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## Appeal Decisions

Inquiry held on 21 and 22 April 2026

Site visit made on 21 April 2026

**by Zoë Franks, Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> May 2026

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### **Appeal A Ref: APP/V1505/C/25/3375312**

#### **Land South of Key Cottage, Oak Road, Billericay, Essex, CM11 2YL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Gary Sands against an enforcement notice issued by Basildon Borough Council.
- The notice was issued on 7 October 2025 (“Notice 3”).
- The breach of planning control as alleged in the notice is without planning permission, the material change in use of the Land to a mixed use comprising; the stationing of a caravan for residential purposes, the parking and storage of motor vehicles, and the repair and maintenance of motor vehicles and model aircraft.
- The requirements of the notice are set out in the Appendix below.
- The periods for compliance with the requirements are 1 week for requirements (i) and (ii), and 4 months for requirements (iii), (iv), (v), (vi), (vii) and (viii).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act

**Summary of decision: The appeal succeed to the extent that the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.**

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### **Appeal B Ref: APP/V1505/C/25/3375314**

#### **Land South of Key Cottage, Oak Road, Billericay, Essex, CM11 2YL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Gary Sands against an enforcement notice issued by Basildon Borough Council.
- The notice was issued on 7 October 2025 (“Notice 4”).
- The breach of planning control as alleged in the notice is without planning permission:
  1. The erection of a building shown approximately edged and hatched black on the attached notice plan; and
  2. The laying of hardstanding shown approximately edged and shaded blue on the attached notice plan.
- The requirements of the notice are set out in the Appendix below.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of decision: The appeal succeed to the extent that the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.**

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### **Appeal C Ref: APP/V1505/C/25/3376566**

#### **Key Cottage, Oak Road, BILLERICAY, Essex, CM11 2YQ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).

- The appeal is made by Mr Gary Sands against an enforcement notice issued by Basildon Borough Council.
- The notice was issued on 13 November 2025 (“Notice 1”).
- The breach of planning control as alleged in the notice is without planning permission, the material change in use of the Land to a mixed use comprising residential use and the repair and maintenance of motor vehicles.
- The requirements of the notice are set out in the Appendix below.
- The periods for compliance with the requirements are 1 week for requirement (i) and 1 month for requirement (ii).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of decision: The appeal succeed to the extent that the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.**

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### **Appeal D Ref: APP/V1505/C/25/3376567**

#### **Key Cottage, Oak Road, BILLERICAY, Essex, CM11 2YQ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Gary Sands against an enforcement notice issued by Basildon Borough Council.
- The notice was issued on 13 November 2025 (“Notice 2”).
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building shown approximately edged and hatched black on the attached notice plan.
- The requirements of the notice are set out in the Appendix below.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended) (“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 of decision: The appeal succeed to the extent that the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.**

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### **The Appeal Lands and Planning History**

1. The notices in Appeals A and B (Notice 3 and Notice 4 respectively) relate to land further to the south of the land which is targeted by the notices in Appeals C and D (Notice 1 and Notice 2 respectively). Both sites are situated in the Green Belt.
2. The appellant bought Key Cottage with its associated outbuildings and garden in 2020. This is the land identified in Notices 1 and 2 (“the Notice 1 & 2 Land”). LDC references 18/00580/LDC and 18/00582/LDC issued by the Council confirmed that Key Cottage and The Old Workshop had been used as dwellings for more than four years. These LDCs accepted that the land had been formally subdivided from the rest of the planning unit of The Retreat in February 2008.
3. The appellant subsequently bought the adjoining land to the south of Key Cottage in 2024 as identified as the appeal land in Notices 3 and 4 (“the Notice 3 & 4 Land”) and believed it to be incorporated into the garden of Key Cottage.
4. The outbuildings and other operational development targeted by Notices 2 and 4 were erected beginning in 2024. The caravan used for human habitation referred to in Notice 3 was situated on the land in approximately October 2024 and is occupied by the appellant’s son.
5. The following planning applications were dismissed on appeal on 14 April 2026:

