

## 6. APPEALS UPDATE

### 6.1 PLANNING APPEALS LODGED

Planning appeals received by Dacorum Borough Council between 24 March 2021 and 17 June 2021.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	20/02947/DRC	W/21/3271893	Berry Farm, Upper Bourne End Lane, Hemel Hempstead	Written Representations
2	20/02945/ROC	W/21/3271898	Berry Farm, Upper Bourne End Lane, Hemel Hempstead	Written Representations
3	21/00613/LBC	Y/21/3272860	Witches Hollow, Ringshall Drive, Little Gaddesden	Written Representations
4	21/00612/FHA	D/21/3272861	Witches Hollow, Ringshall Drive, Little Gaddesden	Written Representations
5	21/00228/FHA	D/21/3273077	102 Scatterdells Lane, Chipperfield	Householder
6	4/02109/19/FUL	W/21/3273281	Land off Pipers Hill, Great Gaddesden	Written Representations
7	21/00544/ROC	W/21/3273994	Keepers Cottage, Half Moon Lane, Pepperstock	Written Representations
8	21/00542/FHA	D/21/3274011	2 Timberlakes, Church Lane, Hastoe	Householder
9	21/00358/FUL	W/21/3274202	Honeysuckle Barn, Birch Lane, Flaunden	Written Representations
10	21/00253/FHA	D/21/3274448	8 Dammersey Close, Markyate	Householder
11	21/00535/FUL	W/21/3274477	Land Sw Rosewood, Shootersway Lane, Berkhamsted	Written Representations
12	20/02711/FUL	W/21/3274531	Land Adj No 8 Red Lion Lane, Bridens Camp	Written Representations
13	21/00090/RET	W/21/3275075	Gable End, 1 Threefields, Sheethanger Lane, Hemel Hempstead	Written Representations
14	21/00563/FHA	D/21/3275428	23 Barncroft Road, Berkhamsted	Householder
15	19/02588/MFA	W/21/3275429	Lilas Wood, Wick road, Wigginton	Inquiry
16	20/03932/UPA	D/21/3275458	10 Delmar Avenue, Hemel Hempstead	Householder

17	<a href="#">21/00016/FHA</a>	D/21/3276025	Little Shantock, Flaunden Lane, Flaunden	Householder
18	<a href="#">20/03612/FUL</a>	W/21/3276964	103 Bathurst Road, Hemel Hempstead	Written Representations
19	<a href="#">21/00506/FHA</a>	D/21/3276969	Cloverleaf, Chapel Croft, Chipperfield	Householder

## **6.2 PLANNING APPEALS DISMISSED**

Planning appeals dismissed between 24 March 2021 and 17 June 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	<a href="#">20/01927/FUL</a>	W/20/3264515	Plot 17, Land SE Church Road, Little Gad.	Written Representations
<b>Date of Decision:</b>			29/03/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3264515">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3264515</a>				
<b>Inspector's Key conclusions:</b>				
<p>The Council has not raised an objection to the replacement of the sections of existing fencing on the site, and given these factors I see no reason to reach a different conclusion.</p> <p>The proposed post and rail fencing would be much more substantial in nature, and with the additional enclosure along the extent of the boundary would have a much greater visual impact overall. These features would be readily apparent in views from the surrounding landscape, including towards the Church from Little Gaddesden along Church Road and from the public right of way across the site which connects the Church to the village, and would encroach on the existing openness of the area.</p> <p>The fencing itself would be widely visible across the surrounding landscape, and together with the additional enclosure of this land, would result in a conspicuous and intrusive loss of openness.</p> <p>I find that the proposal taken as a whole would diminish the open and rural character and appearance of the site, detracting from the natural beauty and rural character of the landscape that it forms part of. This would be harmful to the character and scenic landscape qualities of the Chilterns AONB. The character and the appearance of the Little Gaddesden CA and the setting of the Church of St Peter and St Paul would also be harmed, adversely affecting the significance of these designated heritage assets.</p>				

No.	DBC Ref.	PINS Ref.	Address	Procedure
2	<a href="#">20/01236/FUL</a>	W/20/3265734	3 Gaveston Drive, Berkhamsted	Written Representations
<b>Date of Decision:</b>			30/03/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265734">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265734</a>				
<b>Inspector's Key conclusions:</b>				
<p>The scale and height of the proposed dwelling would be in keeping with other buildings nearby, and I am also satisfied that its overall appearance and external materials would be compatible with the mixed development in the vicinity.</p> <p>However, the depth and overall size of the plot to serve the dwelling would be far smaller than is typical within this area. The close relationship of the dwelling to its boundaries and limited spacing around the building would be apparent, including from the street scene, and would be strikingly at odds with the more generous plots and spacing afforded to other dwellings nearby. I find as a result that the dwelling would appear cramped on its plot.</p> <p>I conclude that the proposal would fail to provide acceptable living conditions for future occupiers of the dwelling with particular regard to the provision of private amenity space.</p> <p>An upper level window to the side of the rear projection would face towards 3 Gaveston Drive. This would be the sole window to a bedroom, and would afford elevated and uninterrupted views down onto the private amenity space immediately to the rear of the neighbouring dwelling at very close proximity. The resulting overlooking would cause a significant loss of privacy which I find would be detrimental to the living conditions of the occupiers.</p> <p>The proposal would make effective use of the site to provide one additional dwelling towards local housing supply. The contribution would be limited by the small amount of development, but I nevertheless give this moderate weight bearing in mind the lack of 5 year supply. There would also be social and economic benefits associated with construction and occupation of the dwelling, but these would similarly be limited by the modest scale of the development.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
3	<a href="#">20/01677/FUL</a>	W/20/3262312	13 Shrublands Road, Berkhamsted	Written Representations
<b>Date of Decision:</b>			06/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3262312">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3262312</a>				
<b>Inspector's Key conclusions:</b>				
<p>Although I appreciate that the house has been designed to reduce its impact within the street, its form and appearance would contrast with the established characteristics of the houses found in the locality, with one level of</p>				

