October 2020 to 27 September 2024. Therefore, when the notice was issued it was not too late to take enforcement action in respect of the breach of planning control. Consequently, and, on the balance of probability, I therefore conclude that the ground (d) appeal fails.

Appeals A and B – ground (a) appeal and s.78 appeal

Main Issues

22. I have considered the reasons for issuing the notice and the reasons for refusal of planning permission. The main issues are essentially the same for both appeal A (i.e., the section 78 appeal) and appeal B (the ground (a) appeal and the deemed planning application).
23. The main issues are (i) whether the holiday let accords with the development plan for the area in terms its location within an area of countryside and specifically policies COM2, LE16 and LE18 of the adopted 2016 Test Valley Borough Revised Local Plan 2011-2029 (LP), (ii) the effect of the development on the Solent and Southampton Water Special Protection Area, and (iii) the effect of the development on the New Forest Special Protection Area.

Compliance with policies COM2, LE16 and LE18 of the LP

24. The appeal site falls within an area of countryside. It is outside the boundary of a settlement. Policy COM2 of the LP states that development outside the boundaries

of settlements in the hierarchy will only be permitted if ‘a) *it is appropriate in the countryside as set out in Revised Local Plan policy COM9-COM15, LE10, LE16-LE18; or b) it is essential for the proposal to be located in the countryside*’. The evidence before me does not demonstrate that it is essential for the holiday let use to be located in the countryside. The point of dispute between the main parties is whether the holiday let accords with policies LE16 and LE18 of the LP.

25. The development which is the subject of appeals A and B relates to the re-use of a building in the countryside for tourist accommodation. In this regard, it is necessary to satisfy criterion a) to d) of policy LE16 of the LP. There is no evidence to indicate that when the material change of use occurred, the building was not structurally sound. While the building does appear to have been altered externally, it is not clear from the evidence precisely when this took place, or indeed whether such works were carried out to facilitate the material change of use which is the subject of the breach of planning control.
26. It is not clear from the evidence whether the removal of doors to the storage area and the construction of walls to fill the car port and the installation of windows and doors in these areas were carried out ‘*circa ten years ago*’ (see paragraph 9). The Council do not appear to be suggesting that the external alterations (i.e., operational development) to the building are not immune from enforcement action and hence are unlawful by virtue of section 171(B) of the Act. However, and, in any event, I am satisfied in this case that even accounting for the external changes to the building from when it was originally built, the evidence indicates that it was structurally sound and suitable for conversion to a holiday let without substantial rebuilding, extension and alteration. Therefore, I find that the development is in accordance with criterion a) of policy LE16 of the LP.
27. I find it more likely than not that the development would at some point result in the requirement for another building to fulfil the function of the building which has now been converted. The original building was approved as an incidental storage/studio building and for the purpose of parking cars in association with the use of Merriemead Farm. In my judgement, there is likely to be a greater than theoretical possibility that the development will, in time, result in the requirement for another building to fulfil the function(s) of the consented building which has been converted.
28. The appellant may not want another building now, but I find that there is a greater than theoretical likelihood that such a position could change. Furthermore, at some point the land/property may be sold and hence any new occupier may want the sort of additional storage and/or additional undercover car parking as was deemed to be necessary in 2011 and which appears to have been initially provided.
29. The appellant may have a double garage already and some hard standing car parking areas, but there was clearly a need for the storage/studio/covered car parking facility in 2011. The appellant has not provided persuasive reasons as to why such provision may not be needed at some point in the future. Moreover, I noted on my site visit that part of the space within the appellant’s double garage appeared to have been lost by way of the provision of petition walls to facilitate an enclosed internal staircase leading to first floor accommodation. While not a determinative matter, there does appear to be less space for car parking within this building than is apparent from viewing it externally. Overall, I find that the development does not accord with criterion b) of policy LE16 of the LP.

