
Appeal Decisions

Site visit held on 22 April 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 23 July 2026

Appeal A Ref: APP/Q3115/C/21/3285143

Land to the south of the dwellinghouse at 84 Gidley Way, Horspath, Oxfordshire OX33 1TG

- 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 Tariq Khuja against an enforcement notice issued by South Oxfordshire District Council.
 - The enforcement notice, titled Enforcement Notice A, was issued on 9 September 2021.
 - The breach of planning control as alleged in the notice is, without planning permission: the material change of use of the Land and building identified as "Building A" from part agricultural and part builders yard to a storage use.
 - The requirements of the notice are to cease the unauthorised storage use of the land and the building identified as "Building A" including and not limited to the removal of all motor vehicles, building materials and equipment, residential/domestic items and any other items stored on the land and in "Building A".
 - The period for compliance with the requirements is 12 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.
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Appeal B Ref: APP/Q3115/C/21/3285144

Land to the south of the dwellinghouse at 84 Gidley Way, Horspath, Oxfordshire OX33 1TG

- 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 Tariq Khuja against an enforcement notice issued by South Oxfordshire District Council.
 - The enforcement notice, titled Enforcement Notice B, was issued on 9 September 2021.
 - The breach of planning control as alleged in the notice is, without planning permission: the undertaking of (a) the construction of a garage building ("Garage 1"); (b) the construction of a garage building ("Garage "); the construction of a carport ("Carport"); and the construction of a "Gravel Surfaced Area".
 - The requirements of the notice are:
 - (i) Demolish the two garages referred to as "Garage 1" and "Garage 2"
 - (ii) Demolish (or as the case may be dismantle) the "carport"
 - (iii) Remove and dig up all the areas of "Gravel Surfaced Area"
 - (iv) Remove from the land all waste material resulting from steps (i), (ii) and (iii)
 - (v) Reinstate areas of the Land disturbed by (i), (ii), (iii) and (iv) by the spreading of topsoil and the sowing of grass seed.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal C Ref: APP/Q3115/C/21/3285145

Land to the south of the dwellinghouse at 84 Gidley Way, Horspath, Oxfordshire OX33 1TG

- 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 Tariq Khuja against an enforcement notice issued by South Oxfordshire District Council.
 - The enforcement notice, titled Enforcement Notice C, was issued on 9 September 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of part of a builders yard to a dwelling house (known as Robins Nest) including the partial redevelopment and conversion of a building.
 - The requirements of the notice are to cease using the building as a dwelling house and remove all the facilities required for day-to-day private existence including, but not exclusively, the provision of a kitchen and bath/shower room facilities.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal D Ref: APP/Q3115/C/21/3285146

Land to the south of the dwellinghouse at 84 Gidley Way, Horspath, Oxfordshire OX33 1TG

- 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 Tariq Khuja against an enforcement notice issued by South Oxfordshire District Council.
 - The enforcement notice, titled Enforcement Notice D, was issued on 9 September 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the redevelopment and material change of use of a building from use as a builders yard to use as an office.
 - The requirements of the notice are to cease using the building as an office.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary Decisions

Appeal A is dismissed and the enforcement notice is upheld

Appeal B is dismissed and the enforcement notice is upheld

Appeal C is dismissed and the enforcement notice is upheld

Appeal D is allowed and planning permission is granted in the terms set out in the Formal Decision below

Procedural Matters

1. These Decisions relate to a total of four separate appeals by the same appellant in relation to four separate enforcement notices relating to various parcels of land and buildings all located at land to the south of the dwellinghouse at 84 Gidley Way, Horspath, Oxfordshire. It is convenient to determine the appeals together insofar as the outcome of one appeal affects the outcome of the others. For the same reason, it is convenient to consider the 'legal' grounds for each appeal (Grounds (b), (c) and (d)) before if necessary going on to consider the 'non-legal' grounds for each appeal (Grounds (a), (f) and (g)) as appropriate.

2. The appellant maintains that the four enforcement notices issued in relation to this site are all nullities or are invalid on the basis that, in summary, they have not been signed by an officer authorised to do so. The question of nullity/invalidity does not fall neatly into any of the grounds of appeal set out in section 174(2) of the Town and Country Planning Act 1990 as amended (the 1990 Act). I therefore consider that matter as a discrete topic below.

Nullity/Invalidity

3. The appellant's argument in relation to nullity/invalidity is, in essence, that all the enforcement notices were signed by an officer (Ms Paula Fox) in her own name rather than in the name of the Head of Planning. In that context, the Council's own *Planning Service Authorised Delegated Powers* document dated 2 August 2021 expressly authorises Ms Paula Fox to exercise the delegated powers of the Head of Planning only by signing "in my name", that being a Mr Adrian Duffield or by using a facsimile of his signature. The appellant therefore contends that the enforcement notices were not issued in accordance with the Council's authorised procedures and that the enforcement notices are all nullities/invalid for that reason.
4. The Council concedes that while the officer did affix a signature, she did not affix the correct signature. However, the Council explains that Ms Paula Fox was authorised to activate the notice on the Council's behalf and simply affixed the wrong signature by way of mistake. The Council points out that the notice was not unsigned and had been signed by an officer who did have delegated authority to make the mark. The Council also points out that the all the prescribed information was within the notices and the notices are valid in all other respects.
5. In *Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd* [1997] UKHL 19, the House of Lords held that defects in a notice will not invalidate that notice if the reasonable recipient, with knowledge of the factual and contextual background would not be perplexed by the error¹. That is precisely the position here. The appellant is fully conversant with the factual and contextual background to the issuing of the notices and has clearly not been perplexed by that error that was made.
6. The timing of when this point was first raised is highly relevant in this context. The notice(s) were issued on 9 September 2021 but the matter was not raised until 24 April 2026, two days after the site visit took place. If the appellant had been perplexed by the notices, it is in my view inconceivable that he would left it some four and half years to raise the matter. This reinforces my view that the *Mannai* principle applies in this case.
7. The appellant also relies on the judgement in *Fitzpatrick v Secretary of State for the Environment and Epping Forrest DC* [1990] 1 P.L.R. 8 in which, when considering section 234(2) of the Local Government Act 1972, the court held that any document purporting to bear the signature of the proper officer of an authority is deemed duly given, made or issued until the contrary is proved, and signature includes a facsimile signature. The appellant contends that by not bearing the signature of the Head of

¹ This is known as the *Mannai* principle.