<p>accommodation and part of its external space situated on sunken ground within the site. The later insensitive single storey flat roof extension to the rear of the appeal property would be removed, but replaced by a taller flat roof construction arranged on a larger floorplan. This would be sited close to the retained extension and project significantly closer to the Avenue. The proportions and form of the proposed house, including the balance between solids and voids and the extent of detailing would also appear cumbersome and jar with the refined architecture of the other houses nearby.</p> <p>The proposed house, which would be visible over the existing boundary wall and through proposed openings in it, would therefore stand out as an ungainly addendum to the street that would be more apparent than the extension it seeks to replace.</p> <p>I conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified. I therefore conclude that the proposal would fail to preserve or enhance the character or appearance of the street scene and surrounding area, including the Berkhamsted Conservation Area.</p> <p>I ... conclude that the proposal would not provide suitable living conditions for future occupiers, in respect of private and shared outdoor space.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
4	4/00134/19/FUL	W/20/3256735	13 Shrublands Road, Berkhamsted	Written Representations
<b>Date of Decision:</b>			06/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3256735">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3256735</a>				
<b>Inspector's Key conclusions:</b>				
<p>The proposed houses would be designed to reflect those within the vicinity of the site, with a carefully considered palette of materials, and the insensitive extensions to the rear of the appeal property would be removed... Nevertheless, the extent of built development proposed would appear cramped in comparison to the more spacious arrangement of houses set within gardens found in the immediate context.</p> <p>Most of the plot would be filled with development, with very little space remaining between it and the houses to the south and east. The overall scale of the proposed houses would therefore appear oppressive and out of step with the predominantly smaller, narrower fronted properties in the Avenue, and close the gap offering views of the verdant backdrop of surrounding properties.</p> <p>The public benefits I have outlined above would not justify allowing development that would fail to preserve or enhance the character and appearance of the Berkhamsted Conservation Area.</p> <p>The extent and quality of private and shared outdoor space that would be available to the future occupants of the proposed development would therefore</p>				

<p>be so deficient that it would be harmful to the living conditions of future occupiers.</p> <p>Despite the absence of parking restrictions in Shrublands Road and Shrublands Avenue, the shortfall in vehicle and cycle parking provision is likely to encourage additional on-street parking in surrounding residential streets; and the capacity for on-street parking in Shrublands Avenue would be reduced by the vehicle crossovers for curtilage parking for the proposed houses. I therefore conclude that suitable cycle and vehicle parking would not be provided for the proposed development.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
5	4/02286/18/MFA	W/19/3242910	Plots 2&3 Kier Park, Maylands Ave, Hemel Hempstead	Written Representations
<b>Date of Decision:</b>			06/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3242910">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3242910</a>				
<b>Inspector's Key conclusions:</b>				
<p>The proposed use of the site for residential purposes is not cited in the Council's refusal notice and accordingly I understand that the principle of residential use is acceptable to the Council on this site. Nevertheless, its adopted policies and guidance on seeking a landmark building or high quality development across the whole site remain adopted policy...the design of the scheme would fail to deliver a landmark building in line with Policies CS10 of the Core Strategy 2013 and Saved Policy 111 of the Local Plan 2004.</p> <p>Although the proposed materials for buildings A and E differentiate them from the other blocks along the Maylands Avenue frontage this is insufficient to break from their uniformity, a feature which is reinforced through the continuous building line. The sense of uniformity is further maintained through the 'industrial rhythm' of regular spacing of windows with recessed bricks or louvred infill panels. These provide only granular distinctions in the design of this façade where stronger design features are required to enliven the whole of this frontage. This matter is compounded by the scheme's proposed location close to the back edge of the pedestrian footway. This adds to the perception of the scheme's dominance along this frontage which could have been addressed by a wider set back as suggested in the Council's guidance.</p> <p>Both parties accept that the flats along Maylands Avenue would experience noise disturbance generated by the high volumes of traffic from this road well in excess of noise levels recommended in guidance for external amenity spaces. Although within flats there would be adequate sound insulation, disturbance would arise when the doors/windows facing the road would be opened to allow ventilation. I do not accept the appellant's suggestion that mechanical ventilation would suffice and windows would not require to be opened or that a condition could be used to secure the doors/windows in order to minimise the impacts of noise. This would undermine both the integrity of the scheme and the living conditions of its occupiers.</p>				

I conclude on [on the issue of sunlight and daylight] that the proposal would conflict with Policy CS12 which require new development to be of a good design including ensuring adequate levels of sunlight and daylight to rooms.