- “Retention of outbuilding for purposes that are incidental to the enjoyment of the dwellinghouse” reference 25/00749/FULL dismissed on appeal reference APP/V1505/D/25/3375315 (“the Outbuilding F Appeal”);
- “Retention of outbuilding for purposes that are incidental to the enjoyment of the dwellinghouse” reference 25/00751/FULL dismissed on appeal reference APP/V1505/D/25/3375316 (“the Outbuilding G Appeal”); and
- “Retrospective change of use of the land for the stationing of a mobile home incidental to the enjoyment of the main dwelling” reference 25/00767/FULL dismissed on appeal reference APP/V1505/W/25/3375317 (“the Caravan Appeal”).

### **The Planning Unit(s)**

6. The appeal sites were originally in the same ownership as the adjoining dwellinghouse known as The Retreat and additional land further to the south. The planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes.
7. The Retreat was originally the only dwellinghouse on the wider site which was all within the same ownership. It is clear from the aerial photographs submitted, that there was a delineated area around the house which was closely associated with the residential use. The garden, which was the curtilage to the dwellinghouse, was physically separate from the rest of the site to the south, with a clear boundary hedge. The photographs show that the access track to the east of the house had been constructed by September 2008.
8. Whilst statutory declarations regarding the use of this area to the south has been provided, the activities described as well as the details regarding the duration and extent of them do not show on balance the residential use arising from The Retreat extended across the whole site so as to show that there was one unit of occupation with one primary use. The larger area of land to the south may have been used for recreational purposes by the owner of the Retreat, but it was physically separate and distinct, and did not form the curtilage or garden to the house.
9. The sworn evidence produced in July 2018 as part of the LDC applications for the independent residential use of Key Cottage and The Old Workshop, states that Key Cottage was originally constructed and used as a games room incidental to the residential use of The Retreat. The owner began to let out The Retreat from February 2008 and moved into Key Cottage. He also let out The Old Workshop as a separate dwellinghouse from June 2008.
10. The parties accept that a new and distinct planning unit was created in 2008 when Key Cottage and The Old Workshop were occupied as single dwellinghouses, separate from The Retreat. Key Cottage and The Old Workshop sit within a shared garden area, and there is no dispute about the residential use of this land (i.e. the site acquired by the appellant in 2020).
11. The use and occupation of the land further to the south of Key Cottage, which now forms the appeal land in Notices 3 and 4 was thus functionally and physically

separated from The Retreat once that property became occupied as a distinct dwellinghouse with a different occupier in February 2008, at the very latest. Even if some or all of the wider site had been used as part of the garden of The Retreat prior to that date (which I do not find has been shown on balance as a matter of fact and degree for the reasons as set out above), the creation of the new planning units which consisted of The Retreat and its curtilage, and Key Cottage and The Old Workshop within their curtilage, mean that a new chapter in the planning history of the wider site began. As a matter of fact and degree, the remainder of the site could not have been used, or retained its status as garden to The Retreat when the house was being occupied separately. The new chapter in the planning history of The Retreat was inconsistent with a continued garden use (if it even existed to start with which is far from clear on the evidence before me).

12. The remainder of the land to the south which appears as open field or grassed area in the aerial photographs, subsequently known as Full Circle Farm, no longer had the same occupier as The Retreat, and formed its own planning unit. There were three distinct planning units on the original wider site from 2008.
13. The appellant wished to extend his landholding and purchased additional land to the south of the garden of Key Cottage in 2024 (the Notice 3 & 4 Land). The aerial photographs submitted during these appeals show that the additional land, once developed, was originally fenced off from the Key Cottage garden (shown in photographs dated November 2024 and January 2025). Vehicular access to this additional land is via a track to the west of the appeal sites, and which also provides access to The Retreat to its east, and the remaining land to the south. The fence between the appeal sites has since been removed, but there is fencing around the caravan which encloses some land to the front for use as garden, and ensures that a pet dog can be contained.
14. The Notice 3 & 4 Land was physically and functionally separate from the existing Key Cottage and garden when it was originally developed and occupied. It is now occupied by related parties, and there may be overlap between the appeal sites in respect of some of the activities that take place on it. However, the separate outbuilding, boundary fence, fenced caravan with delineated garden area creating a separate dwelling, and direct access track leading to Oak Road present at the time of the issue of the notice created a new planning unit when it was acquired and developed by the appellant, and at the date that Notice 3 was issued.
15. There were 4 separate planning units on the wider (original) site at the date of the notices. The notices target two of the separate planning units on the wider site.