30. While it is the case that a formal outside amenity space has been created in association with the use of the subject building as a holiday let, and some areas of pre-existing hardstanding are now used for the parking of guest vehicles, I find, overall, that the holiday let use is sufficiently restricted '*primarily to the building*' and hence that the requirement of criterion c) of policy LE16 of the LP is met. I do not interpret the word 'primarily' as equating to no outside holiday use at all.
31. I do not find that the use or alterations to the appeal building have caused harm to the overall character of the setting of Merriemead Farm and how it is experienced in what is an area which is essentially rural in character. While the building now has a different appearance to the outbuilding approved as part of the 2011 Permission, its form and appearance does not look out of place in the context of the character and appearance of the buildings that surround it.
32. While I note the view expressed by interested parties that the development has resulted in an increase in traffic in the area, I do not find that this impact is likely to have been material given that the appeal building can only accommodate low occupancy and in the context that there is common ground that the building was approved for an incidental purpose and so could be used, as was the case between 2019 and March 2020, by other family members in a manner that was part and parcel of the primary use of Merriemead Farm as a dwellinghouse.
33. Notwithstanding the above, a relatively large enclosed outside amenity space has been formed in association with use of the appeal building as a holiday let. This has resulted in some limited harm being caused to the otherwise more rural character of the area. As part of my site visit, I was able to experience that it had resulted in the urbanisation of this rural location in so far that it includes the provision of various domestic paraphernalia including a log store, decking, chippings, pots, screens and a very large hot tub, all of which are enclosed within black railings.
34. The above gives a visual impression of the holiday let use being separate from, as distinct from subordinate to, the use of Merriemead Farm as a dwellinghouse. In this regard, I do not consider that it could be reasonably said that the holiday let unit as a whole has resulted in an '*enhancement of its immediate setting*'. While this outside amenity space area is not visible from the public footpath located to the rear of the appeal building, glimpses of it can be seen from the entrance gates (which is next to the start of the public footpath) and, moreover, it would be clearly be visible to the various visitors/guests of the holiday let unit. To this extent, I find that the development does not accord with criteria d) of policy LE16 of the LP. Furthermore, and, to this extent, I do not find that the development has created a high quality and beautiful place in accordance with paragraph 131 of the Framework.
35. It is necessary that the development accords with each of criterion a) to d) of policy LE16 of the LP. For the reasons outlined above, I conclude that the development which is the subject of appeals A and B is not compliant with policy LE16 of the LP. Given this finding, I also conclude that the development fails to accord with policy LE18 of the LP which states that proposals for tourist development will be permitted provided that '*where the proposal is located within the countryside i) it utilises an existing building and meets the requirements of policy LE16*'. In addition, and for the reasons expressed, I do not find compliance with policy 131 of the Framework.

Effect on the Solent and Southampton Water Special Protection Area

36. The River Test and its major tributaries flow into the Solent. The Solent and Southampton Water Special Protection Area (S&SW SPA) region is important for wildlife. The evidence is that there are high levels of nitrogen and phosphorous input into this water environment and that it is having an adverse effect on the integrity of the SPA as a whole. The evidence is that without mitigation, the development would continue to cause harm to the integrity of the S&SW SPA.
37. However, in respect of appeal A the appellant has proposed to offset some agricultural land (0.15 ha) for mitigation purposes which would see the overall nitrate budget of 0.03kg TN/yr. This level of control and mitigation, which is supported by Natural England, is provided within a completed bilateral planning obligation, dated 22 January 2025, which seeks to take some 0.15 ha of land out of agricultural use and to plant trees. The evidence is that Natural England raises no objection to appeal A based on the mitigation provided through the completed planning obligation. I have no reason to disagree with this finding and conclude that given the mitigation in place, the development would not cause harm to the integrity of the S&SW SPA.
38. For the above reasons, I conclude that the appeal A development would accord with the conservation and biodiversity requirements of policy E5 of the LP, and paragraphs 187 and 193 of the Framework. In respect of appeal B and the deemed planning application, there is no completed planning obligation before me to provide the necessary mitigation to ensure that the integrity of the S&SW SPA is not harmed. In this regard, such development does not accord with the conservation and biodiversity requirements of policy E5 of the LP, and paragraphs 187 and 193 of the Framework. Paragraph 193 of the Framework states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, the planning permission should be refused.

Effect on the New Forest Special Protection Area

39. The development has resulted in a net increase in dwellinghouses within 13.6km of the New Forest Special Protection Area (New Forest SPA). This distance defines the zone, as identified within the Council's New Forest International Nature Conservation Designations: Recreation Mitigation Supplementary Planning Document January 2025 (SPD), where residents would be considered likely to visit the SPA which supports a range of bird species that are vulnerable to adverse impacts arising from increases in recreational use. The evidence is that the development when considered in combination with other residential projects would likely lead to significant adverse effects on the New Forest SPA.
40. The appellant has submitted a completed bilateral planning obligation, dated 22 January 2025, which seeks to make a financial contribution payment to the Council of £1,300 which would be used for projects within the New Forest SPA to mitigate the adverse recreational effects arising from the development. However, this financial contribution was based on the Council's interim mitigation strategy which has subsequently been superseded by the SPD which sets out a scale of developer contributions for strategic access management and monitoring and suitable alternative natural greenspace for a 1-bedroom property of £2,665.