The balconies/recessed spaces have only limited value as amenity space because of their small size. These problems are compounded in the case of balconies or the recessed space for flats along Maylands Road and on the north side of blocks B and D due to the impact of excessive levels of noise from traffic and a northerly aspect respectively. The appellants appear to recognise the limitations of this provision and as an alternative suggest that facilities located in 3 other locations in the wider area could suffice as alternative space. I conclude on this issue that the proposal would conflict with Policy CS12 which require new development to have a satisfactory level of amenity space.

The quantum of development proposed is excessive for this site and would result in development which would compromise the living conditions of future occupiers. Accordingly, it is in conflict with Policies CS10, CS12 and CS34.

Both parties acknowledge that the Council cannot demonstrate a 5 year supply of deliverable housing. Overall, I conclude that the harm caused in this case would significantly and demonstrably outweigh the benefits identified when assessed against the policies in the Framework taken as a whole. As such the proposed development does not benefit from the Framework's presumption in favour of sustainable development.

No.	DBC Ref.	PINS Ref.	Address	Procedure
6	<a href="#">20/01639/FUL</a>	W/20/3264109	36 Kitsbury Road, Berkhamsted	Written Representations
<b>Date of Decision:</b>			12/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3264109">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3264109</a>				
<b>Inspector's Key conclusions:</b>				
<p>Given the variation in the style and designs of buildings that make up the street scene of Kitsbury Road, I do not consider that the appearance of the proposed dwelling would itself be incompatible. Its smaller scale and position at a lower ground level also mean that it would appear subordinate to No 36.</p> <p>However, it would be positioned entirely forward of the strong building line formed by the side of No 36, the front elevations of dwellings on Kitsbury Terrace, and The Grey House...it would stand out against the prominent bays and detailing of their north-facing elevations...[it] would result in a significant reduction in the existing openness on the appeal site and loss of a large part of the landscaped setting to No 36.</p> <p>I find that the proposed dwelling would be intrusive, and that the development would cause significant harm to the setting of No 36, a locally listed building, and to the character and the appearance of the CA and thus its significance. Given the scale of the development and the magnitude of impact on the wider</p>				

<p>area, I find that harm to the CA would be less than substantial in the terms of the National Planning Policy Framework.</p> <p>I do not find that the public benefits [delivery of housing and economic/social] of the proposal would be sufficient to outweigh this harm.</p> <p>The proposal would not therefore introduce new overlooking to currently private space, and I do not find that it would cause a significant loss of privacy experienced by occupiers of No 5 in comparison to the existing situation so as to harmfully diminish their quality of life. I therefore conclude on this main issue that the proposal would not result in unacceptable harm to the living conditions of the occupiers of 36 Kitsbury Road or 5 Kitsbury Terrace.</p> <p>Even if I were to accept the Council's suggestion that the dwelling could be occupied as a 4-bedroom property increasing the overall shortfall on the site from 1.25 to 2 spaces, I consider that there would be likely to be sufficient on-street capacity to absorb additional unmet demand for vehicle parking arising from the development over and above the existing shortfall of 1 space. In this context, I am satisfied that flexible application of the standards within the Parking SPD would in this particular case be justified, and I see no reason that the proposal would cause unacceptable harm to the safety or convenience of users of the adjacent highway network.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
7	<a href="#">20/01587/FHA</a>	D/20/3260175	16 Horselers, Hemel Hempstead	Householder
<b>Date of Decision:</b>			13/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3260175">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3260175</a>				
<b>Inspector's Key conclusions:</b>				
<p>The proposed ground floor rear extension (the rear extension) would add bulk to the host dwelling and cover a not insignificant footprint. Its intended rear building line would fail to closely respect the usual extents of other properties contained within the row.</p> <p>When considered in conjunction with a generously sized flat-roofed two-storey rear addition (the two-storey rear addition) that is already in place and further additions now intended at roof level, the rear extension would promote the host dwelling appearing as excessively sized and of disjointed composition.</p> <p>The rear extension would be visible, at least in-part, from a range of privately accessible residential vantage points. For the above reasons, the proposal would cause harm to the character and appearance of the host dwelling and surrounding area.</p> <p>The proposal would not cause harm to the living conditions of neighbouring occupiers at No 18 having particular regard to potential visual intrusion.</p>				

No.	DBC Ref.	PINS Ref.	Address	Procedure
8	<a href="#">20/01166/FHA</a>	D/20/3260518	2 Bucklands Croft, Wilstone	Householder
<b>Date of Decision:</b>			23/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3260518">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3260518</a>				
<b>Inspector's Key conclusions:</b>				
<p>The proposed extension would project to the rear of the building. It would be the first significant rearward projection to this part of Bucklands Croft and would break from the established linear form of development. As such, it would be harmful to the character of the group of buildings, and to that of the wider Conservation Area.</p> <p>The appeal proposal would preserve the appearance but harm the character of the Conservation Area, and therefore conflicts with the Act and with Policy CS27 of Dacorum's Core Strategy 2013.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
9	<a href="#">20/00818/FUL</a>	W/20/3259756	Akeman Business Park, Akeman Street, Tring	Written Representations
<b>Date of Decision:</b>			27/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3259756">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3259756</a>				
<b>Inspector's Key conclusions:</b>				
<p>I do not doubt that the relocation of the drying shed would be difficult and costly, but its removal would result in the loss of significance arising from its historic association with the industrial heritage of the site. While the shed is not attractive, and I do not find that its removal would be harmful to the appearance of the CA, there would be a loss of historic character because of the development.</p> <p>In addition, the removal of the drying barn from the site would result in the loss of a non-designated heritage asset. A balanced judgment is therefore necessary having regard to the scale of any harm or loss, and the significance of the drying shed.</p> <p>The development would deliver two new houses, supporting the Government's objective of significantly boosting the supply of homes. This is a public benefit and attracts additional weight given that there is a shortfall in the Council's supply of housing land. Set against this is the great weight to be given to the harm to the CA and the need to form a balanced judgment regarding the loss of the drying barn.</p> <p>I therefore find that the development would cause unacceptable harm to the character of the CA and the unjustified loss of a non-designated heritage asset.</p>				