### **Appeals A and B (Enforcement Notices 3 and 4)**

#### **Ground (e)**

16. The appellant argues that Notices 3 and 4 were not properly served on Ms Samantha Sands who has a beneficial interest in the Land South of Key Cottage. Section 172(2) states that a copy of an enforcement notice shall be served on the owner and on the occupier of the land to which it relates; and on any other person having an interest in the land, being an interest which, in the opinion of the authority is materially affected by the notice.

17. The Council served a copy of the notices on the appellant who is the registered proprietor of this land with title absolute but Ms Samantha Sands does not appear on the property register. The appellant did not provide Ms Sands' details in his response to the planning contravention notice served by the Council. The Council also served a copy of the notices to the property addressed to "the Owner or Occupier."
18. Section 329(2) of the 1990 Act provides that where a notice is required to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice is required to be served on any person as occupier of premises, the notice shall be taken to be duly served if it is addressed to him either by name or by the description of "the owner" or "the occupier". The appellant does not dispute that this was done.
19. The Council made reasonable inquiries to identify those with an interest in the appeal land, including by the service of the planning contravention notice. The Council is not required to serve copies of a notice on all those listed on the electoral register. They have satisfied the statutory service requirements as set out in section 172.
20. The appeal on ground (e) does not therefore succeed.

#### **Ground (b) and hidden ground (c)**

21. An appeal on ground (b) is on the basis that any breach of planning control which may be constituted by the matters stated in the notice have not occurred, and an appeal on ground (c) is that if the matters have occurred, they do not constitute a breach of planning control.
22. The appellant says that there has not been a material change of use of the land identified in Notices 3 and 4 because it had an existing lawful residential use. The material change of use of the land for residential purposes did not occur, and the associated operational development is therefore not a breach of planning control. It is for the appellant to prove the legal grounds of appeal on the balance of probabilities.
23. The ariel photographs show that the additional land was fenced off from the rest of the land owned by the appellant when the outbuilding was constructed, and the caravan situated on it and occupied. The caravan remains fenced in its own area, with a grassed garden in front. The physical separation, including the distance between Key Cottage and the caravan and the fencing both historic and as it remains now mean that the caravan presents as a separate dwellinghouse and there is little information before me to show on balance that is not the case. The caravan has all of the amenities needed for day to day living, and vehicular access is achieved via the lane which links between the road and site. There is insufficient evidence before me to show that the occupiers of the caravan are living as one household with the appellant and occupiers of Key Cottage, and as set out above, the Notice 3 and 4 Land is a separate planning unit to Key Cottage in any event. Any residential use or permitted development rights associated with the use of Key Cottage do not therefore apply.

24. It is accepted by the parties that the building which is the subject of Notice 4 is now used partly for commercial purposes. It cannot therefore comply with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015. The building has been used for the repair and maintenance of vehicles and model aircraft, and the appellant accepts that some of this use has been commercial.
25. The evidence submitted by the Council identifies many vehicles parked on the appeal site, and on multiple dates, which have not been shown to be in the ownership of the appellant or other owners or occupiers of the site. I am therefore satisfied that the appellants have not shown on balance that the land has not been used for the parking and storage of vehicles.
26. The hardstanding facilitates the material change of use and as such can also be required to be removed.
27. As set out above, the area of land, which was subsequently acquired by the appellant, and which is the subject of Notices 3 and 4, did not therefore have an lawful residential use when the development took place. The appeal under ground (b) does not succeed as the alleged material change of use has occurred as a matter of fact.
28. In addition, any permitted development rights which would arise due to the land being the curtilage of Key Cottage do not apply (because the Notice 3 and 4 Land constitutes a separate planning unit). Express permission for any such development would be required.