Planning or stamped with a facsimile of the signature of the Head of Planning the enforcement notice(s) is rendered invalid.

8. The Council does not accept that the appellant is correct to cite *Fitzpatrick* as authority for the proposition that the question of whether a notice is invalid or not can be pursued before a planning inspector or alternatively by an application for judicial review. That issue did not arise and was not decided by the Court of Appeal in *Fitzpatrick*. As the Council point out, in *Fitzpatrick* the Court of Appeal found that there was no defect or invalidity in the enforcement notice or the administrative procedures that led to its issue, and it made no ruling on the forum in which such an issue could be raised.
9. Neither does the Council accept that the proposition that the question of whether a notice is invalid or not can be pursued before a planning inspector or alternatively by an application for judicial review was an observation made by Holgate J in *Beg & Others v Luton Borough Council* [2018] JPL 704. This was not a binding part of the decision because it was not necessary for the decision in that case to determine that issue. In *Beg & Others*, the magistrates rejected the argument that the enforcement notice was a nullity because it was alleged not to have been signed by the correct person.
10. The Administrative Court then rejected the subsequent appeal on the basis (a) that a complaint about the person signing an enforcement notice was not an argument that could make an enforcement notice a nullity and so could never have been a defence to the prosecution, and (b) that there was no defect in the way that the enforcement notice had been signed. In the event, it was not necessary for the court to decide whether the complaint could only be raised by judicial review or could also be raised in an enforcement appeal (not least because there never had been an enforcement appeal in that case).
11. Moreover, the Council points out that the issue has already been decided by the High Court in the case of *Britannia Assets (UK) Ltd v Secretary of State for Communities & Local Government and Medway Council* [2011] EWHC 1908 (Admin). In *Britannia Assets (UK)*, the High Court had to consider whether arguments about alleged deficiencies in the local planning authority's decision that it was expedient to issue an enforcement notice could be raised in an appeal under section 174 TCPA 1990. Such arguments form no part of the statutory grounds of appeal in s.174(2) TCPA 1990. The Judge held:

"However, in my judgment, once an Inspector determines that the notice is not a nullity (if that point is raised) his jurisdiction thereafter is governed by the terms of section 174 read in conjunction with section 176 of the Act."

The Council considers that this finding, which was a binding part of that judgment, is to be preferred to the non-binding observations in the *Beg* case.
12. As a matter of principle, the courts have held that an enforcement notice is only a nullity if the defect is evident on the face of the document. It is not open to

the defence in a criminal prosecution to go behind the enforcement notice and challenge the power of the Local Planning Authority to issue the enforcement notice. Consideration of the 'residual group of invalidity grounds', namely bad faith, bias, procedural impropriety or expediency, involve complex assessment and investigation of the background to the issue of the enforcement notice. The courts have held that should be the subject of an application for judicial review.

13. That challenge to the issue of the enforcement notice by way of judicial review is the proper course was also the finding of the courts in *Britannia Assets* (UK). The courts have not specifically addressed whether procedural errors made by a Local Planning Authority could render an enforcement notice invalid. The proper course for the appellant would have been to challenge the enforcement notice by way of judicial review at the appropriate time.
14. In any event, it is clear that the appellant has understood the notices and was able to lodge an appeal(s) on his chosen grounds. Even if the notice is treated as being defective and therefore invalid, as distinct from being a nullity, it would in theory have been open to me to correct the notice provided that I was satisfied that the appellant would not be caused injustice, albeit it is difficult to envisage how I could have corrected an administrative error that occurred in the process of issuing the notice rather than on the face of the notice itself. This reinforces my conclusion that the error that has been identified was properly a matter that the appellant should have pursued through the courts at the relevant time rather than being raised (at a very late stage) as part of these appeal proceedings.
15. The overarching point is that the administrative error that was made in issuing the notice(s) has not caused the appellant any injustice. That is clearly the case, as the appellant was able to mount a full response to the enforcement notices, choosing his grounds of appeal as he saw fit. Consequently, it seems to me that nothing turns on the administrative error that was made. The appellant has not been prejudiced or caused injustice in any way.

Appeals A, B, C and D: preliminary matters

16. Appeals A and B are inextricably interlinked. It is convenient to consider Appeal B in the first instance, since my findings in relation to that appeal will inform my consideration of Appeal A. Appeals C and D can then be taken separately as discrete considerations.

Appeal B: the appeal on ground (d)

17. The appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. In this case, in order to succeed on this ground the appellants must show that the development was substantially complete on the date four years before the notice was issued. The test in this regard is the balance of probability and the burden of proof is on the appellant. This ground of appeal relates only to the two garages and the gravel surface, the appellant not pursuing this ground of appeal in relation to the car port.