No.	DBC Ref.	PINS Ref.	Address	Procedure
10	<a href="#">20/01406/FHA</a>	D/20/3259657	13 Clarence Road, Berkhamsted	Householder
<b>Date of Decision:</b>			27/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3259657">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3259657</a>				
<b>Inspector's Key conclusions:</b>				
<p>In Clarence Road the houses appear generally to retain much of their original appearance, which contributes to the overall character of the CA.</p> <p>The dormer window would be a large and bulky addition to the rear roof slope of the property, dominating the roofscape within this terrace of houses. While it would not occupy the full rear roof slope, its size would be such that there would be little of the roof slope retained, and as such it would be an incongruous and uncharacteristic feature in the area, harmful both to the character and the appearance of the CA. [The rooflights] would result in the reduction in the consistent and largely unaltered original character of the terrace as seen from the street. As such, the introduction of rooflights to the front roof slope would result in additional harm to the character and appearance of the CA.</p> <p>As the harm would be restricted to a single dwelling it would amount to less than substantial harm to the significance of the CA. No public benefits have been identified by the appellants. The appeal proposal would result in unacceptable harm to both the character and the appearance of the CA.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
11	<a href="#">20/02404/FUL</a>	W/20/3265286	34 New Park Drive, Hemel Hempstead	Written Representations
<b>Date of Decision:</b>			06/05/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265286">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265286</a>				
<b>Inspector's Key conclusions:</b>				
<p>The appeal scheme is for a detached property with flank garage. It would have a narrow frontage to Leverstock Green Road, in stark contrast to the established character of the area. The site's proposed garden area would be small, in contrast with those of the surrounding area and result in overlooking to the rear garden of No. 36 New Park Drive. Furthermore, the development of the site, would significantly reduce the rear garden areas of both the host property and the one which is being constructed. This would adversely impact on the living conditions of their future occupiers. For these reasons, the proposed development would be incongruous given the existing character and open qualities of the surrounding area.</p> <p>Furthermore, being set so close to the rear elevations of both the host property and the one which is being constructed, the proposed development would adversely impact on the living conditions of occupiers of these properties. This</p>				

	would be caused by an increased sense of enclosure which would be at variance the surrounding character of openness between dwellings.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
12	<a href="#">19/02948/RET</a>	W/20/3258742	26 Morefields, Tring	Householder
	<b>Date of Decision:</b>		11/05/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3258742">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3258742</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The decking covers a significant expanse of the watercourse, concealing the flowing water. The landscaping of the terraced banks with shingles interrupts the green appearance of the banks to either side of the decking, harming the overall natural appearance of the watercourse. The introduction of such a substantial expanse of decking and the hard landscaping of the banks results in a jarring and uncharacteristic appearance to the appeal site within its surroundings.</p> <p>The decking is a much larger and more substantial structure than the adjacent bridges which provide passage between banks of the watercourse. Given its size and the limited distance between its underside and the surface of the water it restricts access to the watercourse along its length. It also restricts light to the water underneath. The development therefore has an unacceptable effect on the watercourse.</p> <p>I consider that the development has harmed the ecological value and habitat potential of the section of watercourse within the appeal site. The presence of open, flowing water and green banks along the watercourse provides a habitat for birds, insects and other species. That is no longer the case within the appeal site due to the shading of the water and hard landscaping.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
13	<a href="#">20/00589/FUL</a>	W/20/3259290	R/O The Spice Village, Chapel Croft, Chipperfield	Written Representations
	<b>Date of Decision:</b>		11/05/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3259290">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3259290</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>There are extant permissions for terraces of five and six houses and associated development on this site. These permissions are similar in nature to the appeal proposal. The appellant can implement either of these permissions should the appeal fail and has indicated that the six house scheme represents their fallback position. This attracts considerable weight in the determination of this appeal.</p>			

The appeal proposal would be a denser form of development than those previously approved. The houses would be narrower than those previously approved, while the terrace as a whole would be wider. The terrace would sit much closer to the street than the neighbouring Chantry View development, emphasising its greater width with little relief provided by the setback of the three central houses in the row. The terrace would extend much closer to the properties on The Street, reducing the sense of spaciousness around them and encroaching significantly on the visibility of the Baptist church to the rear of the site from Chapel Croft, which is prominent in the street scene due to its elevated position, steeple and high ridgeline. The reduction in space between the terrace and properties on The Street would be significantly greater than in the extant permission, resulting in a harmful reduction of the spacious and open character in this location.