## **Appeals A, B, C and D**

### **Ground (a) and the deemed planning applications**

29. The details of 3 planning appeal decisions issued relating to the appeal sites dated 14 April 2026, are set out above. These applications all related to development which was incidental to the enjoyment of Key Cottage, and did not include any mixed use or commercial element. The planning impacts and merits of the deemed planning applications in these appeals, and the application of both national and local policy, will therefore be different to the previous appeals in some aspects.
30. The main issues in the appeals are:
  - Whether the appeal sites comprise grey belt land or previously developed land and whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (“the Framework”) and relevant development plan policies;
  - The effect of the development on the openness and purposes of the Green Belt;
  - The effect of the development on the character and appearance of the area;
  - The effect of the development on the living conditions of the occupiers of nearby properties;

- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify it.

*Issues regarding grey belt, previously developed land and inappropriate development*

*Appeals A and B*

31. The Framework tells us that “*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.*”
32. Inappropriate development is, by definition, harmful to the Green Belt, and development in the Green Belt is inappropriate unless one of the listed exceptions applies. This includes the redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt.<sup>1</sup>
33. The Framework defines previously developed land as “*Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed.)*”. It excludes land in built-up areas such as residential gardens, and land that was previously developed but where the remains of the permanent structure have blended into the landscape.
34. Notice Land 3 and 4 has not previously been fully occupied by permanent structures. The appellant argues that it was part of the garden associated with the Retreat, and as such forms previously developed land, or at the very least part of its curtilage. However, as set out above, I do not accept that this land was part of the garden or curtilage of The Retreat. The photographs show that there was a garden including what appears to be a swimming pool next to the house which was separated from the rest of the land by hedging. Notwithstanding that the whole of the wider plot was in the same ownership, the piece of the land which was part and parcel of the house, and therefore formed its curtilage, was this section immediately adjacent to it, and that was distinct from the wider site by reason of the boundaries provided.
35. Even if I am wrong about this, the definition of previously developed land specifically states that it should not be assumed that the whole of the curtilage should be developed in any event and there is insufficient evidence regarding the previous use of this part of the site. The historic aerial photographs do appear to show some small structures on the land to the south but these are not on all of the land as that which now comprises Notice Land 3 and 4, or the entirety of the outbuilding location, or location of the hardstanding or caravan.
36. Another exception to inappropriate development is development in the Green Belt which would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan but only where there is a demonstrable unmet need for the type of development proposed, and it would be in a sustainable location.<sup>2</sup>

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<sup>1</sup> Paragraph 154 (g) of the Framework

<sup>2</sup> Paragraph 155 of the Framework

37. Whether or not the land falls within the definition of grey belt as set out in the Framework, the appellant has not shown that there is a demonstrable unmet need for the mixed use alleged in the notice. Whilst it is accepted that there is a lack of five-year housing land supply, the deemed planning application in Appeal A is for the mixed use which also includes the commercial element. There is nothing before me in these appeals to suggest that there is a demonstrable unmet need for the mixed use, or indeed the other elements of it including the repair and maintenance of motor vehicles, or parking and storage.
38. The developments in Appeals A and B do not therefore fall within the exceptions set out in paragraph 154 or 155 and is inappropriate development in the Green Belt.
39. These developments also cause harm to the openness of the Green Belt through the addition of the large permanent outbuilding, hardstanding and other operational development associated with the use including the fencing. The material change in use, comprising of the commercial elements with associated vehicles and the siting and use of the caravan for residential purposes with associated domestic paraphernalia also harms the openness of the Green Belt spatially and visually.
40. The development alleged in Notices 3 and 4 is therefore inappropriate and harms the openness of the Green Belt, and I attribute substantial weight to this harm.