18. The courts have held that the phrase 'substantially completed' must be taken as having the meaning, in the case of building operations, that what is required is 'a fully detailed building of a certain character'. The courts preferred a holistic approach in which, where planning consent is made for permission (deemed or otherwise) for a single operation, it is made in respect of the whole of the building operation.
19. The appellant has provided a series of Statutory Declarations from persons familiar with the appeal site stating that the garages were completed in or around August 2017. The Statutory Declarations are properly formatted, signed, dated and witnessed, and include the wording set out in the Statutory Declarations Act 1835 to the effect that the signatory believes and solemnly declares the contents to be true. In these circumstances, I would normally afford these Statutory Declarations due weight. However, for the reasons set out below, I must treat these Statutory Declarations with more than an element of caution.
20. The appellant's own Statutory Declaration sets out in extensive detail the background to the construction of the garages and his personal circumstances at that time. It would not be appropriate to rehearse those circumstances here, but I have read Mr Khuja's Statutory Declaration in full and have taken the information contained within it into account.
21. In his Statutory Declaration, Mr Khuja confirms that the construction of the garages commenced on 13 April 2017 and that the walls, floor and roof were completed by June 2017. According to Mr Khuja, both garages were in use immediately. His Statutory Declaration is supported by three photographs showing the construction of the garages in progress and the delivery of concrete to site. However, these photographs are not dated and consequently are of limited evidential value.
22. Mr Khuja's evidence in this respect is contradicted by his response to a Planning Contravention Notice issued on 20 July 2020, in which he claimed that both of the garages were substantially completed in or around May 2017. That is a month earlier than the date of June 2017 that he states in his Statutory Declaration. This anomaly raises question about the accuracy of the timeline set out in Mr Khuja's Statutory Declaration.
23. In her Statutory Declaration, Mrs Naseem Ditta, the appellant's wife, relates the various stages of the construction of the garages to dates that are important and memorable to her, including family birthdays and her son's graduation ceremony. Relying on those key dates, Mrs Ditta confirms that construction commenced in April 2017 and progressed very quickly, such that the garages were up by early May that year. It is Mrs Ditta's evidence that by 20 June 2017 the brickwork was done, the windows were in, shutters were on and the roof finished. This is a reference to the original flat roof. Mrs Ditta goes on recall that this flat roof bowed inwards and was not stable, and that "within a few days" work started to replace the roofs
24. There is, however, an inconsistency within Mrs Ditta's Statutory Declaration. She carefully explains that 19 July 2017 was an important day for her husband. Based upon that, Mrs Ditta is adamant that the garages were "complete, in use and had *flat* rooves upon them" before that key date (emphasis added). This contradicts Mrs Ditta's earlier evidence that the pitched roofs were replaced

“few days” after 20 June 2017, a whole month earlier than 19 July 2017. I recognise that this may be a typographical error or a misdescription. However, a Statutory Declaration is an important legal document and in the light of other evidence before me this inconsistency is troubling.

25. In his statement, Mr John Patrick Edward Clarke testifies to the fact that he recalls seeing what he thought initially in July 2017 was the completion of the 2no. garages with the removal of the attendant scaffolding. He was then surprised when “only a few weeks later” he saw the scaffolding going back up around the garages and then at that time trusses arriving on site in connection with a new roof going on to each garage. This timescale of “only a few weeks later” is again different to that of a “a few days” described by Mrs Ditta in her Statutory Declaration, and starts a month later too (July 2017 compared to June 2027 as sated by Mrs Ditta).
26. Mr Clarke’s evidence is corroborated by that of Mr Jaweed Mansor Al-Jeboury, an immediate neighbour to the appeal site, who confirms that he saw construction of garages commencing in April 2017 and that both were completed by July or August that year. He further confirms that only a few weeks later (i.e after July/August 2017) he saw scaffolding going up around the completed garages with new roofs being then added to both.
27. Similarly, Mr Gordon Street testifies to seeing the garages being constructed in the Spring of 2017 and thereafter completed in the Summer of that same year. Then at the beginning of Autumn 2017 he remembers that new roofs were added to both garages and that this work was completed in a very quick manner. The evidence of Mr Paul Gibney and Mr Raphael Moroney is entirely consistent with this evidence, but with the other evidence places the construction of the pitched roofs as being anywhere between June, July and the Autumn of 2017. That is a significant discrepancy in dates.
28. The evidence of Ms Angela Irvine of the Bletchley Group Insurance is consistent with this evidence. Ms Irvine was the appellant’s insurance agent at that time and in an exhibit to Mr Kujha’s Statutory Declaration she supplies copies of screenshots from her insurance companies’ system. The first screenshot records a telephone conversation between Ms Irvine and the appellant, during which the latter confirmed that work had started on building the garages in April 2017. The second screenshot dates to early July 2017 and confirms from ongoing discussions with the appellant that the garages are complete. The third screenshot from late July 2017 sees the appellant call to make a claim as the roofs to the garages are now reported as bowing and in need of repair.
29. The difficulty with this evidence is that it only records brief details of telephone conversations between Ms Irvine and the appellant. The information recorded on the screenshots is confined to that given to Ms Irvine by the appellant in those telephone conversations. There is no documentary or photographic evidence on the screenshots to back that up. Furthermore, the information in the third screenshot is not consistent with the dated photographic evidence provided by the Council (see below). This significantly limits the weight that I can attach to this evidence.
30. For reasons that are set out below, I have good reason to question the timeline of events as described in the appellant’s evidence. However, the salient point is that the flat roofs initially installed were defective. It is therefore not

accurate to say, as a matter of fact and degree, that the garages were substantially complete in June/July 2017, even if the appellant's timeline is accurate. Further work was necessary to complete the buildings to a state where they each constituted a fully detailed building of a certain character. The question then becomes whether the garages were substantially complete with the new pitched roofs by the relevant date of 9 September 2017.

31. The veracity of the appellant's evidence is placed in considerable doubt by the photographic evidence produced by the Council. Date-stamped photographs taken during a site visit by a Council officer on 13 September 2017 clearly show both Garage 1 and Garage 2 still at an early stage of construction. These photographs show that the walls of the garages have been constructed to eaves height but the garages are without roofs. Windows and doors have not yet been inserted in the openings, and the buildings are still surrounded by scaffolding. Timber roof trusses can be seen on the ground waiting to be installed.

32. The contemporaneous case officer's notes of the site visit of 13 September 2017 refer to:

"Two very large buildings being constructed. possibly not in curtilage as separate from house by fence"

The case officer's notes refer to the garages *being constructed* (emphasis added), which is entirely consistent with the state of the buildings shown on the photographs taken at the site. The Council confirms that the date of 13 September 2017 is recorded on the metadata of the photographs taken during that site visit. Accordingly, these photographs constitute incontrovertible evidence that the garages were not substantially complete on the date they were taken.