The footpath to the residential parking would be reduced in length, resulting in potential conflicts between pedestrian and vehicle traffic using the access. [The parking and access] issues contribute to the overall impression of a cramped and overly dense development.

The development would therefore fail to preserve both the character and the appearance of the CA.

No.	DBC Ref.	PINS Ref.	Address	Procedure
14	<a href="#">4/01709/19/FUL</a>	W/19/3237919	Land At Featherbed Lane, Hemel Hempstead	Inquiry
<b>Date of Decision:</b>			07/06/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3237919">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3237919</a>				
<b>Inspector's Key conclusions:</b>				
<p>The use for which planning permission is sought is two gypsy/traveller pitches. Based on all I heard, I am satisfied that the appellant and his family are persons of nomadic habit of life who meet the definition within the PPTS. I note the Council arrived at the same conclusion. With such limited and contradictory information, it is difficult to gauge with any level of clarity whether [the proposed occupier of the second pitch] and her son do still lead a nomadic way of life for an economic purpose or if indeed they have ceased to travel permanently for health or other reasons. In the circumstances, I simply cannot be satisfied that [they] meet the PPTS definition.</p> <p>In acknowledging that the use is inappropriate development in the Green Belt, the appellant accepts that there is an effect on openness which is not preserved.</p> <p>Clearly, the appeal site would not be free from development if the 2018 permission was implemented for the stables development which includes an access and hardstanding. Even so, openness has undoubtedly been reduced through the bulk of the caravans, parked vehicles together with the expanse of hardstanding. To my mind the loss of openness is significant. There is also</p>				

a failure to assist in safeguarding the countryside from encroachment contrary to one of the Green Belt purposes within paragraph 134(c) of the Framework.

The harsh solid fencing and hardstanding with introduction of caravans and vehicles associated with the residential use is not in keeping with the rural environment prevalent on this side of the A41. The level of harm can be mitigated to a limited degree through improved landscaping and layout of the site including removal of harsh boundary treatments. It would not overcome the harm to the character and appearance of this area of countryside which would remain significant.

I note that the Inspector in the 'Bobsleigh' appeal recorded how in 2017 there had been a backlog in supply of pitches with none delivered from 2012-2017 which would leave a net shortfall of 3 pitches even if the 12 pitches for LA1 and LA3 were delivered within 5 years. This demonstrates an historic under-supply of pitches and poor track record against delivery. The figures were revised by the 2019 GTAA but the Council is still yet to deliver any pitches. There is a current unmet need for sites and a backlog which should, but by the Council's own predictions, will not, be met by 2022. However, there is nothing to suggest that the planning permissions against policy allocations LA1 and LA3 will not be finalised in the short term. There is a very realistic prospect that those developments will be delivered within 5 years to meet the identified need over the next 5 years. On the evidence before me and with reference to Paragraph 10 PPTS and footnote 4, there is a 5 year supply of specific deliverable sites to 2026.

From all I heard, the appellant has a clear personal need for a site and his local connections weigh in his favour. The Council accepts that there are no lawful alternative sites currently available to the appellant in the Borough. [In respect of the proposed second occupier and her son] there are too many uncertainties over their circumstances to attribute more than limited weight.

As established by case law, the best interests of the children are a primary consideration. No other consideration can be inherently more important than the need to safeguard and promote their welfare. Information has been provided by the appellant regarding ongoing health and educational needs for the future. I have taken these into account. There are no alternative available sites. Clearly, eviction from this site would not be in the best interests of the children who would benefit from a settled base and ongoing schooling.

Unquestionably the development amounts to intentional unauthorised development in the Green Belt to which I attribute moderate weight against the grant of permission.

On balance, I consider that the other considerations do not clearly outweigh the totality of harm that I have identified. Consequently, the very special circumstances necessary to justify a permanent permission do not exist.

I am mindful of the delay [in delivering pitches] that has occurred already and overly optimistic forecasts in the past. Realistically, and to allow for slippage I

	<p>consider 5 years to be more appropriate should a grant of permission be warranted. This case is quite finely balanced. However, the lesser harm which would arise to the Green Belt and character and appearance of the area by making the grant of permission limited in time to 5 years would tip the balance in favour of a grant of personal permission to the appellant. In that scenario, the very special circumstances needed to justify a temporary permission would exist. A case is only made out on the basis of the best interests of the children and thus the personal circumstances of the appellant for one pitch. A case has not been made out to satisfy me that there are sufficient personal circumstances to weigh in the balance to warrant the grant of temporary permission for a second pitch.</p> <p>As Appeal B is for two pitches, there was consensus that a condition could not restrict the grant of permission to one pitch only for the appellant. This appeal shall be dismissed, accordingly.</p>
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### **6.3 PLANNING APPEALS ALLOWED**