#### *Appeals C and D*

41. Notice Land 1 and 2 contains two dwellinghouses and the associated garden. The aerial photographs provided show that the part of Notice Land 1 and 2 on which the outbuilding is located was previously garden land and generally free from any development or structure (there may have been a small outbuilding in the similar position but this is unclear).
42. The height, floor area and mass of the permanent building targeted by Notice 2 are significant which causes substantial harm to the openness of the Green Belt in this location. The material change of use alleged in Notice 1, including a primary commercial component of the mixed use, will also harm the openness of the Green Belt through increased comings and goings, and additional vehicles being present and repaired on the site. Neither of the developments alleged in Notices 1 and 2 therefore meet the exception to inappropriate development set out in paragraph 154 g).
43. I also agree with the previous inspector that the building does not meet the exception set out in paragraph 154 c) in that it would result in disproportionate additions over and above the original building (taking the original building to be Key Cottage). There is nothing before me in these appeals which make me disagree with the previous finding.
44. And there is nothing before me to show that there is a demonstrable need for either development: the building itself or the commercial vehicle repair and maintenance use. Neither can therefore meet the requirements set out in paragraph 155 regarding grey belt land.
45. The development in Appeals C and D is therefore inappropriate development in the Green Belt in the terms set out in the Framework. It causes harm to the

openness of the Green Belt as set out above, and I attribute this substantial weight,

### *Character and Appearance*

46. The surrounding area is semi-rural with some predominantly residential or mixed uses. The Notice 3 and 4 Land was previously predominantly grassland with some trees and other vegetation. There is a lawful gypsy and traveller site to the south-east of the appeal land, and some of the other dwellinghouses in the area also have outbuildings and some commercial uses, although I do not have the information regarding the lawfulness of these uses and whether they are primary uses in their own right or ancillary to the residential uses.
47. It is evident from the aerial photographs that Notice Land 3 and 4 has become intensively developed over time including the material change of use, erection of the industrial style building and laying of hard standing. The physical works have an urbanising effect on the land and the vicinity, and the photographs show that the volume of vehicles associated with the residential and commercial use in this location exacerbates this further.
48. Both new buildings, the hardstanding, and the new residential use in the caravan and commercial uses are set significantly further back from Oak Road, than the other properties in the vicinity which generally follow the road line. The development is therefore incongruous and significantly extends the built environment which causes harm to the character of the area.
49. The outbuilding constructed on Notice Land 1 and 2 is unsuitable and out of place in its large size, use of materials and industrial appearance within a residential setting, and changes the nature of the appeal site. It therefore also causes harm to the character and appearance of the area.
50. The development alleged in Notices 1, 2, 3 and 4 therefore causes harm to the character and appearance of the area and is in conflict with Policy BAS BE 10 and BE12 of the BDLPSP which requires proposals are appropriate and sympathetic to neighbouring developments and avoid harming the character of the surrounding area. I accord this substantial weight.

### *Living Conditions*

51. The sites are accessed via Oak Road which is a narrow lane, and the other houses which are closest to the appeal site are situated close to the road. The appeal developments are located to the rear of the land within the appellants ownership, but any vehicles accessing the buildings would need to go past the other houses. It would depend on the nature of the car repairs, equipment being used, and whether this was taking place externally or with the doors of the building open, as to whether the development would cause disturbance to the occupiers of nearby properties.
52. Whilst I appreciate that not all the neighbours have raised concerns about the commercial element of the development, representations from the occupiers of nearby houses have been received which indicate that their living conditions have been adversely affected. The appellant has suggested that planning conditions could overcome these concerns and ensure that the developments operated within the terms set out in the Noise Impact Assessment. These could regulate issues

including: permitted hours, operational restrictions including noise control measures (works to take place internally only, and restrictions on types of activities and machinery), ventilation scheme, record keeping, limitation on use and occupancy and a site development scheme.