33. It is impossible to reconcile the Statutory Declarations provided by the appellant with the Council's photographic evidence. I have not been provided with any explanation for that. The Council's photographic record of the works as they stood in September 2017 is irrefutable. I note that the Council showed that photographic evidence to the appellant and suggested that he withdrew the appeal on ground (d), but this was not done. In any event, the photographic evidence produced by the Council is to be preferred as being the more reliable. This evidence shows that as a matter of fact and degree the garages were not substantially complete on 9 September 2017. Far from it: the garages were little more than shells on that date. Neither garage can be considered to constitute a fully detailed building of a certain character at that time.
34. Furthermore, there is no evidence whatsoever of the car port being present on that date, there being a clear gap between the two garages under construction. I also note that the gravel surface is not even evident, in any part, in the photographs taken on 13 September 2017. It follows that the gravel surface cannot be considered substantially complete on the relevant date of 9 September 2017.
35. I conclude that, on the balance of probability, the Council was in a position to take enforcement action in respect of the breach of planning control

constituted by those matters stated in the notice. Accordingly, the appeal on ground (d) fails.

Appeal B: the appeal on ground (a) and the deemed planning application

36. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The appeal site is within the Green Belt. The Council has stated three substantive reasons for issuing the enforcement notice, from which the main issues raised are:

- whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt for the purposes of the Framework
- the effect, if any, on the character and appearance of the area, and
- if the breach of planning control alleged in the notice is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt

37. Paragraph 154 of the Framework indicates that development in the Green Belt is inappropriate unless one of the exceptions stated in that paragraph applies. Those exceptions include (g) the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.

38. In order for the exception at paragraph 154(g) to apply, the land must constitute previously developed land (PDL). The definition of PDL is set out at Annex 2: Glossary of the Framework, and (in summary) is defined there 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.

39. There is no dispute that the previous use of the land on which the garages are sited was for agriculture, previously described in various planning applications as being "growing vegetables", "small holding, cultivated", "market garden"; and "paddock". The common denominator is that all of those purposes would have preserved the openness of the land. This is evidenced by a series of aerial photographs embedded with the Council's evidence taken between 1999 and 2016, which show the land on which the garages are located as being open and undeveloped, consistent with the agricultural use of the land at that time(s).

40. Consequently, there is no evidence to show that the land has been lawfully developed and was occupied by a permanent structure and any fixed surface infrastructure associated with it. It follows that the land on which the garages are sited does not constitute PDL.

41. Moreover, even if the land is PDL (which in my view it is not), the exception a paragraph 154(g) only applies where the limited infilling or the partial or complete redevelopment of previously developed would not cause substantial harm to the openness of the Green Belt. The Courts have held that matters relevant to the openness of the Green Belt are a matter of planning judgement, and that openness can have both a spatial aspect as well as a visual aspect.
42. In spatial terms, the garages are both relatively substantial structures. As such, they are individually and cumulatively harmful to the openness of the Green Belt in this location in spatial terms.
43. In visual terms, by reason of their mass, width, height and design, the garages are both dominant and intrusive features in the landscape. As such, they are individually and cumulatively harmful to the openness of the Green Belt in this location in visual terms.
44. The car port is effectively a canopy that links the two garages. As a structure in its own right, the car port has only a limited effect on the openness of the Green Belt in spatial and visual terms. However, the car port has effect of creating a noticeable covered void between the two garages. Consequently, in visual terms at least, the harmful effect of the car port on the openness of Green Belt is significant, and disproportionately more so than if it was a single structure in isolation.
45. The gravel surfaced area has minimal effect on the openness of the Green Belt in spatial terms. However, by reason of its extent and the materials from which it is constructed, the gravel surfaced area has a significantly harmful effect on the openness of the Green Belt in visual terms.
46. I conclude that individually and cumulatively the two garages, the car port and the gravel surfaced area cause substantial harm to the openness of the Green Belt in this location. For this reason also, the breach of planning control alleged in the notice does not benefit from the exception at Paragraph 154(g) of the Framework. I have considered whether the development benefits from any of the other exceptions set out in Paragraphs 154 and 155 of the Framework but conclude that it does not.
47. I therefore conclude that the breach of planning control alleged in the enforcement notice is inappropriate development in the Green Belt for the purposes of Paragraphs 154 and 155 of the Framework. Paragraph 153 of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Character and appearance of the area

48. The appeal site is located in the 'semi-enclosed farmed hills and valleys' of the 'Oxford Heights' landscape character area, as defined in the South Oxfordshire Landscape Character Assessment 2017 (SOLCA). One of the key characteristics of this landscape character area is that the landscape is typically fragmented and intruded upon by roads and built development, although it retains a predominantly rural character.
49. The area surrounding the appeal site exemplifies this key characteristic. The landscape here is bisected by Gidley Way and, to the south of that, by

Cuddesdon Road. The intersection of those roads creates a triangular shaped area comprised mostly of parcels of agricultural land behind residential frontages. This landscape is then further fragmented by the intrusion of the Horspath Park Caravan Site immediately to the south-west of the appeal site. Overall, this triangular parcel of land within which the appeal site sits is predominantly rural in character.

50. Prio to the breach of planning control taking place, the appeal site was largely open and in agricultural use. As such, it contributed to the predominantly rural character of the surrounding area. By contrast, the two garages and car port are structures typically associated with a residential use of land. As such, they are incongruous within and harmful to the predominantly rural character of the area. That harm is exacerbated by the fragmented character of the rural landscape, which is vulnerable to incremental incursions such as that constituted by the two garages and car port.
51. I conclude that the breach of planning control that has occurred unacceptably harms the character and appearance of the area. I therefore conclude that the development is contrary to Policies DES1, DES2, DES7 and DES8 of the South Oxfordshire Local Plan 2035 (Local Plan). These policies require, amongst other things, that all new development should be informed by and respect the existing landscape character.
52. For the reasons set out above, the development also fails to accord with Paragraph 187 of the Framework which, amongst other things, indicates that development should recognise the intrinsic character and beauty of the countryside.