Planning appeals allowed between 24 March 2021 and 17 June 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	<b>20/00758/FHA</b>	D/20/3258261	24 Finch Road, Berkhamsted	Householder
<b>Date of Decision:</b>			12/04/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3258261">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3258261</a>				
<b>Inspector's Key conclusions:</b>				
<p>The precise orientation of the site indicates that only during certain daylight hours, when the sun is rising, would there exist the realistic potential for the proposal to influence levels of sunlight able to reach the rear of No 22. It is important to note that the rear part of the proposed side extension would be served by a roof of subservient height and pitched form and would be set slightly forward when compared to the rear building line of the works intended at ground floor level beneath. The 45-degree rule has been referred to at various points in the written evidence that is before me, and annotations in this regard appear upon the submitted plans. This rule is supported by British Research Establishment guidance<sup>2</sup> and can assist in assessing the effects of a development proposal upon levels of sunlight. The submitted plans indicate that the 45-degree rule is passed when No 22's glazed double doors are assessed on either a horizontal or vertical axis.</p> <p>In the above context, whilst taking into account that No 24 sits at a slightly higher level when compared to No 22, I find that the proposal would not result in any undue loss of sunlight for the occupiers of No 22. This is even</p>				

<p>when acknowledging the recessed nature of No 22's patio area. I am similarly satisfied that levels of daylight would not be unduly diminished.</p> <p>Moving on to consider potential visual intrusion, the modest extent of the intended rear projection and the stepped-down nature of the proposed pitched roof to the rear are factors that offer assurances that the works would have an acceptable effect.</p> <p>For the above reasons, the proposal would not cause harm to the living conditions of neighbouring occupiers at No 22, having particular regard to sunlight and potential visual intrusion.</p>				
<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
2	<a href="#">20/03046/FHA</a>	D/21/3271067	24 Lockers Park Lane, Hemel Hempstead	Householder
<b>Date of Decision:</b>			17/06/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3271067">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3271067</a>				
<b>Inspector's Key conclusions:</b>				
<p>The proposal would increase the height of the closest part of the appeal building, but with regard to the existing relationship that I observed, I consider that any change in views or outlook from these windows to No 22 would in reality be limited, and would not detract from the quality of life experienced by these occupiers.</p> <p>Turning to consider light, I acknowledge that the development would be to the south of No 22. However, the appellant indicates that it would not intrude a 45 degree angle taken from the centre line of the ground-floor window to the front of the side projection to No 22. In addition, the facing ground-floor windows to the side of this neighbour serve a hallway rather than a habitable room, or are secondary to a room which includes other windows set forward of the extension. Moreover, I have already noted that the extension would be no higher or deeper than the host dwelling which is of fairly limited depth, and it would be of modest width. Given these factors and the orientation and existing relationship of the appeal building to No 22, I do not consider that the development would cause significant new overshadowing or loss of sunlight or daylight so as to impact meaningfully on the living conditions of occupiers.</p> <p>I conclude that the proposal would not unacceptably harm the living conditions of the occupiers of 22 Lockers Park Lane with respect to outlook or light.</p>				

## **6.4 PLANNING APPEALS WITHDRAWN**

Planning appeals withdrawn between 24 March 2021 and 17 June 2021.

**None.**

(Appeal below was not previously reported).

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	20/00274/RET	W/20/3265546	Berkhamsted Golf Club, The Common, Berkhamsted	Written Representations
	<b>Date of Decision:</b>		11/01/2021	

## **6.5 ENFORCEMENT NOTICE APPEALS LODGED**

Enforcement Notice appeals lodged between 24 March 2021 and 17 June 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	E/19/00444/NAP	C/21/3274933	Plot 1, Cupid Green Lane, Hemel Hempstead	Written Representations

## **6.6 ENFORCEMENT NOTICE APPEALS DISMISSED**

Enforcement Notice appeals dismissed between 24 March 2021 and 17 June 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	E/20/00101/NPP	F/20/3262176	121 High Street, Markyate	Written Representations
	<b>Date of Decision:</b>		10/05/2021	
	<b>Link to full decision:</b>		<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3262176">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3262176</a>	
	<b>Inspector's Key conclusions:</b>			
	<p>Two galvanised metal fume extraction flues, subject of the notice, have been installed and emerge and project vertically from the flat roof of the single storey rear addition. They are large structures of overtly modern character and appearance constructed in modern materials. Without doubt they have affected the character of the building. LBC is required for the works carried out and has not been granted. The appeal on ground (c) therefore fails.</p> <p>it is clear from the appellant's submissions that he was aware of the poor operation of the older system for some time before installing the new equipment. He could therefore have sought advice and prepared an application for LBC before undertaking the works subject of the notice.</p>			