41. I have no objective evidence before me to indicate that the financial contribution payment contained within the 22 January 2025 planning obligation would be sufficient to mitigate the adverse recreational pressures on the New Forest SPA in the context of the updated strategy contained within the recently adopted SPD. The appellant has submitted an additional completed planning obligation (unilateral undertaking) dated 6 April 2025 which seeks to make a financial contribution payment of £1,365 if appeal A were to be allowed. In this regard, I am satisfied that the two planning obligations would provide the required mitigation in terms of the totality of financial contribution payment to fully mitigate the harm that has been caused to the New Forest SPA.
42. Given the completed planning obligations, I am satisfied that the appeal A development would no longer cause harm the integrity of the New Forest SPA. Consequently, it would accord with the conservation and biodiversity requirements of the SPD, policy E5 of the LP and paragraphs 187 and 193 of the Framework. It is also noteworthy that Natural England did not raise an objection to the planning application for Appeal A subject to such mitigation being secured. In respect of appeal B and the deemed planning application, there is no completed planning obligation before me to provide the necessary mitigation to ensure that the integrity of the New Forest SPA is not harmed. In this regard, such development does not accord with the conservation and biodiversity requirements of the SPD, policy E5 of the LP, and paragraphs 187 and 193 of the Framework. Paragraph 193 of the Framework states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, the planning permission should be refused.

Other Considerations

43. I do not doubt that visitors of the holiday let unit contribute positively to the local economy. Moreover, the holiday let use generates income and, in that respect, it provides some revenue/employment for its owner. The use of the building as a holiday let does make effective use of land. These are positive considerations albeit that the weight that I afford to them is limited because only one modestly sized holiday let is under consideration.
44. The appellant states that the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. He refers to the position as of 1 April 2024 and based on the most up to date housing requirement using the standard method calculation of housing need. On 9 January 2026, and following my intervention, the Council confirmed its agreement with the appellant that local planning authority could demonstrate only 2.76 years housing supply. In this context, and while the development relates to a holiday let unit, there is common ground that it is a C3 dwellinghouse use.
45. While positive, the contribution that the development makes to the housing undersupply position is nonetheless not very significant given that only one C3 dwellinghouse is being considered. The benefit of adding to the housing supply is tempered somewhat by the short-term occupation of the holiday let unit. If I were to find that the development was acceptable from a holiday let/tourism point of view, it is likely that I would impose a condition which restricted its use to a holiday let use only and preventing guests from using the property in the same way they would a permanent residence. In this regard, the development would not increase

housing provision in recognition of the national housing crisis. It would simply provide a holiday let use rather than a residence with all year-round occupation.

46. Nevertheless, given that the appeals relate to development for the provision of housing, and the undisputed position of the main parties is that the local planning authority cannot demonstrate a five-year supply of housing sites, it is necessary that I engage paragraph 11(d) of the Framework for both appeals.

Planning Balance and Conclusion

47. While the completed planning obligation would ensure that the integrity of the New Forest SPA and S&SW SPA was not harmed in respect of the appeal A development, neither this development nor the development which is the subject of appeal B accords with the requirements of policies COM2, LE16 and LE18 of the LP. In respect of the ground (a) appeal (appeal B), and the harm caused to the integrity of the special protection areas, it is noteworthy that the planning obligations relate only to the planning application appeal made under section 78 of the Act (appeal A). Consequently, significant harm has been caused to the SPAs from the development when the ground (a) appeal deemed planning application is considered and this constitutes a reason for the refusal of planning permission.
48. Thus, in respect of appeal B and the ground (a) appeal, the planning obligations do not offer any control in terms of mitigating harmful impacts on the integrity of the two SPAs. Paragraph 194 of the Framework says that SPAs should be given the same protection as habitats sites. Footnote 7 of the Framework refers to habitats sites. In respect of appeal B, paragraph 11(d) of the Framework is not engaged as in the absence of mitigation the harms caused to the integrity of the SPAs are strong reasons for refusing the development. Consequently, paragraph 11(d)(i) is applicable for appeal B.
49. Whether it be in respect of appeal A or appeal B, I afford the conflict with the identified development plan policies very significant weight in the overall planning balance. In my judgement, the development plan policies are not inconsistent with the sustainability and design objectives of the Framework. From the point of view of section 38(6) of the Planning and Compulsory Purchase Act 2004, I conclude that the conflict with the development plan policies is of such weight that it is not outweighed by the identified other considerations above.
50. In the context of paragraph 11(d) of the Framework, I conclude that the adverse impacts arising from allowing the development (appeal A), including the conflict with the identified development plan policies, is not significantly and demonstrably outweighed by the benefits identified above when assessed against the policies in the Framework taken as a whole.
51. For the above reasons, and, on balance, I conclude that appeal A should be dismissed, and that the ground (a) appeal (appeal B) fails.

Overall Conclusions

Appeal A

52. For the reasons given above, the appeal should be dismissed.

Appeal B

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

D Hartley

INSPECTOR