Other considerations

53. The appellant has not identified any specific other considerations that might amount to the very special circumstances necessary to justify the development. In reaching that conclusion, I have considered the personal circumstances of the appellant as explained in his Statutory Declaration and that provided by his wife. Again, it is not appropriate to rehearse those in detail here but I have taken them fully into account.

Green Belt balancing exercise and conclusion on the ground (a) appeal

54. In accordance with paragraph 153 of the Framework, I attach substantial weight to the harm to the Green Belt by reason of the inappropriate nature of the development. I further conclude that the development subject to the notice would unacceptably harm the character and appearance of the area, a matter to which I attach significant weight. These harms could not be overcome by the imposition of suitably worded conditions.
55. Against this, I attach limited weight to the personal circumstances of the appellant which, it seems to me, provide no justification for building the garages without first obtaining the necessary planning permission.
56. Consequently, the harm by reason of inappropriateness and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist.

57. For the reasons set out above, the breach of planning control alleged in the notice is also contrary to policies in the development plan for the area. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan.
58. Accordingly, I conclude that planning permission ought not to be granted in respect of the breach of planning control constituted by the matters stated in the notice and that the appeal on ground (a) should be dismissed.

Appeal B: the appeal on ground (g)

59. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is twelve months.
60. My task in relation to this ground of appeal is to balance the public interest in securing expeditious compliance with enforcement notice against the private interest bound up in the development subject to the notice. In so doing, the starting point is that the development subject to the enforcement notice does cause the harm alleged in the reasons for issuing the notice.
61. The appellant explains that his car collection is extensive and with many high value vehicles. In his view, it is unlikely to be possible to sell all of the vehicles on the land and/or find alternative storage locations for them, all within 12 months. The appellant considers that the high value of many of the vehicles is such that selling them all in bulk to a single purchaser is very unlikely. In his view, it is much more likely that he would have to sell most of the vehicles separately to different buyers. The appellant considers that this will undoubtedly be an exceptionally onerous and labour-intensive task. Accordingly, a compliance period of 2 years is sought.
62. I recognise that selling all the cars in the appellant's collection to a single purchaser is highly unlikely. However, the requirements of the notice include to demolish the two garages and to demolish (or as the case may be dismantle) the carport. There is no requirement in the notice that the cars in the appellant's collection must be sold.
63. I recognise of course that removing the cars in the appellant's collection from within the garages will be a necessary pre-requisite for demolishing the garages and the car port. However, that can be achieved by placing the cars in the appellant's collection in storage off-site. The appellant has adduced no evidence to show that this could not be achieved with the period of compliance specified in the notice. Similarly, the appellant has adduced no evidence to show that the work necessary to demolish the two garages and the car port could not be achieved with the period of compliance specified in the notice.
64. There is also a procedural point to be considered in this respect. The Planning Practice Guidance (PPG) sets out the two circumstances where a temporary permission may be appropriate: (a) where a trial run is needed in order to assess the effect of the development on the area or (b) where it is expected that the planning circumstances will change in a particular way at the end of that period. The period of compliance of 2 years sought by the appellant is tantamount to a temporary planning permission but neither of the two

circumstances in which the PPG indicates that a temporary planning permission may be appropriate apply in this case.

65. In weighing the balance between public and private interests, for the reasons set out above I consider that the public interest in expeditious compliance with the requirements of the enforcement notice outweighs private interest in extending that period of compliance. I am, therefore, not persuaded that there is need to extend the period for compliance with the notice and am satisfied the period of compliance of twelve months stated in the notice is a proportionate response to the breach of planning control that has occurred. Accordingly, the appeal on ground (g) fails.

Appeal A: the appeal on ground (a) and the deemed planning application

66. The breach of planning control as alleged in the notice is, without planning permission: the material change of use of the Land and building identified as "Building A" from part agricultural and part builders yard to a storage use. The allegation is therefore solely concerned with the use of the land and not any operational development associated with that use.
67. The Council has stated three substantive reasons for issuing the enforcement notice, from which the main issues raised are:
- whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt for the purposes of the Framework
 - the effect, if any, on the character and appearance of the area
 - and
 - if the breach of planning control alleged in the notice is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt

68. Paragraph 154 (h) of the Framework indicates that certain forms of development do not constitute inappropriate development within the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include (v) a material change in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
69. The courts have held that the exception at Paragraph 154(h)(v) is not an open-ended category but rather, because of the words "such as", the uses that will be within it should take their flavour or extent from the examples given. The material change of use alleged in the notice does is not of a flavour or extent comparable with any of the examples set out in Paragraph 154(h)(v). Moreover, in any event the storage of the appellant's extensive collection of cars in the open on the appeal site would harm the openness of the Green Belt

in both spatial and visual terms. Consequently, the exception at Paragraph 154(h)(v) of the Framework does not apply in this case.

70. In practice, the material change of use alleged in the notice manifests itself through the erection of the two garages and car port in which the cars in the appellant's collection are stored. For the reasons set out above, the two garages and the car port are harmful to the openness of the Green Belt.
71. I therefore conclude that the breach of planning control alleged in the enforcement notice is inappropriate development in the Green Belt for the purposes of Paragraph 154 of the Framework.

Character and appearance of the area

72. The storage of the appellant's extensive collection of cars in the open on the appeal site would be visually intrusive and would introduce a form of development more usually associated with urban areas. It would therefore wholly out of character with the predominantly rural character of this landscape character area. Furthermore, the harm resulting from the open storage of the appellant's extensive collection of cars is exacerbated by the fragmented character of the rural landscape, which is vulnerable to incremental incursions of development of an essentially urban character.
73. As stated above, in practice the material change of use alleged in the notice manifests itself through the erection of the two garages and car port in which the cars in the appellant's collection are stored. For the reasons set out above, the two garages and the car port are harmful to the predominantly rural character of this landscape character area.
74. I conclude that the breach of planning control that has occurred unacceptably harms the character and appearance of the area and is therefore contrary to Policies DES1, DES2, DES7 and DES8 of the Local Plan.