<p>10. Taking account of these factors, and with no other convincing evidence to suggest otherwise, I conclude that the installation of the new extraction equipment and flues, subject of the notice, was not so urgently necessary for safety and health, or for preservation of the building, that an application for LBC could not have been made beforehand. Consequently, the tests I have set out above have not been satisfied and the appeal on ground (d) fails.</p> <p>Contrary to the appellant's views, I consider that these large modern flues are highly prominent modernising features starkly at odds with the character of the listed building. In both short and long range views from Hicks Road the vertical projection of the bulky equipment cuts through the eaves line of the historic roof and also substantially obstructs views of the rear first floor timber casement windows. As such, the works result in considerable harm to the character and integrity of the listed building. As such, they also fail to preserve or enhance the character or appearance of the Markyate CA.</p> <p>While operation of the business indirectly contributes to the local economy, and cooking fumes and noise from extraction equipment has improved, these limited public benefits do not individually or cumulatively outweigh the harm I have identified.</p>				
<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
2	<a href="#">E/20/00249/LBG</a>	F/20/3261709	57 St Johns Road, Hemel Hempstead	Written Representations
<b>Date of Decision:</b>			26/05/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3261709">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3261709</a>				
<b>Inspector's Key conclusions:</b>				
<p>The replacement windows now inserted into the openings are of uPVC construction. They have relatively thicker and wider frames with glazing bars surface-mounted across the outer glass, rather than being structural elements of the frame separating individual panes. The uPVC material also has a modern shiny finish with a precision machine-produced quality. The windows also give off a noticeable 'double-register' reflection. Taken together, these factors emphasise their appearance as modern alterations to a historic building. Irrespective of whether the works carried out result in any harm, or whether the rear elements are readily visible in public views, they have undoubtedly affected the character of the listed building. The appeal on ground (c) therefore fails.</p> <p>I am not convinced that the replacement of the door represented the minimum urgent works necessary for safety and health or to preserve the listed building. Moreover, the appellant did not purchase the property until later in April 2019, and so she had time after receiving her survey report to seek advice and make an application for listed building consent before undertaking the works. Thus the appeal on ground (d) fails.</p> <p>The uPVC replacement windows and door inserted have non-structural glazing bars, the white uPVC material has a modern production sheen finish</p>				

	<p>and the internal gap between the two panes of glazing is of a depth that results in a noticeable double reflection. The frames, with visible trickle vents, appear heavier in composition than the more slender and refined timber windows they replaced. Taking these factors in combination, the replacements overall have an unambiguously modern appearance. As such, they contrast sharply and inappropriately with the traditional and historic fabric and character of the listed building. Consequently, I conclude that the works carried out result in harm to the character and historic interest of the listed building. The appeal on ground (e) fails.</p> <p>The appellant's suggestion of adding timber beading and putty or paint to the frames does not address all of the harm previously described. Indeed I am not persuaded they would alleviate any of the harm to the historic character of the building. There is a significant risk that they could result in more harm. It is clear to me that the requirements of the notice do not exceed what is needed to alleviate that loss. Consequently, the appeal under ground (j) fails.</p> <p>I consider that a compliance period of 3 years for all of the LBEN requirements (1-38) would be more reasonable. The appeal on ground (h) therefore succeeds to this extent and I will vary the LBEN accordingly</p>
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## **6.7 ENFORCEMENT NOTICE APPEALS ALLOWED**

Enforcement Notice appeals allowed between 24 March 2021 and 17 June 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	<a href="#">E/19/00321</a>	C/19/3237920	Land At Featherbed Lane, Hemel Hempstead	Inquiry
	<b>Date of Decision:</b>			
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3237920">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3237920</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The appellant contends that there is no longer an agricultural use, but a mixed caravan site and equestrian use following implementation of the 2018 permission. The Council disputes that the approved development was ever begun or that it authorised an equestrian use. Even if an equestrian use could be inferred from the grant of the 2018 permission, I am not satisfied on the evidence before me that the development was begun under section 56 of the 1990 Act. Moreover, there was no change of use to an equestrian use at the time of issue of the enforcement notice. Not only were no horses identified as being present, there was no tack room to serve an equestrian use. I find as a matter of fact that those matters as alleged have occurred. The ground (b) appeal fails.</p>			

The use for which planning permission is sought is the siting of mobile homes/caravans for residential purposes.

In acknowledging that the use is inappropriate development in the Green Belt, the appellant accepts that there is an effect on openness which is not preserved. Clearly, the appeal site would not be free from development if the 2018 permission was implemented for the stables development which includes an access and hardstanding. Even so, openness has undoubtedly been reduced through the bulk of the caravans, parked vehicles (and a portaloo) together with the expanse of hardstanding. To my mind the loss of openness is significant. There is also a failure to assist in safeguarding the countryside from encroachment contrary to one of the Green Belt purposes within paragraph 134c) of the Framework.

The harsh solid fencing and hardstanding with introduction of caravans and vehicles associated with the residential use is not in keeping with the rural environment prevalent on this side of the A41. The level of harm can be mitigated to a limited degree through improved landscaping and layout of the site including removal of harsh boundary treatments. It would not overcome the harm to the character and appearance of this area of countryside which would remain significant.

I note that the Inspector in the 'Bobsleigh' appeal recorded how in 2017 there had been a backlog in supply of pitches with none delivered from 2012-2017 which would leave a net shortfall of 3 pitches even if the 12 pitches for LA1 and LA3 were delivered within 5 years. This demonstrates an historic under-supply of pitches and poor track record against delivery. The figures were revised by the 2019 GTAA but the Council is still yet to deliver any pitches. There is a current unmet need for sites and a backlog which should, but by the Council's own predictions, will not, be met by 2022. However, there is nothing to suggest that the planning permissions against policy allocations LA1 and LA3 will not be finalised in the short term. There is a very realistic prospect that those developments will be delivered within 5 years to meet the identified need over the next 5 years. On the evidence before me and with reference to Paragraph 10 PPTS and footnote 4, there is a 5 year supply of specific deliverable sites to 2026.

From all I heard, the appellant has a clear personal need for a site and his local connections weigh in his favour. The Council accepts that there are no lawful alternative sites currently available to the appellant in the Borough. [In respect of the proposed second occupier and her son] there are too many uncertainties over their circumstances to attribute more than limited weight.