53. However, I share the Council's concern regarding the reasonableness and enforceability of some of the suggested conditions, particularly any requiring that all works take place internally only, and with doors kept closed. The Council would need to enter onto the land to ensure that these conditions were being met, and it would not be reasonable to require them to do so regularly and indefinitely regarding ongoing compliance. A lot of disturbance could be caused to the occupiers of neighbouring properties without it being possible to quickly and effectively enforce any such conditions. I do not therefore find that the suggested conditions would adequately mitigate the harm caused by the development.
54. I therefore find that there is harm to the living conditions of the occupiers of neighbouring properties, and this is caused by the commercial elements of the material changes of use which cannot be adequately mitigated by the imposition of the conditions suggested by the appellant.
55. The development alleged in Notices A, B, C and D is therefore contrary to Policy BAS BE10 and BE12 which advises that residential development, including the alteration and extension of existing dwellings will be refused if it causes material harm including noise or disturbance to the occupants of neighbouring dwellings, and are appropriate and sympathetic to neighbouring developments particularly adjacent to residential areas.
56. In addition, Policy BAS E4 of BDLPSP states that new businesses, including changes of use of existing buildings, will normally only be permitted within the identified industrial estates, or where there is no adverse effect on residential amenities. I have not been provided with any information that shows that appropriate space in an industrial estate would not be available for this commercial use, or any operational or practical reason why the specific mixed use is required on this site (other than the land already being owned by the appellant.)

#### *Intentional Unauthorised Development*

57. The appellant states that the various developments were undertaken on the mistaken assumption that he did not need express planning consent. His case is that the outbuildings were only originally used ancillary to the residential use of Key Cottage, and that the commercial elements began when his business premises elsewhere closed.
58. It is clear from the issues raised in these appeals that the planning status of the appeal sites, and therefore lawful uses and associated operational development was not straight-forward given the history of the wider site. The appellant has sought to regularise the use of the sites, by submitting the previous planning applications, and making the current ground (a) appeals.
59. However, neither of the outbuildings constructed met permitted development rights size limitations in any event, and the appellant had known that permission was required by at least June 2025 when he made the planning applications. Even on his own case, he began the commercial use after this date (in September 2025)

when he must have been aware that it required consent and I therefore attach moderate weight to this consideration.

#### *Other considerations*

60. The appellant states that there are currently nine adults living on the appeal sites. There is a lack of five-year housing land supply in the district and the fact that they are all living on the appeal sites clearly means that they do not need to live in houses elsewhere. However, the only residential unit to be targeted by the appeal notices is the caravan in Appeal A which is occupied by the appellant's son. The deemed planning applications in these appeals therefore only include the single caravan as additional residential accommodation, and this could be relocated onto the garden of Key Cottage, if it were used as ancillary accommodation rather than as a separate dwellinghouse. I therefore give some weight to the provision of the additional residential unit comprised in the caravan in Appeal A but this is moderate as it only provided one additional unit.
61. There is also clearly a personal benefit to the appellant and his family in the overall development, both in terms of the additional residential use, and the commercial elements. I therefore accord these considerations limited weight in relation to the relevant deemed planning applications.
62. Permitted development rights under Class E, Part 1, Schedule 2 allow outbuildings to be erected within the curtilage of a dwellinghouse, and all the conditions and limitations must be met. It is therefore not the case that any building the same or even similar to the existing outbuildings could necessarily be erected on the Key Cottage site. Any such building would have to meet the necessary height and size limitations (which is not the case with either of the current buildings) as well as being for a purpose incidental to the enjoyment of the dwellinghouse as such.
63. The appellant's motorsport and model aircraft hobbies could also be moved to and continue on the Key Cottage land as long as, a matter of fact and degree, they remained ancillary to the lawful residential use. A commercial use on Key Cottage would not be permitted without express permission, and it is therefore not part of any fallback considerations.
64. I therefore give limited weight overall to the fallback position, taking in to account the potential relocation of the caravan, ancillary use of the Key Cottage site for the motor sport and model aircraft hobbies and permitted development rights relating to residential outbuildings. If these uses were ancillary as a matter of fact and degree to the existing use of Key Cottage, then they would not be inappropriate development in the Green Belt and would be suitable in planning terms in the residential location. Any issues regarding statutory nuisance could be dealt with under environmental legislation.
65. I was also referred to other appeal decisions relating to different sites by each of the parties. However, each case will depend on its own facts including the specific development and location of the site, and the actual use that has taken place as a matter of fact and degree. I therefore accord these other appeal decisions little weight as I do not have the full details.