Appeal A: the appeal on ground (f)

75. The appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Town and Country Planning Act 1990 sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach.
76. In this case, the requirements of notice include to cease the unauthorised storage use of the land including, and not limited to, the removal of all motor vehicles. The purpose of the notice must therefore be to remedy the breach of planning control that has occurred.
77. On 25 June 1975, planning permission (Council ref: P75/N0311) was granted for the construction of a new covered area for use as *storage of builder's*

materials (emphasis added). The appellant maintains that this permission explicitly permits for the storage of building materials at the *appeal site* (emphasis added).

78. It does no such thing. The 1975 permission only relates to Building A as now identified in the notice and its related yard. Insofar only as that land is concerned, the notice cannot prevent the storage of builder's materials and I shall vary the notice accordingly. However, for the avoidance of any doubt, the 1975 permission does not permit the storage of anything other than builder's materials on that land and does not permit the storage of builder's materials (or, for that matter, the storage of anything else, including cars) on any other part of the appeal site.
79. The appellant notes that the notice also seeks the removal of "residential/domestic items" but does not however seek to enforce against a residential/domestic use. The appellant therefore considers that notice cannot properly require the removal of such items.
80. The breach of planning control alleged in the notice is, in summary, the material change of use from part agricultural and part builders yard to a *storage* use (emphasis added). Nothing more, nothing less. The notice does not specify what items are stored as part of that use: for example, the notice does not specify the storage of cars and yet through the absence of any appeal on ground (b)² the appellant patently accepts that the storage use includes the storage of his extensive collection of cars.
81. The same applies to residential/domestic items. These equally fall under the description of a storage use. I am therefore satisfied that the notice can properly require the removal of residential/domestic items. Indeed, not removing residential/domestic items as a component of the storage use would not remedy the breach of planning control that has occurred and therefore would fail to achieve the purpose of the notice.
82. I have considered whether there are any other suitable alternatives to the requirements stated in the notice which would achieve the purpose of the notice with less cost or disruption to the appellant, but none are obvious to me
83. The appeal on ground (f) succeeds only insofar as it relates to the as storage of builder's materials in Building A and its related yard and I shall vary the notice to reflect that. In all other respects, I conclude that the requirements of the notice are not excessive and accordingly the appeal on ground (f) fails.

Appeal A: the appeal on ground (g)

84. For exactly the same reasons as set out in relation to Appeal B, I am not persuaded that there is need to extend the period for compliance with the notice and am satisfied the period of compliance of twelve months stated in the notice is a proportionate response to the breach of planning control that has occurred. Accordingly, the appeal on ground (g) fails.

² Namely that that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters have not occurred.

Appeal C: the appeal on ground (b)

85. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters have not occurred. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice have not occurred. This ground of appeal is expressed in the past tense: i.e. that the matters have occurred. It is therefore not necessary for those matters to have been taking place on the date that the enforcement notice was issued. It is sufficient that they have occurred at some point.
86. It is settled case law that the distinctive characteristic of a dwelling is to afford to those who use it the facilities required for day-to-day private domestic existence. In his Statutory Declaration, Mr Khuja indicates that he started work on 'refurbishing' the flat (his words) at some point after December 2016. Internally, the refurbished property (now known as 'Robin's Nest') provides a bathroom, a kitchen and living space. Therefore, on the date that the enforcement notice was issued, the building provided all the facilities required for day-to-day private domestic existence to facilitate the unauthorised residential use. It is, as a matter of fact and degree, a dwelling. The breach of planning control alleged in the notice has therefore occurred.
87. The appellant does not challenge the description of the breach of planning control alleged in the notice, specifically the material change of use from the material change of use of part of a builders yard *to a dwelling house*. This is a tacit acceptance that the matters stated in the notice have occurred.
88. The appellant does, however, contend that there has not been a material change of use of the property. This would normally constitute an appeal on ground (c): namely that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. However, the way in which the appellant's argument is expressed more properly falls within the scope of an appeal on ground (d). This is considered below.
89. In relation to the alleged operational development comprising the partial redevelopment and conversion of a building, photographs by the Council from various site visits by case officers show significant works to renovate and partially reconstruct the appeal building, with substantial completion occurring at some point between the site visits on 13 November 2017 and 4 July 2018. To some extent, this is confirmed in Mr Khuja's own Statutory Declaration, in which he refers to changing the configuration "to make it more usable". He also describes the removal of rotten wooded doors and the blocking up of the opening as well as fitting of double-glazed doors with windows. In my view, on the evidence available to me those works go beyond simply mere 'refurbishment'. The above evidence is collectively sufficient to demonstrate that, on the balance of probability, the redevelopment and conversion of the building has occurred.
90. I conclude that, on the balance of probabilities, the matters stated in the notice have occurred. Accordingly, the appeal on ground (b) fails.