As established by case law, the best interests of the children are a primary consideration. No other consideration can be inherently more important than the need to safeguard and promote their welfare. Information has been provided by the appellant regarding ongoing health and educational needs for the future. I have taken these into account. There are no alternative available sites. Clearly, eviction from this site would not be in the best

interests of the children who would benefit from a settled base and ongoing schooling.

Unquestionably the development amounts to intentional unauthorised development in the Green Belt to which I attribute moderate weight against the grant of permission.

On balance, I consider that the other considerations do not clearly outweigh the totality of harm that I have identified. Consequently, the very special circumstances necessary to justify a permanent permission do not exist.

I am mindful of the delay [in delivering pitches] that has occurred already and overly optimistic forecasts in the past. Realistically, and to allow for slippage I consider 5 years to be more appropriate should a grant of permission be warranted. This case is quite finely balanced. However, the lesser harm which would arise to the Green Belt and character and appearance of the area by making the grant of permission limited in time to 5 years would tip the balance in favour of a grant of personal permission to the appellant. In that scenario, the very special circumstances needed to justify a temporary permission would exist. A case is only made out on the basis of the best interests of the children and thus the personal circumstances of the appellant for one pitch. A case has not been made out to satisfy me that there are sufficient personal circumstances to weigh in the balance to warrant the grant of temporary permission for a second pitch.

Under the deemed planning application, the operations for the hardstanding are those that existed at the time of issue of the enforcement notice. These comprise bricks, rubble and crushed concrete which are not acceptable for the location nor is the close board fencing and boarding to the gate. The internal fencing which sub-divides the site should be incorporated within a site development scheme ('SDS') to be approved pursuant to a planning condition for the use of the site. I shall therefore uphold the enforcement notice in respect of the operations.

I conclude that the appeal on ground (a) and the application for deemed planning permission should succeed in part for the material change of use, subject to conditions. The appeal shall be dismissed for the operations and I shall issue a split decision.

The requirements of the notice in this case do not exceed what is necessary to remedy the breach. The ground (f) appeal fails.

Time is needed for a revised SDS to be agreed and implemented pursuant to a condition attached to the grant of permission for the use. For that reason, I shall extend the compliance period to 12 months to accommodate that timetable. To this limited extent the ground (g) appeal succeeds.

**Note:** The above appeal was 'Part Allowed and Part Dismissed'.

## **6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN**

Enforcement Notice appeals withdrawn between 24 March 2021 and 17 June 2021.

None.

## **6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2021 (up to 17 June 2021)**

<b>APPEALS LODGED IN 2021</b>	
PLANNING APPEALS LODGED	30
ENFORCEMENT APPEALS LODGED	1
TOTAL APPEALS LODGED	31

<b>APPEALS DECIDED IN 2021</b>	<b>TOTAL</b>	<b>%</b>
TOTAL	32	100
APPEALS DISMISSED	20	62.5
APPEALS ALLOWED	7	21.85
APPEALS WITHDRAWN	5	15.65

<b>APPEALS DISMISSED IN 2021</b>	<b>TOTAL</b>	<b>%</b>
Total	20	100
Non-determination	0	0
Delegated	17	85
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	3	15

<b>APPEALS ALLOWED IN 2021</b>	<b>TOTAL</b>	<b>%</b>
Total	7	100
Non-determination	0	0
Delegated	5	71.4
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	2	28.6

## 6.10 UPCOMING HEARINGS

No.	DBC Ref.	PINS Ref.	Address	Date
1	<a href="#">4/02759/18/DRC</a>	C/20/3249358	Runways Farm Bovingdon Airfield	28-29 July 2021
2	<a href="#">20/00559/ROC</a>	W/20/3257756	Runways Farm Bovingdon Airfield	28-29 July 2021

## 6.11 UPCOMING INQUIRIES

No.	DBC Ref.	PINS Ref.	Address	Date
1	<a href="#">20/02060/LDP</a>	X/20/3261710	Parker House Maylands Avenue Hemel Hempstead HP2 4SJ	29 June 2021
	<a href="#">19/02588/MFA</a>	W/21/3275429	Lilas Wood Wick Road Wigginton	tbc

## 6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 24 March 2021 and 17 June 2021.

None.

## 6.13 COSTS APPLICATIONS REFUSED

Applications for Costs refused between 24 March 2021 and 17 June 2021.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	<a href="#">20/00758/FHA</a>	D/20/3258261	24 Finch Road, Berkhamsted	Householder
	<b>Date of Decision:</b>		12/04/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3258261">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3258261</a>			
	<b>Inspector's Key conclusions:</b>			

I first note that the Council's Planning Committee Members were entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated.

The first-floor extent of the applied for side extension would project beyond the rear building line of the closest part of the neighbouring residential property positioned to the northwest. It would also be located in proximity to the site's side boundary and to neighbouring glazed openings. In such circumstances, notwithstanding either the BRE guidance or my decision upon the planning appeal that is the subject of this application, I do not consider that it was unreasonable for the Council to come to the conclusions that it did (in either a sunlight or visual intrusion sense). Indeed, its reason for refusal is clear, specific, and supported by a relevant development plan policy.

I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.