### *Very special circumstances*

66. The other considerations in Appeals A, B, C and D do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the developments do not exist.

### *Planning balance*

67. The development in Appeal A includes a residential use, and the Council does not have a five-year housing land supply so that Paragraph 11(d) of the Framework is engaged. It states that development should be approved unless the application of Framework policies that protect assets of particular importance provides a strong reason for refusing it. These policies include those relating to Green Belt, and as set out above, the development is in conflict with them as it is inappropriate in the Green Belt and causes harm to openness which therefore provides a strong reason to refuse the development in Appeal A. The development in Appeal A also causes harm to the character and appearance of the area, and the living conditions of the occupiers of neighbouring properties, and is in conflict with the saved policies in the BDLPSP as set out above.
68. The developments in Appeals B, C and D do not engage Paragraph 11(d), but are all inappropriate in the Green Belt as set out in the Framework, and also cause harm to openness, character and appearance and the living conditions of the occupiers of neighbouring properties, and there is conflict with the BDLPSP as set out above.

### *Conclusion*

69. The ground (a) appeals in Appeals A, B, C and D fail, and the deemed planning applications are refused.

### **Ground (f)**

#### **Notice 1**

70. The parties have no objection to the requirement to Notice 1 being amended to make clear that it is not any use which is incidental the enjoyment of the host dwelling that is required to cease. I can make these variations without causing injustice and therefore direct the necessary changes to be made as set out below in the formal decisions.
71. The appeal succeeds to this limited extent.

#### **Notice 2**

72. It is accepted that the building in Notice 2 does not meet the requirements of permitted development rights, and I have found that it causes harm to the openness of the Green Belt and character and appearance of the area. This includes the concrete base which forms part of the building, although it may be that part of it could be reused in agreement with the Council as part of a replacement outbuilding.
73. The requirements of Notice 2 do no more than remedy the breach of planning control and do not therefore exceed what is necessary. The Council has discretion

regarding any materials which can be reused in the construction of a potential alternative outbuilding.

### **Notices 3 and 4**

74. As set out above, I have not found that the land has a lawful residential use (or any lawful use ancillary to Key Cottage). The deemed planning applications for the outbuilding and the material change of use of the land for the siting of the caravan for human habitation have not been successful, and I have found the development causes harm to the openness of the Green Belt, character and appearance of the area and living conditions of the occupiers of neighbouring properties.
75. The requirements do not exceed what is necessary to remedy the breach of planning control and the appeals under ground (f) in relation to Notices 3 and 4 do not therefore succeed.

### **Ground (g)**

#### **Notice 1**

76. Notice 1 will be varied so that the requirements make clear that it only applies to any repair and maintenance which is not ancillary to the residential use, and the appellant did not therefore seek an extension of time for compliance with Notice 1.

#### **Notice 2**

77. The compliance period in Notice 2 should be extended to eight months to allow the appellant the requested opportunity to seek an LDC for the proposal for a replacement outbuilding. This additional time is reasonable in all of the circumstances.