Appeal C: the appeal on ground (d)

91. In his evidence, the appellant provides a number of Statutory Declarations to demonstrate that the building had been in residential use for many years before he purchased it in 2016. This appears to be uncontroversial.
92. It is, however, settled case law that a use can only become lawful if it continues throughout the relevant immunity period, such that the local planning authority could have taken enforcement action at any time. It follows that if a use that is taking place in breach of planning control is ceased, the immunity 'clock' would then start again.
93. It is also settled case law that there is a difference between an established dwellinghouse, when an occupier does not have to be continuously or even regularly present in order for the building to remain in use as a dwellinghouse, and where there is no established use. In other words, the use can only be dormant if the use has been established as being lawful.
94. There is no evidence before me that the use of the appeal property as a dwelling house prior to purchase by the appellant was ever established as being lawful, either through the granting of a planning permission or the issuing of a Certificate of Lawful Use or Development. It follows from the relevant case law that the continuous use of the appeal property would be interrupted by any significant break in that use.
95. In his Statutory Declaration, Mr Khuja indicates that he started work on 'refurbishing' the flat (again, his words) at some point after December 2016. Photographs provided by the Council from various site visits by case officers show substantial completion occurring at some point between the site visits on 13 November 2017 and 4 July 2018. This is a break of between 11 months and some 18 months when the use as a dwelling house was not taking place and during which the Council could not have taken enforcement action.
96. The evidence is that the property was then used for AirBNB for a short period of time. The Council has provided a copy of the Online Airbnb listings for 'Robins Nest, Gidley Way, Horspath' showing a joining date of December 2017. The listing includes reviews from 9 different guests with dates ranging from October 2018 to September 2019.
97. Short-term holiday lets are generally regarded as having a different character to a dwellinghouse and the use of the property for AirBNB is, as a matter of fact and degree, likely to have resulted in a further material change of use of the property, albeit without planning permission. This would potentially constitute a further break in the use of the property as dwelling house.
98. In his response to the Planning Contravention Notice (PCN) dated 30 July 2020, the appellant confirmed in relation to the use of the property that:

"It is empty, visitors have stayed there approximately a year ago".

That appears to be a reference to the previous AirBNB use. Thereafter the property remained vacant, albeit it would have retained the distinctive characteristics of a dwelling by affording to those who used it the facilities

required for day-to-day private domestic existence. The salient point, however, is that the property was not used as a dwelling during this period.

99. The corollary is that the significant interruptions in the continuous use of the property as a dwelling house amounted, as a matter of fact and degree, to a break(s) in that use. The Council could not have taken enforcement action against the use during any of those periods, simply because the use was not taking place. At no point following the substantial completion of the redevelopment and conversion of the property in or around July 2018 did the use as dwelling house continue uninterrupted for a period of a least four years required to achieve immunity from enforcement under section 171B(2) of the 1990 Act (as in force on the date the Enforcement Notice was issued).
100. I conclude that, on the balance of probability, the Council was in a position to take enforcement action in respect of the breach of planning control constituted by those matters stated in the notice. Accordingly, the appeal on ground (d) fails.

Appeal C: the appeal on ground (g)

101. The period for compliance specified in the notice is again twelve months.
102. The appellant explains that it will be necessary to remove all the private domestic facilities from the building, which he considers would be onerous to do this within the stated period of 12 months, given he is already also (potentially) subject to the onerous requirements in connection the three other notices at the appeal site. In the circumstances of this case, and in the context of these other requirements, a period of 18 months for compliance is sought.
103. The requirements of the notice are to cease using the building as a dwelling house and remove all the facilities required for day-to-day private existence including, but not exclusively, the provision of a kitchen and bath/shower room facilities. The wording "but not exclusively" is superfluous in this context and I will vary the requirement to delete those words.
104. This effectively means removing the kitchen and bath/shower room together with all the other facilities required for day-to-day private existence. That would secure the cessation of the use. The appellant has provided no evidence to show that the removal of the kitchen and bath/shower room facilities the kitchen and bath/shower room together with all the other facilities required for day-to-day private existence could not be achieved within the period of twelve months specified in the notice.
105. I recognise that in view of my conclusions on Appeal A and Appeal B, there would be considerably more for the appellant to do within that same twelve-month period. Nonetheless, that is a matter of logistics rather than any particular technical difficulty in undertaking the works required. There is no evidence before me to show that the appellant does not have the necessary resources to secure compliance with all three notices within the twelve months specified in the notice(s).
106. I am, therefore, again not persuaded that there is need to extend the period for compliance with the notice and am satisfied the period of compliance of twelve months stated in the notice is a proportionate response to the breach of planning control that has occurred. Accordingly, the appeal on ground (g) fails

Appeal D: the appeal on ground (b)

107. The breach of planning control alleged in the notice is the redevelopment and material change of use of a building from use as a builders yard to use as an office.
108. It is the appellant's evidence that the building was used as an office in connection with the previous lawful use of the land as a builder's yard. This would likely to have as an ancillary function to the primary use of the land as a builder's storage yard or, less likely, as part of a mixed (*sui generis*) use, loosely described as a builder's yard, but comprising different elements of use (storage, office and possibly other activities) having a functional and physical nexus within a single planning unit. In other words, throughout that time the primary use of the planning unit was not as an office.
109. That changed when the appellant purchased the property. Thereafter, the use of the building was an office. More likely than not, the office was used for purposes ancillary or incidental to the dwelling known as 84 Gidley Way, albeit I do not have any evidence to show that. In any event, when the appeal building started to be used as an office independently of a builder's yard, a new planning unit was created. A material change of use is likely to have occurred at that point.
110. These works involved in the 'redevelopment' of the building included the removal of the original roof, the raising of the external walls by additional block courses, the reconstruction of a raised roof, the provision of internal wall linings and changes to the fenestration and external rendering of the building. In my view, those works go beyond simply mere 'refurbishment' of the building such that, on the balance of probability, the redevelopment/conversion of the building has occurred
111. I conclude that, on the balance of probabilities, the matters stated in the notice have occurred. Accordingly, the appeal on ground (b) fails.

Appeal D: the appeal on ground (d)

112. In support of this ground of appeal, the appellant has provided a number of Statutory Declarations attesting to the use of the building as an office. On its face, that evidence appears to be uncontroversial. However, in an email dated 12 September 2019, the appellant says:

"I converted the garage to a room (which I am entitled to do under permitted development) Please confirm if I am incorrect. I call it my office as I put a desk in it".

In referring to the conversion of the 'garage' to an office, the appellant would appear to contradict his current claim that the appeal building was already used as an office prior to his own occupation of the building for that purpose. It was, as a matter of fact and degree, a different building.

113. The salient point is that Statutory Declarations provided by the appellant all attest to the use a building as an office when it was ancillary function to the primary use of the land as a builder's storage yard. That use ceased when the appellant purchased the property in or around November 2016. At that point,

a different use of that office ensued and, more likely than not, a material change of use occurred. It is possible that the appellant used the office for purposes ancillary or incidental to his occupation of the dwelling known as 84 Gidley Way throughout that period, albeit I have no evidence to that effect. It is also likely that the office use would have ceased when the works to redevelop/convert the building were taking place, in which case the use of the building as an office of any description would not have been continuous and the immunity 'clock' would have reset.

114. In any event, the enforcement notice was issued in September 2021. Consequently, even if the appellant's use of the office commenced immediately upon his purchase of the property, there has not been sufficient time to secure immunity from enforcement action pursuant to section 171B (3) of the 1990 Act (as in force on the date the Enforcement Notice was issued), given that the immunity period under that section is 10 years.
115. I conclude that, on the balance of probability, the Council was in a position to take enforcement action in respect of the breach of planning control constituted by those matters stated in the notice. Accordingly, the appeal on ground (d) fails.

Appeal D: the appeal on ground (a) and the deemed planning application

116. The Council has stated three substantive reasons for issuing the enforcement notice, from which the main issues raised are:
- whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt for the purposes of the Framework
 - whether the development promotes energy efficiency and sustainable design
 - and
 - if the breach of planning control alleged in the notice is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt

117. Paragraph 154 of the Framework indicates that development in the Green Belt is inappropriate unless one of the exceptions stated in that paragraph applies. Those exceptions include (h), being other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it. These include (iv) the re-use of buildings provided that the buildings are of permanent and substantial construction.
118. The building used as an office is permanent and of substantial construction. The redevelopment/conversion of the building involved the raising of the roof. Consequently, these works have resulted in some loss of openness to the Green Belt. Nevertheless, on a pragmatic level, the use of the existing building

as an office would have no significant effect on the openness of the Green Belt, and certainly no significantly greater effect than the previous use of the building as an office as an ancillary to the primary use of the land as a builder's storage yard. Consequently, in the specific circumstances of this case, I am satisfied that the re-use of the building to facilitate the material change of use to an office should be regarded as being not inappropriate in the Green Belt.

Energy efficiency and sustainable design

119. The reason for issuing the notice is that insufficient information is available with regard to the extent to which principles of the energy efficiency and promotion of sustainable design have been addressed in the unauthorised development. The Council has indicated this issue appears capable of being addressed by the submission of an Energy Statement prepared by a suitably qualified person demonstrating that the building is compliant with these policies or alternatively making recommendations regarding compliance measures that might then be implemented.
120. The appellant has signalled his intention to provide information regarding compliance with the above policies in connection with the ground (a) appeal through the submission of an Energy Report prepared by a suitably accredited professional, on behalf of the appellant. No such report was provided with the appellant's appeal statement following the change of procedure to Written Representations, and I have not been advised that such a report has been submitted subsequently.
121. However, it seems to me that this matter is capable of being resolved through the imposition of a suitably worded condition. In view of the appellant's failure to date to submit an Energy Report, the condition that I shall impose will be of the 'enforcement' type requiring that the use of the building as an office shall cease if appropriate details of appropriate measures are not provided and then implemented. The appellant has indicated in his appeal statement that he would be content with an appropriately worded condition. The appellant has also indicated that the office is for his own use and given the location of the site, I shall additionally impose a condition limiting the use of the office as being ancillary to the dwelling known as 84 Gidley Way.

Appeal D: conclusion

122. For the reasons given above, I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the use as described in the notice, subject to conditions. The appeal on ground (g) therefore does not fall to be considered.

Conclusion

123. I conclude that Appeal A, Appeal B and Appeal C should fail. The appeals will be dismissed and the enforcement notices upheld, with variations as necessary.
124. I conclude that the Appeal D should succeed, and planning permission will be granted subject to conditions.

Formal Decisions

Appeal A Ref: APP/Q3115/C/21/3285143

125. It is directed that the notice is varied by:
126. In paragraph 5(i) of the notice, inserting the words "Other than insofar only as it relates to the storage of builder's materials in Building A and its related yard," before the words "Cease the unauthorised storage use..."
127. Subject to that variation, the appeal is dismissed and the enforcement notice upheld.

Appeal B Ref: APP/Q3115/C/21/3285144

128. The appeal is dismissed and the enforcement notice upheld.

Appeal C Ref: APP/Q3115/C/21/3285145

129. It is directed that the notice is varied by:
- in paragraph 5.1 of the notice, deleting the words "but not exclusively"
130. Subject to that variation, the appeal is dismissed and the enforcement notice upheld.

Appeal D Ref: APP/Q3115/C/21/3285146

131. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the redevelopment and material change of use of a building from use as a builders yard to use as an office at Land to the south of the dwellinghouse at 84 Gidley Way, Horspath, Oxfordshire OX33 1TG as shown on the plan attached to the notice and subject to the following conditions:
1. The use as an office hereby permitted shall only be ancillary or incidental to the dwellinghouse known as 84 Gidley Way, Horspath, Oxfordshire OX33 1TG and for no other purpose.
 2. The use hereby permitted shall cease within 56 days 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:
 - (a) an Energy Statement prepared by a suitably qualified person demonstrating that the building is compliant with policies DES7 and DES8 of the South Oxfordshire Local Plan 2035 and government guidance contained in the National Planning Policy Framework aimed at achieving good design and delivering sustainable development, or alternatively making recommendations regarding compliance measures that might then be implement
- shall have been submitted for the written approval of the local planning authority. The scheme(s) shall include a timetable for their implementation.

- ii) If within 11 months of the date of this Decision the local planning authority refuse to approve the scheme(s) 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 scheme(s) shall have been carried out and completed in accordance with the approved timetable(s). Upon implementation of the approved scheme(s) specified in this condition, those schemes shall thereafter be maintained/retained/remain in use in accordance with details 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.

Paul Freer
INSPECTOR