#### **Notice 3**

78. The appellant seeks the extension of the compliance period to 8 months for the removal of the caravan, and 12 months for use of the outbuilding for non-commercial activities.
79. Taking into account the appellant's stated intention to construct a new outbuilding which complies with permitted development rights on the Key Cottage site, and fact that the compliance period in Notice 2 has been varied to 8 months in order to allow this to happen, it is reasonable that requirements (iii), (iv), (v), (vi), (vii) and (viii) be extended to 8 months to allow appropriate arrangements to be made. This provides consistency, and 12 months would not be reasonable in any event as the development is causing harm.
80. The time limit in relation to requirements i) and ii) should not be varied as it is the unauthorised use that causes harm to residential amenity, and any use which is ancillary to the residential use of Key Cottage can take place within its curtilage.

#### **Notice 4**

81. The compliance period should be extended to 8 months which is reasonable in all of the circumstances and allows the arrangements to be made factoring in the future plans on the Notice 1 and 2 Land.

### **Appeal A – Formal Decision**

82. It is directed that the enforcement notice is (Enforcement Notice 3) corrected by the deletion of four (4) months and substitution with eight (8) months as the period for compliance with requirements (iii), (iv), (v), (vi), (vii) and (viii).
83. Subject to the variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 117(5) of the 1990 Act as amended.

### **Appeal B – Formal Decision**

84. It is directed that the enforcement notice (Enforcement Notice 4) is varied by the deletion of four (4) months and substitution with eight (8) months as the period for compliance,
85. Subject to the variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 117(5) of the 1990 Act as amended.

### **Appeal C – Formal Decision**

86. It is directed that the enforcement notice (Enforcement Notice 1) is varied by:
- the insertion of the words: “that is not incidental to the residential use and enjoyment of Key Cottage” at the end of paragraph 5 .i.”;and
  - “that are not for purposes incidental to the residential use and enjoyment of Key Cottage” at the end of paragraph 5 ii.
87. Subject to the variations the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 117(5) of the 1990 Act as amended.

### **Appeal D – Formal Decision**

88. It is directed that the enforcement notice (Enforcement Notice 2) is varied by the deletion of four (4) months and its substitution with eight (8) months as the period for compliance.
89. Subject to the variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 117(5) of the 1990 Act as amended.

*Zoë Frank*

INSPECTOR

## **THE APPENDIX**

### **Appeal An**

#### Requirements:

- i Cease the use of any part of the Land for the parking/storage of motor vehicles.
- ii Cease the use of any part of the Land for the repair and maintenance of motor vehicles and model aircraft.
- iii Cease the use of any part of the Land for the stationing of caravans for residential occupation
- iv Break up the concrete base beneath the mobile home shown approximately edged and hatched black on the attached notice plan and remove all resultant debris from the Land.
- v Permanently remove from the Land all motor vehicles, model aircraft and caravans.
- vi Permanently remove from the Land all paraphernalia associated with the repair and maintenance of motor vehicles and model aircraft, including but not limited to: the vehicle lift, vehicle parts, benches and tools.
- vii Permanently remove from the Land all residential paraphernalia associated with the stationing of caravans for residential occupation.
- viii Permanently remove all resultant debris and materials from works completed in compliance with the above requirements from the Land.

### **Appeal B**

#### Requirements:

- i Demolish the building shown approximately edged and hatched black on the attached notice plan.
- ii Break up the concrete base beneath the building shown approximately edged and hatched black on the attached notice plan.
- iii Break up the hardstanding shown approximately edged and shaded blue on the attached notice plan.
- iv Permanently remove all resultant debris and materials from works completed in compliance with the above requirements from the Land.
- v Return the Land to its condition prior to the unauthorised breach by levelling and reseeding with grass.

### **Appeal C**

Requirements:

- i Cease the use of any part of the Land for the repair and maintenance of motor vehicles.
- ii Remove from the Land all paraphernalia associated with the repair and maintenance of motor vehicles.

### **Appeal D**

Requirements:

- i Demolish the Building shown approximately edged and hatched black on the attached notice plan.
- ii Break up the concrete base beneath the building shown approximately edged and hatched black on the attached notice plan.
- iii Permanently remove all resultant debris and materials from works completed in compliance with the above requirements from the Land.